

York Museums Trust (YMT) Service Level Agreement Review – Draft Final Report

Purpose of the Review

1. At the outset of its review the task group asked that options be brought forward to meet the following objectives:
 - To ensure that the Council’s financial contribution to YMT:
 - supports the core purpose of the museums and the collections
 - reflects and furthers the distinctive interests of York residents in the city’s museums
 - provides long-term confidence in the Council’s commitment to the museums in order to secure the commitment of other funders / investors
 - gives YMT a viable financial planning window
 - supports an agreed capital development plan that YMT and the Council will take forward in partnership
 - To identify the most appropriate custodianship arrangements to:
 - provide protection in perpetuity for the buildings and collections, ensuring that they are conserved and remain in the city
 - ensure that the collections continue to grow
 - To enable YMT to operate effectively as a business-like charity

Consultation

2. A CYC press release was issued in early March 2016 in support of this review, suggesting members of the public may like to submit their views via email on what they hope for from York’s museums in the future. Any submissions received will be presented at this meeting for the Task Group’s consideration and to inform the review recommendations.

3. The press release also suggested that members of the public may like to participate in the review by registering to speak at this meeting, or at the meeting of Learning and Culture Scrutiny and Policy Committee on 21 March 2016, when the draft final report from this review is due to be considered.

Information Gathered & Analysis

4. The task group received:
 - Background information on the legal structure of the relationship between the Council and YMT
 - Ideas for core partnership objectives in any future agreement
 - A presentation from YMT with regard to its current financial plan
 - A presentation from YMT on its emerging capital development ideas
 - Information concerning the potential for a new charitable scheme
5. Future Legal Structure

It is proposed that the future legal relationship between the Council and YMT is based on two key building blocks which would replace all the current agreements and leases:

 - A funding agreement which would govern how the Council would fund YMT
 - A charity with a governing document or scheme, which would set out how the buildings and collections would be managed
6. The Funding Agreement

It is proposed that the future funding agreement has four core elements:

 - Common partnership objectives for museums provision
 - Reporting mechanisms
 - An agreed outline long-term forward financial plan
 - An agreed projected development plan with identification of the respective roles of YMT and the Council within it
7. Common Partnership Objectives

The following common objectives are proposed:

 - Creation of museum and gallery provision capable of contributing to positioning York as a world class cultural centre

- Provision that is a source of inspiration and enjoyment for all and a stimulus for learning and skills development
- The protection and conservation of the collections, gardens and buildings for future generations including improved storage
- Promotion of the city's museums and collections through a varied range of activities which could include exhibitions, displays, community projects, volunteering opportunities, formal learning for schools, informal activities for families, and adult learning
- Increased access to the city's collections, gardens and buildings and increasing visitor numbers, especially young people
- Recognition of the special significance of the museums and gallery for York residents through the maintenance of pricing incentives for York residents and opportunities for free access
- The facilitation of access for those most likely to be excluded through a range of outreach activities and pricing mechanisms
- Excellent customer service and visitor experience
- Improved public realm through capital investment and imaginative interpretation schemes
- Active international partnerships to enhance public programmes, to increase YMT's and the city's reputation, and to raise funds
- Retention of registered museum status and development of the designated collections to ensure maximum public benefit
- The maintenance of the Museum Gardens on the Register of Parks and Gardens of Special Historic Interest maintained and the register of botanical gardens
- Public access to the Museum Gardens daily (except Christmas Day) unless closure is necessary for reasons of public safety.
- Effective, open and transparent governance including an effective access and equalities policies covering trustees and staff recruitment practices.

8. Reporting Mechanisms

It is proposed that YMT continue to report back to the Council via Learning and Culture Scrutiny Committee twice a year. Progress would be reported against:

- The Core Partnership Objectives
- The long-term financial plan
- The capital development plan

9. The Long Term Financial Plan

It is proposed that a 5 year rolling plan is maintained. The level of information to be provided to the Council is shown in Annex 1 (this would be extended over 5 years). (Note that the indicative plan at Annex 1 is based on current funding levels from the Council and Arts Council England).

10. It is proposed that the Council's annual contribution is agreed in the context of this financial plan.

11. The financial plan must provide for a healthy bottom line that will provide a contingency against shortfalls in income, build up depleted cash reserves, assist with the cash-flow requirements of capital projects, and provide match funding for capital projects (the indicative levels forecasted here will not do that).

12. The financial plan will show the efficiency savings that YMT are making, contributions from other funders, projected income from admissions in the light of capital projects, and so on.

13. NB It is recommended that the Council continue to make an annual revenue contribution to YMT: YMT's financial needs will not be met by capitalising the contribution.

14. The Development Plan

YMT is at an early stage of developing a new capital development plan. This is likely to focus on:

- The Castle Museum
- The Museum Gardens
- Storage Consolidation
- Yorkshire Museum - expansion of Public Space

15. The plan, as it is developed, will set out:

- Timescales
- Projected capital requirements

- Outline fundraising strategy
 - Connections with partner projects
 - Project management and procurement strategies
 - Risk assessments
16. It is proposed that the capital development plan should be reflected in the funding agreement through the identification of:
- the respective roles of YMT and the Council within the plan
 - the financial areas where YMT would seek support from the Council
 - other areas where the Council can support delivery of the plan
17. The Process
It is proposed that an annual discussion takes place between YMT and the Council in order to update the funding agreement. The context for the discussion will be a refreshed 5 year financial plan and updated capital development plan to be provided by YMT. It is recommended that the Council provide YMT with as much certainty about its funding contribution over the life of the 5 year financial plan as it can (recognising that the Council cannot commit future administrations with regard to grant funding levels).
18. It is proposed that this annual discussion takes place during August-September each year so that the product of the discussion can be factored into the Council's annual budget setting process. Once the budget for the following financial year is set in February the updated funding agreement can be formalised by the relevant Executive Member.
19. Charitable Scheme
It is proposed to put all the museum assets onto a similar basis to those of the Yorkshire Museum and Gardens, i.e. under a charitable scheme, which has the Council as custodian trustee and YMT as managing trustee. It is suggested that any new scheme should:
- Put a double-lock protection on the assets so that neither YMT nor the Council could dispose of or use them outside of the terms of the governing document or scheme without the other's consent
 - Provide clarity and consistency of approach regarding the long-term use and management of the assets

- Reassure potential donors to the collections regarding the long-term security of their donations
- Reassure potential funders, legacy donors and others regarding the long-term security of their contributions
- Demonstrate the long-term commitment of both the Council and YMT to a partnership approach to protect, preserve and enhance the assets for the public good

20. The Current Charity

The Yorkshire Museum was originally opened in 1830 by the Yorkshire Philosophical Society. The Yorkshire Museum & Gardens is a linked charity to YMT, sharing its charity registration number (1092466) and being treated as forming part of YMT for registration and accounting purposes.

21. YMT is the managing trustee for the Yorkshire Museum & Gardens whilst the Council is the custodian trustee. The duties and responsibilities of a managing trustee and a custodian trustee are different. The role of custodian trustee is limited in scope but important as the custodian trustee formally holds the trust property and can refuse permission for changes which constitute a breach of trust. In this way it acts as a check on use of the assets outside of the initial agreed charitable purpose.
22. The managing trustee on the other hand is responsible for the general control and management of the administration of the charity, including the exercise of any power or discretion exercisable under the trust. A managing trustee has the ultimate responsibility for directing the affairs of the charity, ensuring it is well run and meeting the objectives for which it has been set up. There is, in relation to the financial affairs of the charity, a duty of care and a duty to act with integrity, along side the other trustee duties.
23. All of the property of the Yorkshire Museum and Gardens charity is subject to the terms of the Charities Act and the particular land and buildings listed within the Scheme have an additional level of protection in that they must be retained for use for the object of the charity.
24. There is a separate Charity Commission Scheme document in relation to the Kirk Collection of Bygones and again the Council is custodian trustee and YMT is managing trustee in the same way. This Scheme relates to that part of the Castle Museum collections that was originally donated to the City by Dr Kirk in the 1930s.

25. YMT's Other Properties

Clearly the most important properties that YMT occupies and manages in addition to the Yorkshire Museum & Gardens are the York Art Gallery, the Castle Museum and St Mary's Church. Each of these is leased from the Council, on almost identical terms, for a term of 35 years from 2002, and at a peppercorn rent. The respective leases contain the usual landlord and tenant covenants requiring the tenant to maintain the buildings, to use them only for the purposes for which the leases were granted.

26. Both the Art Gallery and the Castle Museum are now charged respectively to Arts Council England (the Art Gallery) and the Heritage Lottery Fund (the Castle Museum), as security for the loans which have been made for improvements to these properties respectively. In each case, the terms of the grant offer mean that the consent of the relevant entity is required to changes in the way in which the properties are managed (or alterations to the properties themselves). These charges were granted with the consent of the Council as landlord.

27. The Collections

YMT manages the Collections according to the terms of a "Loan and Management Agreement". Dating from 2002 and lasting 25 years, the agreement sets out a number of powers and obligations for YMT in its use and management of the Collections, though the agreement acknowledges that the terms of the scheme issued by the Charity Commission in respect of the Yorkshire Museum & Gardens and the Kirk Collection, take precedence.

28. The Loan and Management Agreement provides that the Council is the owner of the Collections and that any additions to the Collections are "transferred to the ownership or custodian trusteeship of the City Council". This has proved problematic for potential donors of significant collections to the Art Gallery and the Castle Museum, where 'ownership' rather than 'custodian trusteeship' applies.

Concluding the Review

29. At this stage, having considered the information provided to date, the Task Group is asked to:
- i. Consider any public submissions
 - ii. Agree in principle whether the current charity should be extended or a an additional charity established to encompass the Castle Museum,

York Art Gallery and St Mary's Castlegate (either option would require specific legal advice and Charity Commission approval will be required whichever route is taken.

- iii. Identify appropriate review recommendations
- iv. Agree any amendments required to this draft final report in order that it may be presented to the Learning & Culture Policy & Scrutiny Committee at its next meeting on 21 March 2016.

Reason: To conclude this review in line with scrutiny procedures & protocols

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Wards Affected:

All



For further information please contact the author of the report

Background Papers: None

Annexes:

Annex 1 - Indicative long-term financial plan

Annex 2 - Copy of Presentation to the Scrutiny Review Task Group 2 March 2016

Abbreviations

YMT – York Museums Trust