

Report of the Corporate Finance Manager / Section 151 Officer and the Director of Children, Education & Communities  
Portfolio of the Executive Member for Culture, Leisure & Communities

## **York Museums Trust – Impact of Covid-19**

### **Summary**

1. York Museums Trust has formally approached the council for financial support to mitigate the impact of covid-19 on the council's museums. This paper proposes a series of actions to respond to YMT's request and to secure the future of the city's museums.

### **Recommendations**

2. The Executive is asked to approve:
  - the Executive Member for Culture, Leisure and Communities to write to the Secretary of State for Digital, Culture, Media and Sport to ask government for additional funding to support YMT in their particular circumstances
  - officers to discuss with the Local Government Association the position of local authority museums in trusts to inform the LGA's lobbying efforts
  - officers to provide a letter of guarantee to YMT, providing them with access to a maximum of £1.95m over the next 2 years should it be required
  - the amendment of payment terms for the reimbursement of payroll costs of up to a maximum of 60 days

Reason: to secure the future of the council's museums.

### **Background - The impact of Covid-19**

3. York Museums Trust (YMT) is an independent charity that manages the museum collections and facilities that belong to the council. The council provides annual funding to YMT of £300k. Most of their £5.7m p.a. income comes from other sources, principally:
  - Around £3.5m in admissions income (including gift aid)

- £1.25m from Arts Council England (ACE)
- £370k from other traded activity and fund-raising

(based on the original estimates for 20/21 – see Annex 1.)

4. York Museums Trust originally planned for income of £5.7m in 20/21. As their business model relies on 75% of income coming from admissions-related and commercial trading income, closure has led to a drastic loss of income at the very start of the peak visitor season. The revised income projection is currently £3.1m.
5. Arts Council England (ACE) have recently awarded YMT a total of £412k as part of their emergency response to the needs of cultural organisations. This award, which consists of two sums of £362k and £50k respectively is in respect of the period March to September 2020. (YMT's request was for £600k which would still have left a significant shortfall against their deficit.)
6. YMT have done everything possible to reduce their costs and liabilities in this period, eliminating all discretionary spend. They have:
  - Furloughed around 80% of staff, and negotiated salary reductions for some senior staff not furloughed
  - Increased fund-raising through publicising their financial plight and asking the public for donations
  - Cancelled forthcoming projects (including plans to refresh the Roman gallery in partnership with the British Museum and other capital projects) in order to transfer £265k designated for these projects into free reserves
  - Reduced future public programmes and marketing spend
  - Negotiated rent reductions and paused service contracts where possible
7. Forecast expenditure has reduced from £5.7m to £4.4m before adding £200k of redundancy costs. This leaves a projected deficit of £1.54m.
8. YMT closed the museums on 17 March shifting their planned 19/20 closing balance from a breakeven position to a deficit of £156k. This in turn impacted on the closing general reserves position. They have had to transfer all of their designated reserves into one general reserve in response to the crisis. After making this transfer they were left with opening reserves at 1 April 2020 of £1.1m (just over two months of normal operating costs).

9. Covid-19 therefore creates an immediate financial threat to YMT's continued existence and the trustees have now logged a serious incident report with the Charities Commission reflecting the fact that they will require financial support in order to remain a going concern. Without this they will run out of cash in January 2021. Furthermore, the ongoing financial position will remain difficult into 21/22 since surveys of visitors undertaken nationally by the Association of Large Visitor Attractions suggest that only 20% of the previous audience numbers will be received on reopening. It is important to note that, whilst the estimates summarised in Annex 1 are based on the best possible current intelligence, the position could worsen further in the event of any further lock-down type restrictions.

### **The council's museums**

10. It is important to note that YMT operates the museums on behalf of the council. The Castle Museum and the Art Gallery are leased to YMT whilst, in the case of the Yorkshire Museum & Gardens Charity, YMT is the managing trustee and the council is the custodian trustee. Should YMT fail, all three institutions would revert to the council creating an immediate and severe financial burden on the council:
- When the council previously ran the museums it cost the equivalent of around £2.15m p.a. at today's values (compared to the £300k p.a. grant that the council currently makes to YMT)
  - Staff would transfer to CYC under TUPE creating an additional pressure given the increased scope of the organisation since it was operated by the council
  - The council would not be able to access revenue or grant funding that YMT currently receives, notably from ACE
  - The council would not have access to much of the capital funding that YMT has been successful in obtaining in order to develop the museums (NHLF etc.)
  - Compared to other local authority museum services around the country, YMT have been exceptionally successful in generating their own funding from diverse sources including from admissions and other traded income

### **YMT's funding request**

11. YMT has requested revenue funding support of £1.35m this year and up to £600k next year in order to keep York's attractions open and to continue looking after the collections. This request reflects the fact that, as a charity, YMT are required to hold a level of

financial reserves. The Charity Commission requires trustees to manage the charity's resources responsibly, implementing appropriate financial controls in order to manage risks. This must include a reserves policy which will enable the organisation to cope with a level of unplanned expenditure, to maintain essential services, and to meet their liabilities should the organisation have to be wound up. YMT's trustees have established that, in YMT's case, the absolute minimum reserve is £900k. This represents around 2 months of expenditure (an amount closer to 6 months of expenditure would normally be considered an appropriate level of reserve for a charity).

12. YMT report that a loan from the council would not an effective or viable option. Given YMT's projected financial position for 20/21 and 21/22 and the inevitable depletion of their reserves, they would first be looking to break even in the following financial year and then to operate with a surplus to repair their precarious reserves position before being able to make repayments. They would therefore effectively need a guaranteed annual revenue grant each year from the council to cover the loan repayment to enable trustees to be able to enter into such an arrangement.

### **YMT's financial controls**

13. In response to the financial situation, as well as maintaining extremely tight controls on expenditure, YMT will implement a redundancy programme to reduce the size of the organisation by 20% to enable them to balance expenditure against reduced income and to make the organisation more resilient for the future. Some of these staff savings will be reinvested in fundraising or other income-generating staff. This exercise will have a one-off cost of £200k (reflected in the projections in the annex) but will save over £350k p.a. going forward.

### **The council's potential response**

14. It is clear that the council must act to ensure that YMT remains a going concern as failure to do so will result in:
  - Potential closure of the city's museums and/or
  - The council facing a much larger financial cost if the museums are handed back to it
15. Before the ultimate level of need can be assessed it will be important to know the outcome of a further round of government funding that has been announced for cultural organisations (a £500m "Culture Recovery Fund" being administered by ACE and

designed to cover the period 1 October 2020 to 31 March 2021). Whilst YMT are eligible to apply for this fund it should be noted that it is open to the widest range of organisations including commercial ones so will be highly competitive. YMT are likely to hear the outcome of their bid in late October. YMT have also bid for £250k from the National Lottery Heritage Fund's Heritage Emergency Fund and are likely to hear about this by the end of August.

16. The council's ability to support YMT is hampered by the fact that, whilst in July the government announced that it will support local authorities by covering 75% of their lost income from sales, fees and charges, this does not extend to outsourced organisations. Whilst placing the museums in a trust has saved the council tens of millions of pounds since 2002, the particular circumstances of Covid-19 places York at a unique disadvantage. YMT is further disadvantaged in that it is unique amongst local authority museum services in the extent to which it is funded by visitor income. This makes it particularly vulnerable in the current circumstances. Government funding to the sector has not recognised this level of vulnerability, nor has it recognised that as a museum service looking after collections of designated national importance YMT is not able to go into complete mothballing during lockdown and retains some costs.
17. Under the circumstances it will be necessary to lobby government, directly and via the Local Government Association, to provide additional funding reflecting YMT's particular circumstances and it is proposed that officers take the necessary steps to do this.
18. YMT trustees are conscious that they will need to approve a set of accounts for YMT as a going concern at the Trustees meeting on 21 September 2020. The council therefore needs to take some immediate steps to secure YMT's position whilst lobbying efforts take place and further consideration is given as to how the required £1.35m in 20/21 is to be funded. Under the circumstances, it is proposed to provide YMT with a financial guarantee which will allow them to run down their financial reserves in the short-term whilst remaining a going-concern.
19. This will be in the form of a letter of guarantee that will outline the council's commitment to providing YMT with the funds should they be required, up to an amount of £1.95m, on receipt of evidence that the funds are required (i.e. that reserves and other income sources have been exhausted). This will allow the Trust to demonstrate that

they are a going concern, as well as providing the certainty that they need to continue to operate.

20. The council currently provides a payroll service to YMT and it is also proposed that the council changes the current arrangements, whereby YMT reimburse us on the day payment is made to their staff and instead agrees terms of up to 60 days. This will help with their cash flow with only a minimal cost to the council.
21. A further report will be brought back to the Executive in November with regard to the funding that YMT will require both in 20/21 and 22/22.

### **What YMT will deliver**

22. In return for the council's support YMT will be able to contribute to the council's Tourism Marketing Strategy – Recovery by:
  - Reopening the Art Gallery on Yorkshire Day - 1 August, with free admission. The initial theme will be focus on local key workers / heroes. It will be followed by a planned views of Yorkshire exhibition in the middle of August.
  - Opening the Castle Museum for pre-booked tours with at least two options available. This will provide an exciting experience for visitors whilst keeping operating costs as low as possible and providing the flexibility to respond to demand
  - Operating Yorkshire Museum Gardens 10.30 – 18.30 (but not the Yorkshire Museum which is expected to stay closed until March 2021.)
  - Exploring with communities, users, businesses and stakeholders the opportunity for events and activities on part of the Castle Car Park / Eye of Yorkshire this summer
23. The above will be delivered with the minimum possible staffing levels: 60% of YMT's staff will remain on furlough.

### **Options**

24. The Executive may:
  - a) Provide a financial guarantee to YMT now and continue to investigate funding to be provided in the longer-term
  - b) Refuse to provide financial support to YMT

## Analysis

25. Option a) has the potential to secure the future of the museums and allow the council and the city to benefit from the excellent financial performance that YMT has delivered
26. Option b) would result in all sites being closed until further notice and the winding up of the Trust. Given the importance of the museums and Art Gallery to the city this would be extremely damaging to the city's recovery plans as well as to its long-term future as both a visitor destination and a city that provides excellent cultural opportunities for its residents.

## Council Plan

27. The proposals in this report further the priorities in the Council Plan with regard to Safe Communities and Culture for all.

## Implications

28. **Financial:** Should the recommendations in this report be agreed, there is no immediate financial cost to the council, other than a small impact on cash flow. However, the council is taking on a liability of £1.95m that will be recognised in the final accounts for the year.
29. If the council was not minded to provide this letter of guarantee, the artefacts and collections that the Trust looks after on behalf of the council would need to be returned and the council would have to identify additional funds to manage this. As outlined earlier in the report, the cost of this is estimated at £2.15m p.a. It is difficult to provide a more accurate figure and therefore these costs are based on historic information, uplifted for inflation. There would also be additional one-off costs associated with transferring the service back into the council. There is no budget available to support this, and therefore additional savings would need to be identified from across the Council to fund any transfer.
30. **Legal:** If members decide to approve Option A, the council will enter into a legally binding agreement with YMT to provide funds on request. Subject to a request for funds being submitted by YMT in the prescribed form, together with sufficient evidence of need, should the council fail to make payment then YMT would be entitled to take further action to seek specific performance.
31. As the council would be providing financial assistance to YMT without any form of competition being held or any direct benefit being received in return for the funding, there are potential State Aid implications to consider. By choosing to assist YMT, the council are

conferring an advantage which may threaten to distort competition. It is considered that this funding falls within the existing block exemption under Regulation (EU) 651/2014 – Section 11 – Article 53 (the General Block Exemption Regulations), which permits the provision of aid for culture and heritage conservation (including museums and artistic centres). The exemption applies as long as the level of aid does not exceed what is necessary to cover operating losses and a reasonable profit over the relevant period. As YMT will be required to submit evidence that funding is required before any monies are paid out, the council will be able to show that this requirement has been met.

32. If members decide to approve Option B responsibility for the museums would revert to the council. As well as employees of YMT being transferred to the council under TUPE regulations it is likely that a number of contracts held by YMT would be novated to the council. This would result in currently unknown liabilities and obligations being placed on the council. If the council were to seek to appoint an external company to run the museums on their behalf, the Contract Procedure Rules and the Public Contracts Regulations 2015 would apply and a compliant procurement process would need to be followed.
33. There are no other implications arising from the report.

### **Risk Management**

34. In compliance with the council's risk management strategy the main risks that have been identified are those which could lead to the inability to meet business objectives (Strategic) and to deliver services (Operational), leading to financial loss (Financial), damage to the council's image and reputation and failure to meet stakeholders' expectations (Governance).
35. Measured in terms of impact and likelihood, the risk score has been assessed at 16, placing the issue in the high category. This means that constant active monitoring, will be required together with an action plan and measures to reduce exposure.



## Contact Details

<b>Authors:</b>	<b>Chief Officers responsible for the report:</b>	
Debbie Mitchell Section 151 Officer  Charlie Croft Assistant Director (Communities and Culture)	Amanda Hatton Director of Children, Education and Communities	
<b>Report Approved</b> ✓ <b>Date:</b> 13 August 2020		
<b>Specialist Implications Officers:</b> Helen Mitchell, Senior Legal Officer (Contracts & Commercial) 01904 554087 helen.mitchell@york.gov.uk		
<b>Wards Affected:</b>	<b>All</b>	✓

**For further information please contact the author of the report**