

Agenda item:

Title of meeting: Cabinet

Date of meeting: 17 September 2012/1 October 2012

Subject: Approval of Futcher School Foundation Charitable Scheme

Report by: City Solicitor

Wards affected: All

Key decision: Yes

Full Council decision: No

1. Purpose of report

- 1.1. To inform Cabinet of the proposed charitable scheme, and seek approval for it to be made by the Charity Commission.

2. Recommendations

- 2.1. It is recommended that Cabinet approve the scheme, and authorise the City Solicitor to complete any necessary actions and documentation to establish the scheme and the proposed legal charge.

3. Background

- 3.1. The Futcher School was a school for disabled children and also a registered charity (The Futcher Council School of Recovery No.283341). It was recognised that it was outdated and the site was sold for redevelopment in 2006. The land value of the site (£2,536,289) passed under the Elementary Education Act and is currently held on trust by the Council.
- 3.2. The City Council's capital resources were used to fund the building of the Mary Rose School pending retrospective approval from the Charity Commissioners to utilise the sale proceeds of the Futcher School. In order to release the funds from the sale of the Futcher School to the Council to reimburse it for its expenditure, the Charity's interest in the Mary Rose School needs to be formalised.
- 3.3. The Council has had some discussion with the Charity Commission about how this could be achieved and the concern was raised that any arrangement that transferred a legal interest to the Charity would attract stamp duty. This problem it was decided could be overcome by the Charity taking a legal charge over the Mary Rose School. This will provide for the return of the £2,536,289 to the Charity if the school were at some time in the future to be closed or sold..

- 3.4. The Charity Commission has prepared a draft scheme (a copy of which is attached as an appendix to this report) which renames the existing charity as the Fatcher School Foundation, sets out the charitable objects of the charity and also how the charity's property must be used. In addition it provides for the replacement of the Council (which is currently the sole trustee) by a board of trustees comprising not less than three and not more than five all of whom must be nominated and appointed by the Council.
- 3.5. It is important to note that the scheme does not create a new charity. All the scheme drafted by the Charity Commission does is change the trusts terms (and its name) but it continues the existing charity.
- 3.6. At a meeting on 23rd July, attended by four of the five proposed trustees, they formally agreed the terms of the scheme. In addition they also each signed a trustee declaration so that their appointments could be approved by the Charity Commission and the details entered on the Charity Commission database. The fifth trustee was seen subsequently and also accepted the scheme and signed the trustee declaration form.
- 3.7. The Charity Commission are now ready to make the scheme and have asked that they be given notice when the legal charge has been completed. Once the legal charge is in place the Council can release the monies currently held on trust back into the Council's Capital Financing resources..

4. Equality impact assessment (EIA)

- 4.1 Not required as will not disproportionately affect one group more than any other. There will be no negative impact on any of the equality groups.

5. Head of Legal Services comments

- 5.1 The comments of the Head of Legal Services are incorporated within the body of this report.

6. Head of Financial Services & S151 Officer comments

- 6.1 The comments of the Head of Financial Services & S151 Officer are incorporated within the body of this report.

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Signed by:

Appendices: Appendix – Charitable Scheme

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

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Signed by:

Appendix

Charitable Scheme

