

RUSSELL COTES ART GALLERY AND MUSEUM MANAGEMENT COMMITTEE



Report subject	Update on Progress towards the Russell-Cotes becoming a fully Independent Trust
Meeting date	3 June 2024
Status	Public Report
Executive summary	<p>An agreement for a financial settlement between BCP Council and the potential new corporate trustee of the Russell-Cotes charity was successfully progressed in late 2023 and was formally agreed at a full meeting of BCP Council in February 2024.</p> <p>Therefore, an application has been made under Section 73 of the Charities Act 2011, to the Charity Commission to repeal Section 57 of the Bournemouth Borough Council Act 1985, enabling the Council to be replaced as sole trustee by a new corporate trustee. The Commission is currently drafting a Scheme for agreement with BCP Council that will provide appropriate governance arrangements for the future trustee, which will then be agreed by DCMS and in due course laid before parliament. The Scheme will amend the archaic provisions in the original indentures, ensure the continued interest of the Council and Meyrick estate and deal with other legal issues as advised by the legal advisers.</p> <p>Progress is also being made in registering the new Company Limited by Guarantee which will act as the sole trustee in place of the Council and starting to recruit to a Board of Directors.</p>
Recommendations	<p>It is RECOMMENDED that:</p> <p>The Management Committee review the report and the Scheme and legal advice, as available and</p> <ul style="list-style-type: none"> a) agree the proposals outlined b) note that there is potential for the vesting date of the new arrangements to be delayed until 1 April 2026
Reason for recommendations	The Scheme proposed by the Charity Commission will enable the Russell-Cotes charity to progress the agreed route to independent status.

Portfolio Holder(s):	Cllr Andy Martin, Portfolio Holder for Customers Community and Culture
Corporate Director	Chief Operations Officer
Report Authors	Sarah Newman, Manager Matti Raudsepp, Director of Customer and Property
Wards	Not applicable
Classification	For Decision and Update

Background

1. The Russell-Cotes has been actively reviewing its unsatisfactory governance since 2018. Its status as an unincorporated charity, with BCP Council as sole trustee, creates an inherent conflict of interest for the Trustee and a lack of financial transparency which makes it difficult for it to thrive and falls short of the standard of governance required for a modern charity.
2. A change of governance to create a new independent Company (CLG) to act as sole trustee in place of the Council was therefore supported by the Charity Commission (August 2022), approved by BCP Council (Jan 2023) and supported financially by the National Heritage Lottery Fund (March 2023). However, the continued progress of this change through the Charity Commission and a Parliamentary Order of State is contingent on a satisfactory financial settlement with BCP Council to ensure that the new trustee is financially sustainable, particularly given the significant liabilities it will assume for staff, collections and a historic building in a poor state of repair.
3. At the meeting of October 2023, it was reported that negotiations towards a financial deal had stalled because of the financial position of the Council, pressures on officer time and uncertainties around timing. Without this comfort, it was not considered advisable to pursue the application to the Charity Commission under Section 73 of the Charities Act, 2011. There was a major concern that the project was therefore undeliverable and the consequences of the Russell-Cotes continuing in its current arrangements were potentially catastrophic for the museum building and collection and the risks for the reputational damage of BCP Council of not acting in the best interests of the charity, very high.
4. The Management Committee therefore recommended that officer time was dedicated to agreeing a financial settlement by 1 January 2024, so that a timely application could still be made to the Commission and that strategic stakeholders (ACE, DCMS, NHLF) were kept informed.
5. BCP Council staff and councillors worked hard to fulfil this objective and a draft settlement was negotiated. At their meeting of January 2024, the Management Committee supported the proposed financial settlement for the new Trustee
 - a. £2million grant up front to enable the Russell-Cotes to establish itself as an independent organisation

- b. Asset transfer of the Study Centre to the new Trustee, subject to appropriate overage clauses.
 - c. A one-off grant of £250,000 to support building maintenance
 - d. Transfer of earmarked reserves (currently £299,000) but subject to change
- 6. The settlement was agreed by Cabinet and then by full Council in February 2024. It will allow the Council to reduce its subsidy as the museum progresses under independent management as detailed in the Cabinet report.
- 7. The project progress is being monitored by the Externalisation Steering Group of officers, councillors and Management Committee members at bi-monthly meetings.

Progress

Governance Change

- 8. With confidence that a financial settlement was achievable, BCP Council formally applied for a repeal of Section 57 of the Bournemouth Borough Council Act, 1985, so that the Council may be replaced as sole trustee of the charity by a new corporate trustee (the Scheme).
- 9. In repealing Section 57 of Bournemouth Borough Council Act, 1985, the supplementary changes to the Indentures of the Charity will no longer be in force and the governance of the charity will revert to the original Indentures of 1908 – 1920. The Scheme needs to address any amendments to the Indentures needed to avoid some of the outdated provisions coming back into force (eg a requirement for a curator living on-site, turnstiles, the provision of an annual children's party etc).
- 10. In addition, the scheme will establish the requirement, agreed by BCP Council that the Council will have the right to appoint 2 Councillors to the new Board of Directors of the new Trustee and that Sir George Meyrick and his heirs and successors will have a place on the Board.
- 11. A draft scheme has been issued by the Charity Commission for consideration and this has been the subject of discussion between BCP Council legal team, RCAGM officers and Sharpe Pritchard. A response has been made to the Commission and a new draft Scheme is awaited. It is anticipated that at this meeting or subsequently the Committee will be provided with:
 - a. A briefing paper by the Solicitors outlining the changes in the Scheme for the agreement
 - b. A draft Scheme from the Charity Commission

Creation of the New Company Limited by Guarantee (CLG) to act as new Trustee

- 12. Our solicitors, Sharpe Pritchard are supporting the drafting of the specialist Memorandum of Articles for the new corporate trustee as they will need to reflect the arrangements required in the Charity Commission Scheme for the Charity. This will enable the new Company to be formally registered at Companies House.
- 13. Three initial directors have confirmed their commitment and will be formally appointed through the process of formal registration of the company. The recruitment of further members to the Board of Directors will be launched in May

with open advertising and targeted invitations with a closing date of 1 July 2024. The new Board members will be recruited to ensure a balanced board with a range of professional expertise to support the new arrangements and a diversity representative of Bournemouth's communities. It is anticipated that the new Trustee, with an active Board of Directors, and the ability to enter contracts will be functioning from September 2024, to enable the development of the new systems and functions required of the independent trustee to enable a successful transition.

Notwithstanding that until the section 73 scheme is finalised, the company will have no standing in charity law.

New Arrangements

14. The Project Manager is progressing the development and procurement of systems and processes required for the new arrangements (eg ICT, finance) as well as progressing the TUPE and pension discussions.

NLHF Funding

15. The transition costs are being supported by the NHLF grant 'Securing a Sustainable Future for the Russell-Cotes'. The project was originally anticipated to be completed by 1 October 2025. However, an extension of the grant has now been secured with NLHF until 1 April 2026 because the delays in negotiating the financial settlement with BCP Council in 2023, combined with the ongoing uncertainty around the date of the anticipated general election, have the potential to delay the Vesting Day for the new trustee. Many of these elements are beyond the control of the project.
16. The project is still on budget, but close attention is being paid to the impact of the delays on costs.

Options Appraisal

17. n/a

Summary of financial implications

18. n/a

Summary of legal implications

19. The legal implications are contained within the report.

Summary of human resources implications

20. n/a

Summary of sustainability impact

21. n/a

Summary of public health implications

22. n/a

Summary of equality implications

23. n/a

Summary of risk assessment

24. n/a

Background papers

none

Appendices

Appendix 1 Briefing Note – to follow

Appendix 2 – Draft Scheme – to follow