

WORMWOOD SCRUBS STRATEGIC REPORT	
Report to Wormwood Scrubs Charitable Trust Committee	
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Executive Summary

1. The work on establishing a business case for decisions around Linford Christie Stadium has brought to the Council's attention, in its role as Corporate Trustee, a number of factors around the ownership of land and property, management arrangements, finance, and governance of the Trust and the Trust Committee.
2. Primary in this is that the Trust is in fact the owner of the Linford Christie Stadium and the associated pitches, and that it is responsible for all income and expenditure associated with it. In addition, the governance arrangements need to be updated so that an appropriate scheme of delegation is in place. Furthermore the Trust Committee should consider how it can make appropriate decisions in all areas where the Council as corporate body has a financial interest and at the same time effectively manage any conflicts of interest.
3. This report recommends that the Trust Committee agree a number of actions in order to put the Trust on a transparent and firm footing, allowing it to make decisions in an appropriate way in the future.

Recommendations

That the Wormwood Scrubs Charitable Trust Committee

1. Notes the proposed scheme of delegation, the change to the Trust Manager and requests the Council in its role as Corporate Trustee to make changes to the terms of reference for the Trust in order to implement the Scheme of Delegation
2. Note that the Council in its role as Corporate Trustee will review the governance arrangements and membership of the Trust Committee to ensure decisions are made in compliance with legal advice and charity commission best practice
3. Note that officers will review and present global financial accounts at the next trust meeting to account for legal advice
4. Note that the Council will review its current contributions to the Trust and advise the Trust Committee accordingly at the earliest opportunity

5. Agree the recommended next steps for the Trust Committee and the Council as outlined in this report in paragraphs 52 to 55

Background

4. This report has been written to support committee members to determine next steps for Wormwood Scrubs Charitable Trust (the Trust).
5. The report provides:
 - Context to current decisions
 - Recent findings from Council research undertaken on behalf of the Trust to inform the Council's understanding of the Trust's governance
 - Implications from findings for the Trust, the Council, and the relationship between the two
 - Recommended next steps

Context

History between the Trust & The Council

6. The Wormwood Trust Charitable Trust (the Trust) was established by The Wormwood Scrubs Act 1879. The Trust is registered with the Charity Commission and owns Wormwood Scrubs land.
7. The Council is the sole corporate trustee of the Trust. The Trust is governed by a Trust Committee of the Council established in accordance with the Charity Commission's guidance on how local authorities should discharge their functions as charity trustees.
8. In recent times both Trust Committee members and Council officers (who assist with the work of the Trust) have made efforts to ensure that the precise relationship between the Charity and the Council (as a corporate body) is clear; compliance with Charity Commission Guidelines and other regulatory guidelines is assured; that responsibilities, aims and key requirements/enablers for each party are well understood and that the Trust has a strategy and plan consistent with their aims.
9. This has partly been driven by the need for clarity around decision making by the Trust.
10. The Council (in its role as corporate trustee) has also undertaken research into charity law and compliance by engaging the Charity Commission and seeking independent legal advice.

Linford Christie Stadium

11. What is now known as the Linford Christie Stadium was erected on the Scrubs in the 1960s by the GLC, occupying about 8% of the Charity's land. Since then the Council has operated the Stadium on behalf of the Trust.

12. The cost of running the Stadium of c. £290,000 per year is absorbed by the council, save for a capped re-charge of £31,500 to the Trust, and some adhoc spending. The income generated, however, is not accounted for by the Trust but is used to offset the Council's expenditure.
13. The income generated from the stadium does not cover its costs. The Council subsidises the running costs. The stadium is in poor condition and requires capital investment. The background on this and the options that the Trust could consider were set out in reports on 22nd June 2017 and 19th December 2018.
14. In 2019, the Trust Committee therefore delegated to officers to commission a public consultation and outline business case on their behalf to consider options for the stadium's future. The Trust Committee considered reports on these matters on 13th March and 26th June 2019.
15. A public consultation has taken place outlining three broad options:
 - I. **Do nothing** (which will require a substantial increase in income if the Charity is to survive beyond its current reserves); or
 - II. **Enhance the current facilities** (which involves improvements to the existing Stadium); or
 - III. **A "large scale intervention"** (which could involve the construction of a new stadium or venue accommodating 35,000 or more people)
16. At this stage the Trust Committee has not expressed a preference or made a decision on what its preferred option is.
17. Following the Trust Committee's decisions on the business case process, IPW... a specialist sport, venues, entertainment and business events consultancy, have been awarded a contract to deliver an Outline Business Case by the summer of 2020. Their work is underway and is involving committee members and other stakeholders.
18. The Business Case is the main tool to help the Trust Committee make a decision on how it wants to proceed to enable improvements to LCS and the sports facilities. This decision will also take into account all relevant charitable considerations
19. The Trust Committee will have to decide which option it wants to pursue. There may then need to be further decisions in order for any chosen option to be delivered.

Other Trust Decisions

20. The department for education currently leases an area of land known as the Redgra or parade ground from the Trust. It is being used for the temporary school for Kensington Aldridge Academy. Although the school has returned to its original location adjacent to Grenfell Tower, the DfE wishes to retain the site temporarily as there is a need to decant again. The DfE pays an annual rent, which has

gone some way to supporting the Trusts finances. Future decisions about the site will be made by the Trust Committee, following the advice above.

21. Kensington Dragons Football Club use LCS as a clubhouse and their primary football pitch. They wish to develop their club, and progress through the football pyramid. They have approached the Trust to ask that it lease an area of the LCS all weather pitches to KDFC, so that they may invest c.£1m and improve their condition while allowing an element of exclusivity to KDFC.
22. As this decision may involve the granting of a lease, the Charity Commission has been approached to seek their views on the decision making process around granting KDFC a lease. Officers can then progress with finalising the terms of any legal agreements.

The Financial context

23. The Council's Finance team have been working to develop a Global budget to reflect the full cost model for The Trust – that is one that reflects all costs and income as belong to the Trust, and acknowledges the Council as a grant funder of the Trust. Understanding the full cost model for Wormwood Scrubs has become a pressing priority for both The Council and The Trust for two key reasons:
 - I. The expenses of running the Stadium exceed the Charity's income from the stadium and pitches by c. £150,000 to c.£220,000 per annum, excluding depreciation and capital expenditure. At present, the Council meets this shortfall from its own funds, but it cannot continue to do so. The Charity's reserves would be exhausted within about five years if this subsidy were removed.
 - II. Whilst the Trust's medium term financial outlook has been improved by recent income from the temporary relocation of Kensington Aldridge Academy, this income does not have a long-term future (the school is placed on the site temporarily while works continue at Grenfell Tower, which the original school is adjacent to).
24. The next section now outlines recent findings from Council research undertaken, on behalf of the Trust to inform the Council's next steps. Findings are presented as follows: (1) Legal advice received; (2) Charity Commission guidance;

3. Recent findings

Below is a summary of how charity law applies to the Council in this role as corporate trustee of the Stadium and factors the Council should consider in reaching decisions.

The Trust owns the Stadium and all land which makes up Wormwood Scrubs, and the Council is undertaking and managing recreational activities on the land on the behalf of the Charity.

Council's free use of the stadium must be justified by reference to the charity's objects. The Trust should also consider who else might offer recreational facilities from the scrubs or charging the Council a rent to use the Stadium.

Future decisions in connection with arrangements with the Council must be clear and conflict of interests both managed and documented. Given the Council's financial interest in trying to minimise its expenditure and that it runs activities from the Stadium, conflicts of interest and loyalty need careful management in the Trust's decision-making process.

The Council as Trustee has no express obligation to maintain the Scrubs as "open land" or to be bound by the responses to any consultation it may arrange.

A stadium let to a professional sports club would have to be justified as a commercial letting in order to meet the costs of public recreation elsewhere on the Scrubs.

The Council (as trustee) has power to grant leases by reason of section 6(1) of the 1996 Act. By a scheme of the Commission dated 25 March 2002, an express power was conferred on the Council as trustee of the Charity to grant easements, profits a prendre, wayleaves and licences over the Scrubs

The Council require no Scheme to implement refurbishment and improvement

Consent is required for redevelopment of the Scrubs more substantially from the Secretary of State (Ministry of Defence)

Charity Commission Guidelines

25. It is unlikely that the Charity Commission will have any regulatory interest in examining the historic decision-making of the Trust Committee.
26. It is desirable though to ensure that future decisions in connection with arrangements with the Council are clear, conflict-free and documented.
27. The Commission have recently been prepared to allow local authority Trustees to dispose of land where the local authority had the benefit of legal advice that it had a power so to dispose without first making a scheme.
28. Further advice on Charity Commission guidelines and compliance in relation to options for Wormwood Scrubs has been commissioned from legal firm Bevan Brittan.
29. Engagement with the Charity Commission has begun and they have not raised any objection to the proposed decision making process for LCS and acknowledge the way conflicts of interest are proposed to be managed.

Implications from findings for the Trust and Trust Committee

30. There are a number of key implications from review and research undertaken on behalf of the Trust by the Council and these are summarised below, and relate directly to the recommendations in this report.

Property Ownership, Management and Financial Accounting

31. The Trust Committee should acknowledge that it owns all assets where not otherwise already leased out, and is responsible for their management, and the income and expenditure associated with them.
32. At Linford Christie Stadium and the associated sports pitches this means that the Trust is allowing the Council to operate the service and not charging for it, rather than the Council operating it for the Trust (although the stadium runs at a loss).
33. As the Trust has no officers directly employed, this means that the Trust should consider delegating to key Council officers to allow for all activities of the Trust to be successfully managed. The Trust could also consider paying for a specific officer to act as the Trust Manager.
34. As a consequence of this, officers have drafted a new scheme of delegation – this is attached as appendix 2 to this report
35. To acknowledge this from an accounting perspective, global accounts taking into account the total cost and income for the whole of the Scrubs will now be developed for presentation at a future Committee meeting. This is summarised below:

Current Position

Activity	19/20 Outturn	20/21 Budget
Pay and Display Parking Meters	324,945	300,000
Hospital Car Park	346,995	354,126
Other Income (KAA Licence)	322,073	321,038
Total Income	994,013	975,164

Grounds Maintenance	747,456	771,949
Contribution to Linford Christie Stadium	85,227	63,317
Other	24,508	36,034
Total Expenditure	857,191	871,300
Net Income/Expenditure	136,822	103,864

'Global' Position

Activity	19/20 Outturn	20/21 Budget
Pay and Display Parking Meters	324,945	300,000
Hospital Car Park	346,995	354,126
Other Income (KAA Licence)	322,073	321,038
Sports Bookings	113,315	113,315
Total Income	1,107,328	1,088,479

Grounds Maintenance	747,456	771,949
Contribution to Linford Christie Stadium	85,227	63,317
LCS Operational Costs	290,000	290,000
Other	24,508	36,034
Total Expenditure	1,147,191	1,161,300
Net Income/Expenditure	- 39,863	- 72,821

36. Note, the expenditure above excludes the internal finance and other recharges that are charged, and the revenue cost of capital depreciation.
37. The accounts show that the operation of LCS and the pitches continues to make a loss, but the Trust is able to rely on the income from KAA in the short term. The future review and re-procurement of the maintenance contract may allow for future savings. However, the Trust may need to consider fundraising activities in order to continue to financially sustainable, as the figures above show that Wormwood Scrubs as a whole operates at a loss.

Decision Making and avoiding conflicts of interest

38. Councillors who are involved in cabinet decisions should also not be involved in the Trust's decisions, in particular where there is a financial interest or involvement from the Council itself. For that reason Cllr Harcourt has stood down from the Trust Committee as his role as a member of the Council's Cabinet may on occasion bring him into conflict with decision making of the Trust. .
39. The Trust Committee's powers are delegated to it under the Council's constitution, by the Council as the sole Trustee. Having a committee such as the Trust Committee is in line with Charity Commission guidance where local authorities are the sole trustee.

40. In order to ensure that the Trust Committee and governance arrangements are as robust as possible, the Council in its role as Corporate Trustee will review the governance arrangements and membership of the Trust Committee to ensure decisions are made in compliance with legal advice and charity commission best practice.

Council review of its total contribution to WSCT

41. The review has also clarified the different roles and responsibilities between the Trust and the Council, alongside the cost of operating LCS and administration support to the Trust. What is apparent to the Council is that it does not recover all its costs in relation to officer time. The Council will therefore review the costs of the support it provides and how this can be recovered from the Trust. As noted in previous reports to the Trust Committee, the Council's financial resources are under severe strain due to ongoing austerity.
42. Although no decision has been made at this time to reduce direct contributions to the operation of the stadium or trust, this may become the case in the medium term.

Developing a way forward for the Trust and Trust Committee, and Council

43. The review has identified that the Trust Committee should consider its approach and strategy for achieving the charitable objects set out in the Wormwood Scrubs Act. Officers have reviewed the approach of other charities and noted that they tend to have:
- Vision and objectives
 - Strategy
 - Business Plan
44. The below sets out how the Trust Committee and Council may look to move this forward, with the respective workstreams for each party. The Scheme of Delegation at Appendix 2 proposed the delegation of the development of a longer term strategy and business plan, development and fundraising strategies to the Trust Manager.

Wormwood Scrubs Charitable trust

Mission

Strategic direction and implementation of the trusts objects to provide for the *'perpetual use thereof by the inhabitants of the metropolis for exercise and recreation.'*

Responsibilities

- Development and delivery of a strategy in accordance with the mission
- Financial sustainability of trust / financial risk management
- Place protector
- Health, leisure and recreation service provider

Aims

1. Financial sustainability (in light of reduced role of government as benefactor)
 - Full cost recovery RE traded services
 - Diversification of income
2. Mission and impact
 - preservation and enhancement of place
 - Benefiting and creating opportunities for resident's recreation
 - Ecological commitment to the local area
3. Regulatory compliance

45. In light of these findings and what we know, here is the summary for The Council

HF Council

Responsibilities

- Benefactor/ grant maker
- Place shaper
- Public Health agenda

Aims

- Financial sustainability –austerity necessitates change from benefactor to enabler of community potential
- Shaping places to unlock their full value
- Embedding public health agenda across communities and activities
- Legislative & regulatory compliance

Key requirements/ enablers

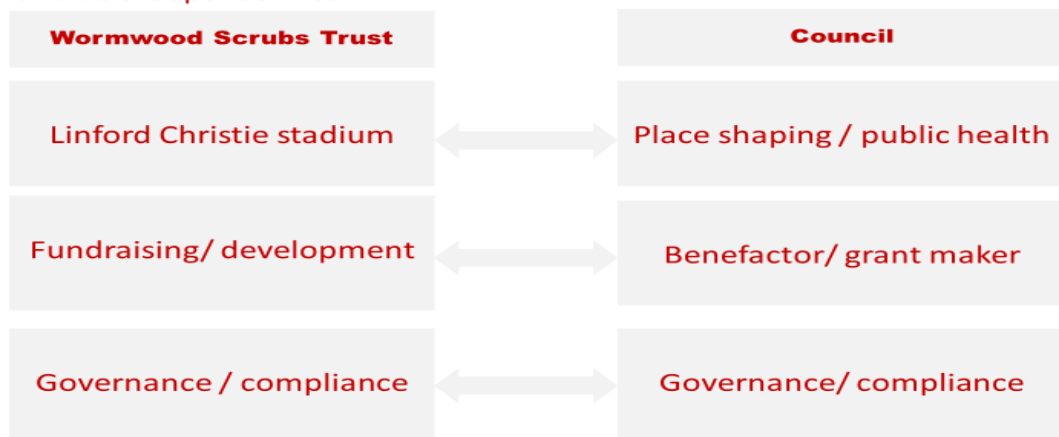
- Governance & administration
- Clarity of role & purpose as benefactor
- Strong financial management & strategy for organisation and place

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Key work streams

46. In light of the key drivers highlighted for mission, responsibilities, aims and key requirements/ enables for both WSCT and The Council, three work streams emerge for each party with interrelation, summarised below:

Work chunks & dependencies



47. The workstreams include a requirement for the trust to consider fundraising and development alongside its review of Linford Christie stadium.
48. At the same time the Council are now required to focus more on their role as a benefactor in light of their financial constraints. Clearly these two workstreams are inextricably linked.
49. An analysis of the as is position in relation to each work chunk has been undertaken and is now summarised and used to recommend next steps.

Next Steps

50. The table below considers the current position of the Trust Committee in relation to each work streams.
51. It shows that work is well underway regarding Linford Christies Stadium, a clearer way forward is needed for the remaining work streams.

	As is analysis	Next steps
Linford Christie Stadium	<ul style="list-style-type: none"> • Full cost recovery in early application, real term loss • Requires significant investment to achieve viability • External expert support commissioned 	(1). Ensure delivery of Business Case for September 2020 meeting
Fundraising/ Development	<ul style="list-style-type: none"> • High reliance on Council funding & Council staff • Little diversification of income (Council grants & Linford Christie Stadium entry fees only). • No fundraising strategy, development plan or charity infrastructure 	(2). Committee member discussion about the Trusts capabilities and fundraising ambitions, delegation to Trust Manager to work up strategy
Governance / compliance	<ul style="list-style-type: none"> • Restricted committee members - three politicians, diversity • Compliance with charity regulation • Relies on local government gifts in kind 	(3). The Council to undertake governance review, supported by findings RE regulatory requirements

52. The table below considers the current position of The Council in relation to each work chunk.
53. It shows that whilst work is well underway regarding Linford Christies Stadium, a clearer way forward is needed for the remaining work streams also.

The Council

	As is analysis	Next steps
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Place shaping/ public health	<ul style="list-style-type: none"> • Concerns with the quality of the offer from Linford Christie stadium given its condition • How could the offer be more targeted/ resident access ensure greatest public health value? • Are public health outcomes being maximised and delivered value for money? 	(1). Work with Trust Committee to ensure delivery of Business Case for September 2020
Fundraising/ Development	<ul style="list-style-type: none"> • The extent of support being provided to 'The Trust' could be better costed and communicated • A clearer benefactor's strategy to support the beneficiary (the Trust) journey to financial independence is needed • It's unclear if current arrangements deliver value for money 	(2). Review of current contributions
Governance / compliance	<ul style="list-style-type: none"> • The relationship between the land and assets owned by Wormwood Scrubs Trust and the Council's asset register needs clarifying • Works needed to ensure no conflict of interest with the involvement of both council officers and Council members. 	(3). Action plan RE Governance/ compliance

End of note.

Appendix 2 – Draft Scheme of Delegation