

## **COUNCIL MEETING – 17 DECEMBER 2019**

### **GILSTRAP CHARITY AND CHARITY OF WILLIAM EDWARD KNIGHT - TRUSTEESHIP**

#### **1.0 Purpose of Report**

- 1.1 To consider proposed amendments to the way in which the Council discharges its duties, functions and liabilities when acting as charity/corporate trustee of the Gilstrap Charity and W E Knight Trust, and to consider the membership of the Trustee Board and also that of the Economic Development Committee given the impact on the political matrix.

#### **2.0 Background Information**

- 2.1 A number of Members have expressed concern regarding the transparency of decision-making processes of the Council when discharging its functions as charity trustee. The Councillor's Commission, at its meeting on 9 December 2019, considered a report relating to these governance issues and also to whether the District Council is the appropriate body to act as Trustee. A copy of the report considered by the Councillors' Commission is attached to this report as **Appendix A**.
- 2.2 Following a recent court decision involving another local authority, the guidance to councils acting as charitable trustees has been amended. This has clarified that since the District Council is discharging its activities as charitable trustee pursuant to its statutory powers under Section 139 of the Local Government Act 1972, there is a strong public interest in transparency in matters relating to their administration.
- 2.3 The Trustee Board has operated as a separate 'committee' of the Council for a number of years. This was in order to ensure that the charities' interests were kept separate from the day-to-day business of the Council. This also assisted the fact that Members on the Trustee Board also have to act in the same way as 'trustees', i.e. they must act in the best interests of the charity, act exclusively for charitable purposes, and in accordance with charity law.

#### **3.0 Proposals**

- 3.1 The Councillors' Commission recommended that, in line with the other Council committees and to reflect the recent case law - the membership of the Trustee Board be reviewed to reflect the political balance of the Council in accordance with the principles contained in the Local Government and Housing Act 1989. The Commission also suggested that the members be drawn from Newark Wards (as far as is possible within the political balance rules) to reflect the fact that the charities' purpose is to benefit residents of the town. The Commission also recommended that the membership of the Trustee Board remain at five, but that there should be four co-opted members (with non-voting rights) drawn from the remaining Newark Ward members.
- 3.2 The Council has also recently received an expression of interest from a direct descendant of John MacRae Gilstrap, Mrs Miranda Van Lynden, to play a role in the Trustee Board and she has been invited to attend future meetings. The Commission recommended that this arrangement continue but to discontinue the co-option of representatives from the Newark Civic Trust and Friends of Newark Castle.

- 3.3 The Access to Information Procedure Rules will also apply to the Trustee Board meetings, agendas and reports, which require them to be open to press and public. Therefore, meetings, agendas and reports should be published in advance, and meetings should be open to the public unless exempt items are to be considered, for example items relating to individuals or commercially sensitive items. Like other committees the Board will be able to exclude the press and public for consideration of any items that it determines should be exempt by virtue of Schedule 12A of the Local Government Act.
- 3.4 The Councillors' Commission considered whether the District Council should continue to act as trustee or if another body would be better placed to act in this capacity, however a change to the current arrangements was not supported at this time.
- 3.5 Attached to this report as **Appendix B** is a copy of the existing allocation of seats to political groups; the calculations showing the impact upon the political matrix of adding five additional seats for the Trustee Board; and a proposed matrix of allocation of seats to groups.
- 3.6 These five additional seats would be allocated as Conservative +3, Labour +1 and Liberal Democrat +1 on the Board. However, it is suggested that, if the proposal is to ensure that the Trustee Board be made up solely of Newark Members, then the best fit would be to allocate the additional 1 Liberal Democrat seat on Economic Development Committee – reducing the Conservative group seats on that Committee to 8. This would mean that the Conservatives could then take four seats on the Trustee Board (from their eight Newark Members), and as Labour have one Newark Member, they could take their extra seat on the matrix straight onto the Trustee Board.
- 3.7 For information, the nine Newark Ward Councillors are:
- Beacon – Cllrs Mrs R Crowe, D Lloyd and M Skinner  
Bridge – Cllrs Mrs I Brown and Mrs G Dawn  
Castle - Cllr K Girling  
Devon – Cllrs M Cope, B Crowe, and L Goff

#### **4.0 RECOMMENDATIONS that:**

- a) **the proposal for the Trustee Board to operate as a Committee in line with, and subject to the same procedures as the other Council Committees (whilst recognising that the Members on the board are also obliged to discharge their duties in accordance with charity law and act exclusively for charitable purposes) be approved;**
- b) **the proposed revised allocation of seats to Political Groups in accordance with the second matrix as set out in Appendix D to the report be approved;**
- c) **the Council determine the membership of the Trustee Board of the Gilstrap and W E Knight Charities to consist of Newark councillors in accordance with the proposals contained in paragraph 3.6 of the report;**
- d) **the remaining four Newark Members be co-opted as non-voting members of the Trustee Board;**

- e) the co-option of representatives from the Newark Civic Trust and Friends of Newark Castle on the Trustee Board be ceased; and**
- f) the Council determine the membership of the Economic Development Committee in accordance with the proposals contained in paragraph 3.6 of the report.**

Background Papers

Nil.

For further information please contact Karen White on extension 5240.

Karen White  
Director – Governance & Organisational Development