



Cabinet
14 January 2019

**Report from the Strategic Director
of Community Wellbeing**

**London Borough of Culture 2020 – proposal to establish a
Charitable Trust**

Wards Affected:	All
Key or Non-Key Decision:	Key
Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open
No. of Appendices:	None
Background Papers:	None
Contact Officer(s): (Name, Title, Contact Details)	<p>Lois Stonock, Artistic Director, Lois.Stonock@brent.gov.uk 020 8937 2571</p> <p>Sophie Leer, Programme Manager/National Management Trainee Sophie.Leer@brent.gov.uk 020 8937 2577</p>

1.0 Purpose of the Report

1.1 This report will outline the plan for establishing a Charitable Trust which will lead on fundraising to deliver the London Borough of Culture (LBOC) 2020 and its legacy through ensuring its key programmes are sustainable and embedded into the community.

1.2 The report proposes:

- The Council sets up a Trust with broad objectives in line with the LBOC bid: to ensure the bid's legacy and to have meaningful representation from young people on the leadership of the programme through their presence on the board;
- The Trust will be set up with an initial five-year timeline to support the delivery of LBOC and to take a lead role in the delivery of the legacy;

- The Council will be the primary funder for the Trust for the period 2019/2020, setting out clear objectives in the business plan and holding it to account for delivery through a Service Level Agreement;
- The Councils relationship with Trust will end at the end of 2020
- For the legacy period, the Trust will raise funds which will allow it to become more independent and take a lead role in delivering the LBOC legacy post 2020.

2.0 Recommendation(s)

- 2.1 Cabinet approve the establishment of a Charitable Trust and Company Limited by Guarantee to fundraise and deliver LBOC 2020 and the legacy programme.
- 2.2 Cabinet delegate to the Strategic Director of Community Wellbeing in consultation with the Lead Member for Public Health, Culture and Leisure, the Chief Finance Officer and the Director of Legal and HR Services to take all practical steps to establish the company detailed in 2.1 above and register it as a charity to include approval of all relevant legal documentation and appointment of directors.
- 2.3 Cabinet delegate authority to the Strategic Director of Community Wellbeing in consultation with the Lead Member for Public Health, Culture and Leisure to enter into an agreement with the Trust detailed in 2.1 to govern its relationship with and funding of the Trust.

3.0 Detail

3.1 Introduction

- 3.1.1 In February 2018 Brent was awarded the prestigious London Borough of Culture award for the year 2020 by the Mayor of London Sadiq Khan.
- 3.1.2 Brent is using this initiative to place culture firmly at the heart of the Council and the borough.
- 3.1.3 In the bid to be Borough of Culture we called our programme Finding Brent because it will represent a new chance for 'Brent' to become a real and tangible place – to be more than just a council, a river or a ring-road. Whereas the UK City of Culture celebrates places that have existed for hundreds of years, through the London Borough of Culture programme we want to discover our sense of place for the very first time – we want to *find* Brent. We will explore how Brent has become what it is today, and how we connect to the rest of the capital, the UK and the world.
- 3.1.4 2020 will create a moment for Brent to come together for the first time in a way that will change life in the borough for a whole new generation of Londoners. But being such a connected place, what happens in Brent never stays in Brent. Our Borough of Culture year will work across the whole borough and create stories and art that resonate far beyond our boundaries. 2020 will be both the

first year the UK is no longer part of the EU and the year Europe's eyes focus on the borough for the Euro 2020 football championships. The appetite for new, refreshing stories about Britain and its relationship to the rest of the world will therefore be intense, and Brent can be the place to tell them.

3.1.5 Winning the bid has been be a huge statement of support for the young people, creative businesses, and arts organisations in the borough. It is an an opportunity to grow the places and spaces in which new culture can thrive. LBOC is giving us a framework for culture that gives permission, space and opportunities for new and lasting culture in the borough.

3.2 Why set up a Trust?

3.2.1 Brent is following in the footsteps of other successful cultural programmes including Hull City of Culture and Liverpool Capital of Culture, and proposes that Brent's LBOC programme is supported by its own Trust to help generate funding and ensure a lasting legacy.

3.2.2 There are two important benefits that setting up a Trust will have for LBOC 2020.

3.2.3 Firstly, a charity will enable the LBOC programme to access a wide range of additional funding which the Council cannot access and it will ensure that the objectives of major trusts and foundations who offer funding are met through a long term plan for change, in a way that a year-long programme alone will not offer. An example of this is the Foyle Foundation who would not support the Thoroughfare project on its own but would consider supporting the Young Ambassadors to help deliver part of the programme on Thoroughfare alongside a longer term development opportunity for young people in Brent to gain employment in the creative industries.

3.2.4 The programme budget for 2020 is £4.6m. This includes a mix of different funding sources such as GLA grants, Community Infrastructure Levy, partner contributions, ticket sales, fundraising and Council Contributions (as outlined in the September 2018 Cabinet Paper and listed below). It is anticipated that the additional fundraising spearheaded by the Trust will cover the £1.5m funding gap which is currently underwritten by the council.

Total Expenditure (excluding in kind)	£4.6m
Total Earmarked Income	£3.1m
Total Income to raise	£1.5m

Income from GLA	£1.35m
Income from Brent (incl. NCIL)	£1m
Income from Trusts/Businesses	£0.75m
Income to raise	£1.5m

3.2.5 The council have already agreed (September 2018 Cabinet Paper) to earmark a further £1.5m of non-recurrent funding from usable reserves if fundraising attempts fail to generate the required additional income. A robust governance arrangement is in place to approve any changes in scope with budgetary implications.

3.2.6 Secondly, setting up a charity will mean bringing together a range of board members and talent who will not only be able to fundraise but will also be able to provide insight, ideas and challenge.

3.3 Why set up a Company Limited by Guarantee?

3.3.1 The Charitable Trust needs to be able to conduct business in a way a commercial business would do so such as employing staff, entering into contracts, and securing insurance. To do this it needs to be incorporated and in order to create the incorporation, Officers need to establish a Company Limited by Guarantee which can then apply for charitable status.

3.3.2 With this understanding, Officers are setting up a Company Limited by Guarantee which will gain charitable status once the application has been approved by the Charity Commission. The company and the charity will be one in the same.

3.4 Vision, mission and aims

3.4.1 The LBOC Trust's remit will be to enable and develop the arts infrastructure and provision in Brent. It will facilitate collaboration across the borough between existing and emerging cultural organisations and groups, from grass roots level to established organisations, and support talent development and the establishment of new cultural organisations and projects in the borough.

3.4.2 Vision: The vision of the Trust will be to ensure that creativity and culture are thriving in Brent and that this is representative of and engaged with the borough's diverse community. It will offer opportunities for Brent's young people in the arts and creative industries.

3.4.3 Mission: The mission of the Trust will be to recognise, celebrate and build capacity for creativity and culture in Brent by bringing the creative sector together, providing support for development and growth, and embedding creativity firmly in the civic life of the borough. It will work to empower Brent residents, particularly its young people, to realise their creative potential by providing opportunities for developing and practising creative skills, and finding employment in the cultural sector. It will endeavour to deliver on this commitment to culture.

3.4.4 The aims are:

- To enhance Brent's cultural offer post 2020, and secure Brent's infrastructure and reputation as an inspirational cultural destination which will of been established over 2020;
- To increase community cohesion and cultural participation in Brent, building on the relationships initiated through the 2020 programme;
- To support and enable Brent's residents, particularly its young people, to gain new skills, knowledge, experience and opportunities learning from the experience, and where possible incubate promising initiatives and programmes which have emerged through the 2020 programme;
- To embed culture at the heart of the borough and in the Council sharing best practice and support for collaboration on creative and cultural programming and ideas.

3.5 The new charity

3.5.1 The Trust will be established as a Registered Charity and Company Limited by Guarantee. It will be independent of the Council and governed by a board of trustees.

3.5.2 The Trust will be funded through:

- An agreement with Brent Council; which will detail comprehensive terms and conditions
- Significant voluntary income generated through fundraising;

3.5.3 It is anticipated that the Trust will have a limited life span of five years to ensure that the work of LBOC 2020 can be embedded into the cultural sector within Brent but also to ensure that valuable funding is not being taken away from existing arts and cultural organisations in the borough for the Trust.

3.5.4 The Council's relationship with the council will come to an end in December 2020

3.5.5 The Trust will be governed by a board of Trustees who will govern the charity and be responsible for its activities.

3.5.6 Trustees will be asked to focus their support on shaping the fundraising and legacy of the LBOC 2020 programme. If Trustees make any recommendations on the work of the LBOC 2020 programme, this will be fed back by the Artistic

Director to the SRO board and if needed followed up in the quarterly meetings with the Chief Executive of Brent Council and the Strategic Director for Community Wellbeing.

3.6 Governance

- 3.6.1 The charity will be governed by a board of Trustees and a Chief Executive Officer (CEO).
- 3.6.2 The Artistic Director of LBOC 2020 will be the CEO of the charity and will be responsible to the Board.
- 3.6.3 As an employee of Brent Council the Artistic Director will continue to report to the Strategic Director for Community Wellbeing.
- 3.6.4 The Senior Responsible Officer board (SROs) will remain the primary decision making body through which the Council will approve the direction of its own investment into the charity. The SRO board meets monthly and is chaired by the Chief Executive of Brent Council.
- 3.6.5 The Council's investment into the LBOC 2020 programme will be managed through the Council's established processes to limit risk and ensure transparency (through procurement, legal and financial controls) and delegated authority to the Strategic Director of Community Wellbeing is sought to enter into an agreement with the charity to govern its relationship with and funding of the charity.
- 3.6.6 Officers propose that two seats on the charity's board of trustees be occupied by Brent Council representatives.
- 3.6.7 Officers propose that the Chair of the board of Trustees and the CEO of the charity meet quarterly with the Chief Executive of Brent Council and the Strategic Director of Community Wellbeing to ensure that the requirements of the SLA are maintained.
- 3.6.8 The Council's investment into the programme will be monitored by the Council's finance team and reported on through the monthly SRO meetings.
- 3.6.9 The Council's financial relationship with the Trust will end at the end of 2020.

3.7 The Trustees

- 3.7.1 The Charity will be governed by a board of 13 Trustees.
- 3.7.2 The composition of the full strength board will be as follows:
 - Chair – business leader
 - Deputy Chair – Brent Council
 - Deputy Chair – Brent Council
 - Treasurer

- Communications / media expert
- Arts Leader
- Arts Leader
- Arts fundraiser
- Entrepreneur
- Charity law expert
- Education leader
- Young local creative
- Young local creative

- 3.7.3 Subject to any equality implications including any duties arising under the Equality Act 2010, Officers propose that there is strong presentation of young people under the age of 30 on the board.
- 3.7.4 Officers are working to identify prospective Trustees from within Brent or who have a close connection to Brent to gain their support in order to ensure that the board is made up of individuals who understand the borough's unique character, diversity and history.
- 3.7.5 It is important that each of the Trustees can add value to the board in different ways, and are experts in the posts which they are being recruited into. This will ensure that the board can operate effectively and that decision-making will be thorough.
- 3.7.6 The board of Trustees will be made up of talented and exciting individuals who can inspire and motivate those around them. In order to ensure that all prospective Trustees meet this description, consultants from Achatés Philanthropy will be having the initial meeting with them before confirming whether they would be suitable for interview by the Artistic Director and Strategic Director of Community Wellbeing.

4.0 Financial Implications

- 4.1 A key reason for setting up a charity is to ensure that fundraising opportunities for the LBOC 2020 programme and subsequent legacy activities are maximised as a number of institutional funders limit their funding specifically to charities and require multi-year plans for delivery.
- 4.2 The total funding requirement for the events in the build up to and including LBOC 2020 is £4.6m. This includes a £1.5m fundraising target, which the charity would be responsible for securing, but is also underwritten by the council. Setting up the charity as soon as possible is seen to be necessary in maximising the chances of delivering this fundraising target. The setup costs for this charity are expected to be negligible and relate to administration charges levied by the Charity Commission
- 4.3 The proposal is for the charity to continue to operate after the LBOC 2020 events to deliver the start of the legacy for 2 years. This then brings the total operating life of the charity to 5 years.

- 4.4 The council would host the charity and cover the accommodation, legal and insurance related overhead costs in kind. The charity would then need to fund all other operating costs including the cost of the legacy programme via its own raised means.
- 4.5 The Service Level Agreement between the council and the charity will provide the mechanism to enable the council to carry out the financial transactional functions for the charity.

5.0 Legal Implications

- 5.1 The Council's creation of an independent charity as a company limited by guarantee is permitted by the general power of competence given to local authorities by section 1(1) of The Localism Act 2011, which empowers the Council to do anything an individual can do unless prohibited by law and subject to public law principles. Further, section 111 of The Local Government Act 1972 sets out subsidiary powers of local authorities which allow the Council to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.
- 5.2 Companies limited by guarantee are a type of company recognised by The Companies Act 2006 (section 3(3) thereof). They are considered suitable vehicles for not for profit organisations such as charities. Companies limited by guarantee are formed and registered in accordance with the detailed requirements prescribed by The Companies Act 2006.
- 5.3 Once the company is incorporated, its directors (being the charity trustees) are required to apply to the Charity Commission to register it as a charity (section 35(1) of The Charities Act 2011). In order to obtain and retain charitable status, sections 1(1) and 2(1) of The Charities Act 2011 require that the company is established and operated exclusively for charitable purposes that are for the public benefit. To take advantage of charity tax reliefs and exemptions, the company is also required to register with the HMRC and in this respect must satisfy the requirements for charitable status set out in The Finance Act 2010.

6.0 Equality Implications

- 6.1 There are no specific risks in relation to equality.
- 6.2 Throughout the board recruitment process, officers are making efforts to ensure that the make-up of the board reflects Brent's diverse communities.
- 6.3 Regarding the programme's engagement with young people, the definition of 'young people' in this context refers to anyone between the ages of 18 - 30. If this changes and young people under the age of 18 are asked to participate as a Board member for the Trust, officers will consult with the Charity

Commission's guidance and colleagues from the Legal and Equalities team to ensure the correct advice is sought.

- 6.4 Officers will make efforts to consider ways they can foster good relations with people with protected characteristics¹ and those without to ensure that everyone is included and able to access the benefits of LBOC 2020.
- 6.5 Proposals will not be changing or removing any services used by vulnerable groups of people.
- 6.6 The LBOC 2020 programme, including the charitable Trust, is being developed to ensure it meets the public sector Equality Duty under section 149 of the Equality Act 2010. This requires that public bodies have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities.
- 6.7 The Trust will also be managed in accordance with Brent Council's current Equality Strategy 2015-2019 which demonstrates a commitment to promoting equality, diversity and cohesion.
- 6.8 The LBOC 2020 Evaluation Champion and the Evaluation Project Board will be continually monitoring the actual, ongoing impact of the Trust on communities to ensure it operates in accordance with the Equality Act 2010 and the Equality Strategy 2015-2019.

7.0 Consultation with Ward Members and Stakeholders

- 7.1 Ward members who are members of Cabinet will be involved in scrutinising this report.
- 7.2 Members of the LBOC SRO board were also consulted about these proposals at a meeting on 29 November 2018.
- 7.3 The Trust was also scrutinised by the Community and Wellbeing Scrutiny Committee on 21 November 2018.
- 7.4 Members present at the Member Learning and Development session on 11 November 2018 were also consulted.

Related Documents

- Cabinet report 13.11.2017 – Bid to become London Borough of Culture 2020
- Cabinet report 12.09.18 – Funding London Borough of Culture 2020
- Community and Wellbeing Scrutiny Committee report 21.11.2018 – London Borough of Culture 2020 programme

¹ Protected characteristics include: age, disability, race, sex, sexual orientation, pregnancy & maternity, religion or belief, gender reassignment and marriage & civil partnership.

Report sign off:

PHIL PORTER

Strategic Director of Community Wellbeing