



## Cabinet

<b>Title</b>	Amendment to Arts Depot Memorandum and Articles of Association
<b>Date of meeting</b>	14 May 2024
<b>Report of</b>	Councillor Ammar Naqvi, Cabinet Member for Culture, Leisure, Arts and Sport
<b>Wards</b>	West Finchley
<b>Status</b>	Public
<b>Key</b>	Non key
<b>Urgent</b>	No
<b>Appendices</b>	Appendix 1 – The Arts Depot Covering Note Appendix 2 – The Arts Depot Trust Articles of Association
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### Summary

As part of its commitment to high quality governance, the Arts Depot Trust commissioned an external review of its Memorandum and Articles of Association. Some amendments are proposed to bring them into line with current best practice and regulations. Under the current terms of the Memorandum of Association, these require the council's approval.

## Recommendations

### That Cabinet:

1. **Note the review of the Memorandum & Articles of Association for the Arts Depot Trust Limited as set out in Appendix 1.**
2. **Approve the updates to the Arts Depot Trust's Articles of Association (consolidating the Memorandum and Articles of Association) as set out in Appendix 1 and 2.**
3. **Delegate authority to the Leader (Cabinet Member for Resources and Effective Council) to provide consent in relation to such matters where consent is mandated in the Memorandum of Association on behalf of the Council in the future.**
4. **Agree and note that upon expiry of the terms of office of the current Council nominated trustees, the number of trustees nominated by the council will reduce from three to one; and that the revised Memorandum and Articles make provision for the council to nominate two representatives to the Arts Depot board as observers.**

### 1. Reasons for the Recommendations

1.1 The Arts Depot Trust's Memorandum of Association states that:

*No alteration of this Memorandum of Association (including this present clause) shall be made which shall cause the Trust to cease to be a charity at law and no alteration of the Articles of Association of the Trust shall be made without the written consent of the Barnet Borough Council*

1.2 The commissioned constitutional and governance review is set out in Appendix 1 and contains suggested recommendations to update the Arts Depot Trust's Memorandum and Articles of Association. The Trust have approached the council to approve a number of changes to their Articles of Association attached at Appendix 2. Some of these changes are to allow the organisation to run its day-to-day business in the 21<sup>st</sup> Century, in particular using electronic communications and online meetings. In keeping with current best practice, it is proposed that the number of trustees be reduce from 20 to 15, and that given the reduced size of the board the number of trustees to be nominated by the council be reduced from three to one. In addition, the Council will have the right to nominate two observers to the Arts Depot Board.

1.3 The council's Scheme of Delegation does not currently make provision for approval of changes to the Articles of Association to be delegated to an individual. It is therefore proposed to delegate to the relevant Cabinet Member authority to grant consent in relation to such matters where consent is mandated in the Memorandum of Association on behalf of the Council in the future.

### 2. Alternative Options Considered and Not Recommended

2.1 Consent could be refused, however this would mean that the Arts Depot Trust's Memorandum and Articles would not reflect current best practice. In particular the Trust has been advised that the large number of trustees might be contrary to the Government and Housing Act 1989 Part V.

### 3. Post Decision Implementation

3.1 If the recommendation is approved, the Trust will be responsible for taking the necessary follow up action.

### 4. Corporate Priorities, Performance and Other Considerations

4.1 Supporting effective governance of the Arts Depot contributes to the aspirations of the Council's Corporate Plan *Our Plan for Barnet 2023-2026*, to celebrate and enhance Barnet's cultural offering.

### 5. Resource Implications (Finance and Value for Money, Procurement, Staffing, IT and Property)

None in the context of this report.

### 6. Legal Implications and Constitution References

6.1 The Arts Depot Trust's Memorandum of Association contains a provision which prohibits the Trust from making any changes to its Memorandum of Association nor Articles of Association without the consent of the Council. The wording of the provision states that; *"No alteration of this Memorandum of Association (including this present clause) shall be made which shall cause the Trust to cease to be a charity at law and no alteration of the Articles of Association of the Trust shall be made without the written consent of the Barnet Borough Council."*

6.2 Under the Council's Constitution, Part 2D, the Cabinet has the authority to exercise all of the local authority functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution. There is no reference in the Council's Constitution to such a decision being vested in any other part of the Council.

6.3 In accordance with Part 2E - Cabinet Members' (Cabinet Members) appointment and term of office the Cabinet Member for Culture, Leisure, Arts and Sports is responsible for the development and strategic direction of the following:

- Promoting Barnet as a destination, a Borough of Culture and leading on the 'Borough of Fun'.
- Cultural and Heritage activities in the Borough.
- Library Services, arts, museums, and tourism.
- Promotion of participation in physical activity and sports.
- Events and activities in, and use of parks and open spaces.

- Strategic direction of leisure services.

6.4 The Cabinet therefore has the authority to approve the recommendations.

## **7. Consultation**

Not applicable.

## **8. Equalities and Diversity**

Decision makers should have due regard to the public sector equality duty in making their decisions. The equalities duties are continuing duties they are not duties to secure a particular outcome. The equalities impact will be revisited on each of the proposals as they are developed. Consideration of the duties should precede the decision. It is important that Cabinet has regard to the statutory grounds in the light of all available material such as consultation responses.

The statutory grounds of the public sector equality duty are found at section 149 of the Equality Act 2010 and are as follows:

A public authority must, in the exercise of its functions, have due regard to the need to:

- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The changes in this report do not impact the council's exercise of its public sector equality duty.

## **9. Background Papers**

None.