

Cabinet (Livesey Trust) Committee

Tuesday 11 December 2018

2.00 pm

Ground Floor Meeting Room G02a – 160 Tooley Street, London SE1 2QH

Membership

Councillor Evelyn Akoto
Councillor Jasmine Ali
Councillor Richard Livingstone
Councillor Rebecca Lury
Councillor Victoria Mills

INFORMATION FOR MEMBERS OF THE PUBLIC

Access to information

You have the right to request to inspect copies of minutes and reports on this agenda as well as the background documents used in the preparation of these reports.

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Access

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Contact

Tim Murtagh on 020 7525 7187 or email: tim.murtagh@southwark.gov.uk
Webpage: www.southwark.gov.uk

Members of the committee are summoned to attend this meeting

Eleanor Kelly

Chief Executive

Date: 3 December 2018



Cabinet (Livesey Trust) Committee

Tuesday 11 December 2018
2.00 pm

Order of Business

Item No.	Title	Page No.
1.	ELECTION OF CHAIR	
	Members to propose and elect a Chair for the committee.	
2.	APOLOGIES	
3.	ITEMS OF BUSINESS THAT THE CHAIR DEEMS URGENT	
	The chair to advise whether they have agreed to any item of urgent business being admitted to the agenda.	
4.	DISCLOSURE OF MEMBERS' INTERESTS AND DISPENSATIONS	
	Members to declare any interests and dispensations in respect of any item of business to be considered at this meeting.	
5.	MINUTES	1 - 2
	To confirm as a correct record the minutes of the meeting held on 14 December 2017.	
6.	THE LIVESEY TRUST ANNUAL REPORT 2017-18	3 - 6
	Members to consider the recommendations contained in the report.	
7.	TRANSFER OF TITLE	7 - 14
	Members to consider the recommendations contained in the report.	

EXCLUSION OF PRESS AND PUBLIC

The following motion should be moved, seconded and approved if the sub-committee wishes to exclude the press and public to deal with reports revealing exempt information:

“That the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 1-7, Access to Information Procedure rules of the Constitution.”



CABINET (LIVESEY TRUST) COMMITTEE

MINUTES of the Cabinet (Livesey Trust) Committee held on Thursday 14 December 2017 at 3.30 pm at The Livesey Museum, 682 Old Kent Road, London SE15 1JF

PRESENT: Councillor Johnson Situ (Chair)
Councillor Victoria Mills (Vice-Chair)
Councillor Fiona Colley
Councillor Barrie Hargrove
Councillor Richard Livingstone

OFFICER SUPPORT: Aileen Cahill (Head of Culture)
Tom Crisp (Senior Lawyer, Governance)
Paul Davies (Principal Surveyor)
Tim Murtagh (Constitutional Officer)

1. INTRODUCTION AND WELCOME

The chair welcomed those present to the meeting.

2. APOLOGIES

Apologies for absence were received from Fiona Dean.

3. ITEMS OF BUSINESS THAT THE CHAIR DEEMS URGENT

There were none.

4. DISCLOSURE OF MEMBERS' INTEREST AND DISPENSATIONS

There were none.

5. MINUTES**RESOLVED:**

That the minutes of the meeting held on 13 December 2016 be agreed as a correct record of that meeting.

6. THE LIVESHEY TRUST ANNUAL REPORT 2016 - 17

Aileen Cahill presented the annual report to the committee.

Members considered the recommendations contained in the report.

RESOLVED:

1. That the progress in the negotiation of the lease with Treasure House be noted.
2. That the repairs and maintenance undertaken to the premises in the past year be noted.

OTHER:

Helen Webb and Naomi Long Srikrotriam from Treasure House discussed some of the work carried out at the Livesey Museum and referred to the Treasure House report that was circulated at the meeting.

Meeting ended at 3.55pm

CHAIR:

DATED:

Item No. 6.	Classification: Open	Date: 11 December 2018	Meeting Name: Cabinet (Livesey Trust) Committee
Report title:		The Livesey Trust, Annual Report 2017-18	
Ward(s) or groups affected:		All	
From:		Aileen Cahill , Head of Culture	

RECOMMENDATIONS

1. That the cabinet committee notes the progress in the negotiation of the lease with Treasure House.
2. That the cabinet committee notes the repairs and maintenance undertaken to the premises in the past year.

BACKGROUND INFORMATION

3. The Livesey building was bequeathed by George Livesey a local benefactor to the Commissioners for Public Libraries and Museums for the Parish of Camberwell in 1890 as a free public library for the beneficiaries of the trust. The council became the legal owner and trustee of the building by way of statutory devolution. Over time the original objects of the trust have become defunct and the council therefore worked with the Charity Commission to expand the objects of the trust to include wider educational benefit for people in the local area.
4. On 12 April 2013 the Charity Commission approved the scheme for the Livesey Trust (No. 4038336). Under paragraph 4 of the scheme the trustee of the charity is the council of the London Borough of Southwark ('the Council'). A copy of the scheme is attached to this report and marked Appendix 1.
5. The administration of the trust is an executive function. This is based on the fact that the relevant regulations, the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 provide that any function of the council is to be the responsibility of the executive (cabinet) unless specified otherwise by those regulations. There is nothing in the 2000 Regulations which states that the administration of a charity is not to be a function of the cabinet.

KEY ISSUES FOR CONSIDERATION

Assets of the Livesey Trust

6. The only assets of the trust are the land and building at 682 Old Kent Road (formerly known as the Livesey Museum for Children)
7. The building is used by a community interest company Treasure House. Treasure House occupy it under a tenancy at will at present.

8. Treasure House (London) CIC is a specialist education provider who work with young people with anxiety and other emotional barriers, autism, dyslexia and school phobia.
9. The key aims of Treasure House are to re-engage students in the learning process and provide access to high quality tuition across a broad curriculum.
10. The council has been in negotiation with Treasure House for the past year to finalise the conditions of the lease. This is now in an agreed form but cannot be progressed until the matter of the adjoining wall has been resolved.

Repairs and maintenance:

11. The property is a listed building constructed in the late 1880's of traditional brick construction. The main building has been partly refurbished with new windows and interior.
12. The garden is enclosed by a large brickwork perimeter wall that separates the property from a Kwik Fit garage and a wall shared with the Christ Church.
13. There are listed remains of a previous building in the rear garden.
14. Repair works to all the brick boundary walls and the 'ruins ' in the middle of the garden have been completed. Due to the condition of some of the brickwork to the ruins some additional repairs have been carried out to make safe. The cost of these works total £60,700
15. A site survey identified that repairs were needed to the shop folly on the rear external wall. These have been undertaken. The cost of these works total £5000.
16. The budget for on the repairs to date has been £65,700.
17. Treasure House contributed £7,500 to the costs of the repairs.

Policy implications

18. None

Community impact statement

19. The proposals set out in this report have no adverse impact on the community, nor do they disadvantage any equalities group or protected characteristic.

Financial implications

20. The annual accounts of 2017-18 indicated revenue expenditure of £5,088 building repairs and maintenance, £876.00 on legal costs and £9,109 on depreciation, totaling £15,073 in 2017-18.
21. The proposed lease of the Livesey Building to Treasure House is on a peppercorn rent basis.

22. Under the proposed terms of the lease, the tenant is responsible for the internal and external repairs and the council as trustee of the Livesey Trust, will insure the property and the charge the tenant the appropriate premium.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

23. The object of the Livesey Trust is set out in the Charity Commissioner's scheme referred to in the background information above. This is for the advancement of education of persons resident in the area of benefit in such ways as the trustee thinks fit.
24. In summary, the property must be used for the provision of a library or library services or if not required for these purposes for any other use in furtherance of the object as the council as trustee may from time to time decide.
25. The scheme requires the council as trustee to ensure that the property is being utilised effectively and in accordance with the object of the charity for the benefit of the public.
26. The scheme includes the requirement for the council as trustee at all times to take necessary steps to ensure that the charity is independent from the council and exists to pursue its own purposes and not to carry out the policies or directions of the council or any other body.
27. This means that the committee is required to give consideration to the operation of the trust solely in its role as corporate trustee and in accordance with the object and interests of the trust.
28. As corporate trustee the council, in accordance with common law, has an overriding duty to promote the charitable purposes of the charity. It must carry out its responsibilities with reasonable diligence and conduct its affairs in the same manner as an ordinary prudent business person would conduct his/her own affairs. A trustee must also take all reasonable and proper measures to maintain and secure any trust property.

Strategic Director of Finance and Governance

29. Staffing and any other cost connected with this report to be contained within existing departmental revenue budgets.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
None		

APPENDICES

No.	Title
None	

AUDIT TRAIL

Lead Officer	Fiona Dean, Director of Leisure	
Report Author	Aileen Cahill, Head of Culture	
Version	Final	
Dated	27 November 2018	
Key Decision	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Date final report sent to Constitutional Team		27 November 2018

Item No. 7.	Classification: Open	Date: 11 December 2018	Meeting Name: Cabinet (Livesey Trust) Committee
Report title:		Transfer of Title	
Ward(s) or groups affected:		Old Kent Road	
From:		Director of Law and Democracy	

RECOMMENDATION

1. That the committee agrees the council enters a declaration of trust to enable the trust to irrevocably acquire from the council the equitable title in a wall at 684- 698 Old Kent Road, London SE15 running along the south eastern boundary of 682 Old Kent Road, London SE15 1JF (the "Property").

BACKGROUND INFORMATION

2. The Livesey building was bequeathed by George Livesey a local benefactor to the commissioners for public libraries and museums for the Parish of Camberwell in 1890 as a free public library for the beneficiaries of the trust. The council became the legal owner and trustee of the building by way of statutory devolution. Over time the original objects of the trust have become defunct and the council therefore worked with the Charity Commission to expand the objects of the trust to include wider educational benefit for people in the local area.
3. On 12 April 2013 the Charity Commission approved a scheme for the Livesey Trust (No. 4038336). Under paragraph 4 of the scheme the trustee of the charity is the council of the London Borough of Southwark ("the Council").
4. The administration of the trust is an executive function. This is based on the fact that the relevant regulations, the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 provide that any function of the council is to be the responsibility of the executive (cabinet) unless specified otherwise by those regulations. There is nothing in the 2000 Regulations which states that the administration of a charity is not to be a function of the cabinet.
5. As with all other executive functions it is for the Leader to determine who will exercise the function in question. This report is intended to enable the Leader to agree that the Trust acquires the beneficial title in the wall which runs along the south eastern boundary of the property.

KEY ISSUES FOR CONSIDERATION

6. It is intended that a lease of the property be granted by the council as trustee of the trust to Treasure House (London) CIC, and it is further intended that the wall which runs along the south eastern boundary be included in this lease.
7. At present the legal and beneficial title in the wall is owned by the council and not the trust. A copy of the council's title to the wall (Title TGL66428) is enclosed marked Appendix A.

8. In order to incorporate the wall into the proposed lease to Treasure House (London) CIC it will be necessary for the beneficial title in the wall to be transferred by the council to the trust. A declaration of trust is recommended whereby the council will irrevocably declare it holds the legal title in the wall on trust for the trust in equity. Thereafter the council can (i) apply to enter a restriction against Title TGL66428 to protect the beneficial interest of the trust under the title and (ii) apply to the Charity Commission to amend the schedule of trust property to include the beneficial interest in Title TGL66428.
9. Once the above has been completed the council acting as trustee of the trust will be able to grant a lease to Treasure House (London) CIC incorporating the above title. A copy of the proposed declaration of trust is enclosed in Appendix B.
10. Officers confirm that wall does not have any positive monetary value.
11. The trust has the power under statute to acquire property. The power is subject to any restrictions in the instrument setting up the charity. Officers can advise that the terms of the original indenture contain no restrictions on the trust acquiring new land.
12. There are no formal requirements in charity legislation that the trust have to comply with in order to acquire the beneficial title in the wall. The acquisition does not fall within the categories of acquisitions which require consent of the Charity Commission. The trustees are under a duty to use reasonable degree of skill and care when deciding whether to enter into any transaction to acquire land. However as this wall in question has nil consideration the usual factors which are likely to be relevant in considering whether to buy land such as whether the price is at or below the market price are not relevant here.
13. As the wall is to be incorporated into the proposed lease to Treasure House (London) CIC, and that wall maintenance is to be a tenant responsibility under the lease. Officers do not anticipate any immediate or ongoing liabilities for the Trust in acquiring the beneficial title in the wall.

Community impact statement

14. The proposals set out in this report have no adverse impact on the community, nor do they disadvantage any equalities group or protected characteristic.

Financial implications

15. There are no financial implications.

Legal implications

16. The legal implications have been outlined by the report author in the body of the briefing.

BACKGROUND DOCUMENTS

Background Papers	Held at	Contact
None		

APPENDICES

No.	Title
Appendix A	A copy of the council's title (Title TGL66428)
Appendix B	A copy of the proposed declaration of trust

AUDIT TRAIL

Lead Officer	Doreen Forrester-Brown, Director of Law and Democracy	
Report Author	Norman Coombe, Head of Corporate Team, Legal Services	
Version	Final	
Version Date	26 November 2018	
Key Decision	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Strategic Director of Finance and Governance	No	No
Cabinet Member	No	No
Final Report Sent to Constitutional Team	26 November 2018	



Official copy of register of title

Title number TGL66428

Edition date 03.08.2016

- This official copy shows the entries on the register of title on 08 DEC 2017 at 17:40:20.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 08 Dec 2017.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by HM Land Registry, Telford Office.

A: Property Register

This register describes the land and estate comprised in the title.

SOUTHWARK

- 1 (03.11.1986) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being land lying to the south west of Old Kent Road.
2. The land has the benefit of the following rights granted by a Transfer of the land in this title dated 4 November 1991 made between (1) Kwik-Fit (Eastern) Limited (Transferor) and (2) The Mayor and Burgesses of The London Borough of Southwark (Transferee):

"Together with the right to enter onto the retained land for the purposes of maintenance or repair of the supporting columns doing as little damage as possible and making proper compensation for any damage done or occasioned in the exercise of such power and Provided that the Transferee shall (except in the case of an emergency) give to the Transferor one month's notice in writing of its intention to exercise the said right."

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

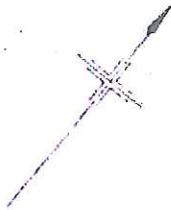
Title absolute

- 1 (07.11.1991) PROPRIETOR: THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF SOUTHWARK of 160 Tooley Street, London SE1 2QH and of PO Box 64529, London SE1P 5LX.

End of register

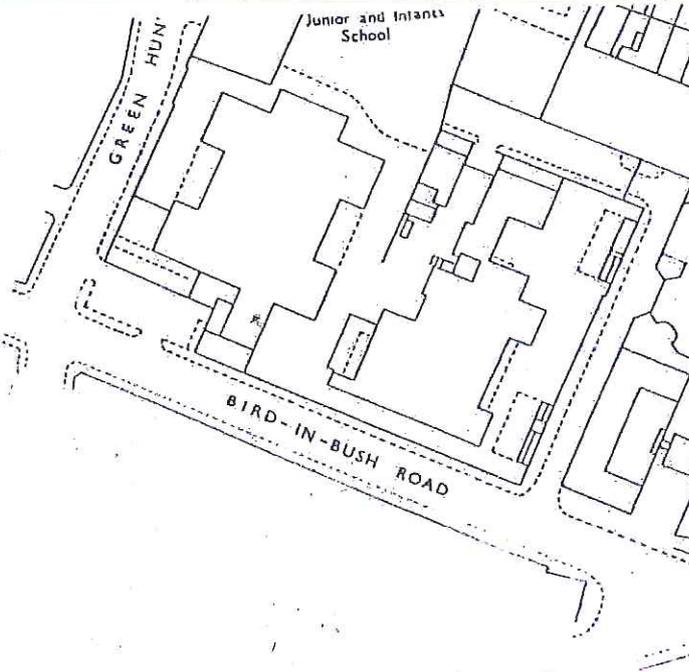
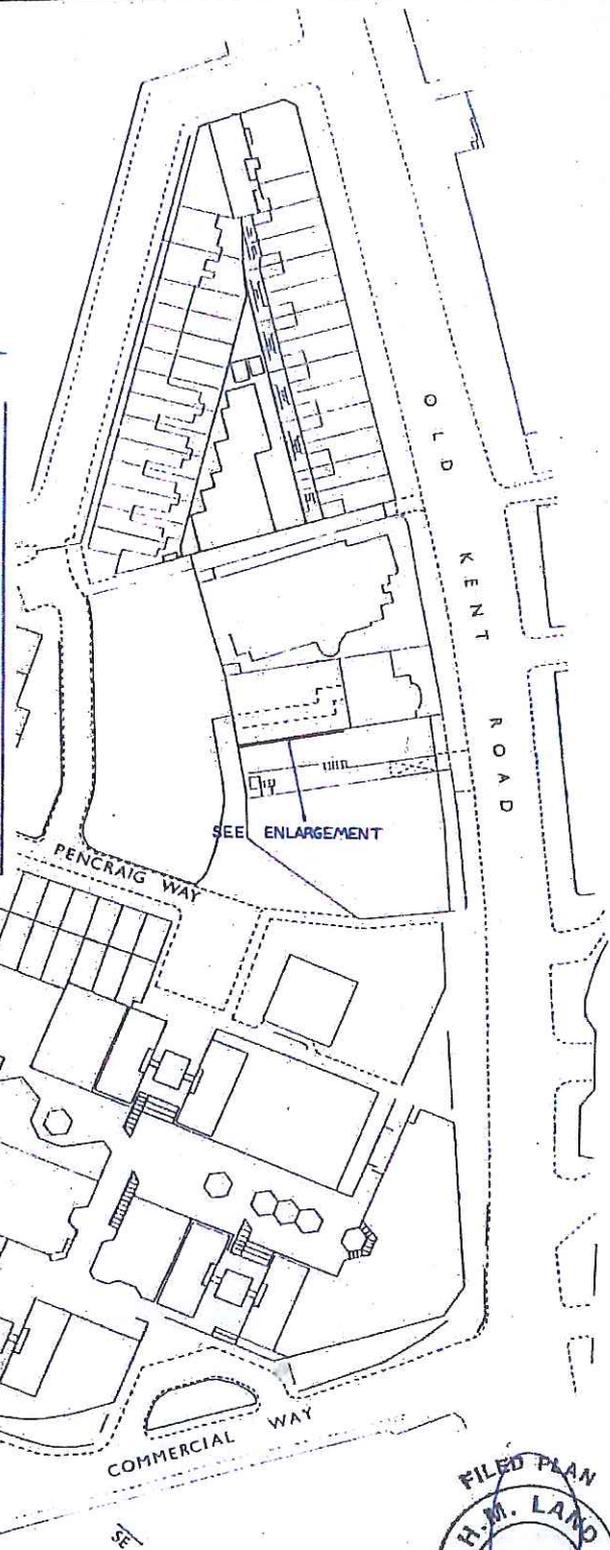
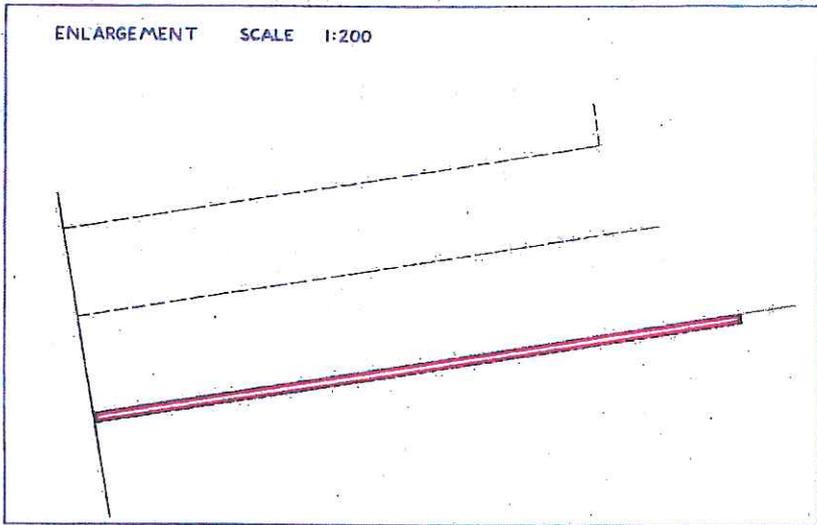
H.M. LAND REGISTRY		TITLE NUMBER	
		TGL 66428	
ORDNANCE SURVEY PLAN REFERENCE ©	COUNTY	SHEET	NATIONAL GRID
	GREATER LONDON		TQ 3477
Scale: 1/1250			SECTION G
© Crown Copyright 1984.			

BOROUGH OF SOUTHWARK



3/4
1/2

ENLARGEMENT SCALE 1:200



THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF SOUTHWARK**AND****THE TRUSTEES OF THE LIVESEY TRUST**

DECLARATION OF TRUST

Date:

BY: The Mayor and Burgesses of the London of Southwark of 160 Tooley Street, London SE1 2QH and of PO Box 64529, London SE1P 5LX (the "Donor")**RECITALS**

- (A) The Donor is the legal owner of the Property specified in the Schedule hereto (the "Property")
- (B) The trustees under this Deed are trustees of the Livesey Trust (registered charity number 4038336) (the "Trustees")

OPERATIVE PROVISIONS

1. The Donor hereby irrevocably declares (i) that from the date of this Deed it holds the legal estate in the Property on trust for the Trustees in equity for the purposes of the Livesey Trust as defined thereunder and that the Donor remains solely liable for the maintenance of the Property and for all or any other liability relating thereto and (ii) that it shall fully and effectively indemnify the Trustees against any actions claims costs or other matters arising therefrom.
2. The Trustees hereby acknowledge receipt of the equitable title in the Property for the purposes of the Livesey Trust.

CERTIFICATE OF VALUE

It is hereby confirmed that the transaction hereby effected does not form part of a larger transaction or series of transactions in respect of which the amount or value or aggregate amount or value of the consideration exceeds £250,000.00 (two hundred and fifty thousand pounds)

SCHEDULE

All that freehold land comprising registered title number TGL66428 being land lying to the south west of Old Kent Road as shown edged red on the title plan.

This document has been executed as a Deed and takes effect at the date hereof

The Common Seal of **THE MAYOR)**
AND BURGESSES OF THE LONDON)
BOROUGH OF SOUTHWARK was)
hereto affixed in the presence of:)
)

Authorised Signatory:

Signed as a Deed by **EVELYN AKOTO)**
in the presence of:)

.....
EVELYN AKOTO

Witness Signature:

Witness Name:

Witness Address:

Witness Occupation:

Signed as a Deed by **JASMINE ALI in)**
the presence of:)

.....
JASMINE ALI

Witness Signature:

Witness Name:

Witness Address:

Witness Occupation:

Signed as a Deed by **RICHARD)**
LIVINGSTONE in the presence of:)

.....
RICHARD LIVINGSTONE

Witness Signature:

Witness Name:

Witness Address:

Witness Occupation:

Signed as a Deed by **VICTORIA MILLS**)
in the presence of:)

.....
VICTORIA MILLS

Witness Signature:

Witness Name:

Witness Address:

Witness Occupation:

Signed as a Deed by **REBECCA LURY**)
in the presence of:)

.....
REBECCA LURY

Witness Signature:

Witness Name:

Witness Address:

Witness Occupation:

**CABINET (LIVESEY TRUST) COMMITTEE AGENDA DISTRIBUTION LIST (OPEN)
MUNICIPAL YEAR 2018-19**

NOTE: Original held by Constitutional Team all amendments/queries to Tim Murtagh
Tel: 020 7525 7187

Name	No of copies	Name	No of copies
Members of the Committee		Officers	
Councillor Jasmine Ali	1	Aileen Cahill, Head of Culture, Floor 3, Hub C	1
<u>Electronic copies only to -</u>		Norman Coombe, Head of Corporate Team, Legal Services, Floor 2 Hub 2	1
Councillor Evelyn Akoto		Tim Murtagh Constitutional Team, Floor 2 Hub 2	5
Councillor Richard Livingstone			
Councillor Rebecca Lury			
Councillor Victoria Mills			
		Total:	8
		Dated: 29 November 2018	