

# Executive Decision Report

<p><b>Decision maker and date of Leadership Team meeting or (in the case of individual Lead Member decisions) the earliest date the decision will be taken</b></p>	<p>Leadership Team – 22 March 2018</p> <p>Forward Plan reference: 05226/18/K/A</p> <p>Portfolio: Lead Member for Communities</p>	 <p>THE ROYAL BOROUGH OF <b>KENSINGTON AND CHELSEA</b></p>
<p><b>Report title</b></p>	<p>FUNDING FOR CARNIVAL VILLAGE TRUST AT THE TABERNACLE</p>	
<p><b>Reporting officer</b></p>	<p>SUE HARRIS, EXECUTIVE DIRECTOR ENVIRONMENT, LEISURE AND RESIDENT SERVICES</p>	
<p><b>Key decision</b></p>	<p>Yes</p>	
<p><b>Access to information classification</b></p>	<p><i>Public</i></p>	

## **1. EXECUTIVE SUMMARY**

- 1.1. Carnival Village Trust hold a lease 20-year lease expiring on 31st March 2028 from 1st April 2008 at a waived rent of £100,000 for the Tabernacle. CVT has a strong demonstrable track record over the past ten years, and is working closely with local communities in north Kensington.
- 1.2. The provision of a grant and waiving the rent for the Tabernacle enables CVT to continue to deliver its community based arts and cultural programme, including many activities aimed at supporting those affected by the tragic fire at Grenfell Tower, as well as the year-round support to the carnival arts.
- 1.3. The purpose of this report is to set out the council's grant and lease arrangements with Carnival Village Trust (CVT) at the Tabernacle.

## **2. RECOMMENDATIONS**

- 2.1. That the Leadership Team approves the council to award a grant to Carnival Village Trust of £95,500 for 2018/19 with the option to extend for a further year, up to a maximum of three years.
- 2.2. That the Leadership Team approves the council to waive rent for the use of the Tabernacle for 2018/19, and review the arrangements for 2019/20.

## **3. REASONS FOR DECISION**

- 3.1. CVT has had a three-year Funding Agreement with the Council, although currently, for 2017/18, it has a one-year Agreement. The intention is to return to a three-year funding agreement to enable CVT to manage their finances in the medium term. CVT has a strong demonstrable track record over the past ten years, and is working closely with local communities in north Kensington. The provision of a grant and waiving the rent for the Tabernacle enables CVT to continue to deliver its community based arts and cultural programme, including many activities aimed at supporting those affected by the tragic fire at Grenfell Tower, as well as the year-round support to the carnival arts. If the grant were to be withdrawn and full market rent charged, it is highly likely this community organisation would struggle to survive and jeopardise its tenancy at the Tabernacle.

## **4. BACKGROUND**

- 4.1. Carnival Village Trust of Company No. 06368610 and Charity No. 1125536 hold a 20-year lease expiring on 31st March 2028 from 1st April 2008 at a waived rent of £100,000. Carnival Village Trust (CVT) were awarded the lease following a competitive tendering process. Other submissions focused on different uses for the building, but the Council at the time was particularly keen that the Tabernacle be a cultural and community hub serving the many diverse communities of north Kensington. The Tabernacle also serves as a home for three carnival groups including Ebony, an organisation that delivers steelband workshops and community projects; Mangrove, a carnival masquerade and steelband, one of the most prominent steelbands bands in Europe, and the Association of British Calypsonians. The Council is aware of an ongoing investigation relating to alleged fraud at CVT by a former member of staff. CVT

has reassured the council with the subsequent measures they have introduced to ensure no reoccurrence. The case is currently progressing through the courts.

- 4.2. The current estimated rental value is in the region of £600,000 per annum. The first rent review was on the 1st April 2013 and every fifth anniversary of that date. The next rent review is due on 1 April 2018. A Key Decision Report dated June 2007, jointly prepared by the Borough Valuer and the Executive Director for Transport, Environment and Leisure Services and the Directors for Waste Management and Leisure, and Strategy and Service Improvement, and taken by the Cabinet Member for Finance and Property, Councillor Nicholas Paget-Brown as the Cabinet Member for Regeneration, Environmental Management and Leisure Services and Councillor Tim Ahern as the Cabinet Member for Service Improvement, included a clause to waive the rent for the first ten years of the lease. The waiver ends during the 2018 / 2019 Financial Year.
- 4.3. The report section on the waiver of the rent stated, "The Council's support will be by way of the Council's voluntary organisation rental charging policy". A Statement Of The Royal Borough's Approach To The Terms Of Occupancy Of Council Property By Voluntary Organisations states that market rents are to be charged under new leases or at rent review.
- 4.4. The current Funding Agreement with CVT requires it to: "Present(s) a high-quality year-round live performance, exhibition and education programme that is attractive to the community." CVT reports regularly to the Council, and reviews the programme of activity on an annual basis to accommodate changes in circumstances and in the needs of local communities. CVT has NPO (National Portfolio Organisation) of Arts Council England status to deliver carnival arts and its status was recently confirmed through to 2021/22. It also received a grant from the Grenfell Relief Fund in autumn 2017 to deliver cultural and leisure activities to those affected by the Grenfell Tower fire. It is proposed that the Funding Agreement is reviewed in its entirety to ensure it remains fit for purpose and reflects the changing context of north Kensington and CVT's circumstances.

## **5. PROPOSAL AND ISSUES**

- 5.1. Applying rent to CVT would meet the council's ambition of having a consistent means by which to determine the rents charged to voluntary organisations occupying council property (i.e. based on market rents); and to ensure that the levels of rent subsidy paid by the Council to such voluntary organisations should be transparent and in the public domain.
- 5.2. However, applying full market rent without increasing the grant to CVT by the same amount would jeopardise the financial stability of this community organisation and their long-term tenancy at the Tabernacle. It could also jeopardise their NPO status with Arts Council England to deliver carnival arts.

## **6. OPTIONS AND ANALYSIS**

### **Options for the rent for the use of the Tabernacle**

#### **6.1. Option 1: charge CVT full market rent (NOT RECOMMENDED)**

Introducing full market rent could result in CVT having to withdraw from the lease as they are able to do so on serving six months' notice. It would also jeopardise CVT's ability to continue to deliver its arts and culture programme, and activities that support those affected by the Grenfell Tower tragedy. Losing CVT from north Kensington would be a significant loss, which is why this option is not recommended.

**6.2. Option 2: charge CVT full market rent but increase CVT's grant to cover this. (NOT RECOMMENDED)**

It would achieve the council's ambition to establish a consistent approach to determining rents for voluntary organisations occupying council buildings. However, it will require additional funding to be identified within the council's budgets in order to absorb this. This has not been identified for 2018/19 and therefore is not recommended at this stage.

**6.3. Option 3: waive rent for the use of the Tabernacle for 2018/19, review the position in September 2018 to put in place arrangements for remainder of the lease. (RECOMMENDED)**

This recommendation would enable CVT to deliver its programme of community based arts and culture and provide it with a level of certainty. It would also enable the council to put in place financial arrangements to continue to support CVT for the duration of the lease.

**6.4. Option 4: Waive the rent for a further 10 years to the end of the lease in 2028 (NOT RECOMMENDED).**

This option would result in an inconsistent approach to council policy.

**Options for grant agreement for CVT at the Tabernacle**

**6.5. Option 1: cease the grant to CVT (NOT RECOMMENDED)**

CVT have received a grant from the council annually since 2007/08. They have a strong demonstrable track record over the past ten years, and are working closely with local communities in north Kensington. Removing the grant would jeopardise CVT's ability to continue to deliver its community based arts and cultural programme, including many activities aimed at supporting those affected by the tragic events at Grenfell Tower, as well as the year round support to the carnival arts.

6.6. Ceasing the grant for 2018/19, would likely mean CVT being unable to continue to occupy the Tabernacle. In this scenario, there is a real risk of the Tabernacle lying dormant for a while and a community amenity effectively being withdrawn, even if only on a temporary basis. CVT has status as an Arts Council England National Portfolio Organisation receiving funding of £1.6m over four years to deliver carnival arts activity. Ceasing the grant, could put into jeopardy CVT's Arts Council England funding, which was recently confirmed until 2021/22.

**6.7. Option 2: continue to offer a grant to CVT (RECOMMENDED)**

Maintaining the grant to CVT would enable CVT to continue to deliver its community based arts and cultural programme as well as year-round support to the carnival arts. CVT have also received a grant from the Grenfell Relief Fund to deliver leisure and cultural activities that could be jeopardised if the council's grant is withdrawn.

## **7. CONSULTATION AND COMMUNITY ENGAGEMENT**

- 7.1. CVT has been consulted at the Partnership Board meeting held on 15<sup>th</sup> January 2018.
- 7.2. As referred to in section 4.3, the Council has moved to a position which dictates that property let to the 3rd sector should be done so at full market rent with the sponsoring department (ELRS in this case) grant funding that organisation for an equivalent amount. This arrangement allows for a nil cost to the occupier but with the property transaction remaining fully 'transparent' with the value of the support provided to that occupier being properly demonstrable and accounted for.
- 7.3. Given the circumstance, the Director for Property agrees to the recommendation in this instance on the basis that the position be reviewed for 2019/20.

## **8. HUMAN RESOURCES AND EQUALITIES IMPLICATIONS**

- 8.1. There are no human resources implications. There are potential positive equalities implications as the grant will enable CVT to continue to deliver its community based arts and cultural programme, including activities that support those affected by the tragic fire at Grenfell Tower, as well as the year-round support to the carnival arts.

## **9. LEGAL IMPLICATIONS**

### **Award a grant of £95,500 for 2018/19 with the option to extend for a further two years, up to a maximum of three years**

- 9.1. The Public Contracts Regulations 2015 do not apply to funding agreements and therefore the council will not have to follow their rules in this situation. However, the council needs to be clear that the agreement is a funding grant and not a contract and the agreement should be drafted with this in mind. Any decision as to what constitutes a contract and what constitutes a grant would be made on the substance of the entire arrangement as a whole, there is no one factor which would determine whether an arrangement is a grant or a contract.
- 9.2. The awarding of this grant is a key decision as seen in Part 2, Article 7, 7.10(b) of the constitution as it is over £100,000 (with the option to extend) and will have a significant impact on the community (as seen in the notes of 7.10) and has correctly been assigned to the leadership team for decision.
- 9.3. The power to award the grant is derived from s.1 of the Localism Act 2011
- 9.4. The council should also be aware of the EU State Aid rules and should ensure that the awarding of the funding grant and the waiving of the rent for the Tabernacle complies with these rules.
- 9.5. *Legal comments provided by Graham McIntosh, Solicitor, Shared Legal Services, 0207 641 4338*

## **10. FINANCIAL AND RESOURCES IMPLICATIONS**

- 10.1. The £95,500 grant payment to the Tabernacle is fully budgeted for within the existing departmental budget.
- 10.2. Comments completed by Kellie Gooch - Head of Finance ELRS. Telephone 0208 753 2203.

*Donna Pentelow*  
**Head of Culture and Special Projects**

**Local Government Act 1972 (as amended) – Background papers used in the preparation of this report**

Cleared by Finance: KG

Cleared by Legal: GM

Cleared by Media: NT