

Committee(s):	Date(s):
Outside Bodies Sub-Committee Policy and Resources Committee	26/01/2018 Urgency
Subject: Incorporation of the Trustee Body of The Central Foundation Schools of London (312695)	Public
Report of: The Town Clerk	For Decision
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Summary

In November of the 2017 the City of London Corporation (COLC) received a letter (**Appendix 1**) from The Central Foundation Schools of London (312695) (CFSL), which advised that the CFSL had resolved to incorporate their trustee body by establishing a company limited by guarantee to act as the sole corporate trustee of the CFSL. The COLC currently has the right to appoint one individual to the Board of Trustees and it is intended that the COLC would have the right to appoint one director to the new company (which individual would also be a member of that company). Accordingly, this report considers the implications of CFSL's decision and what effect, if any, this should have on the COLC's continued involvement with the CFSL.

Recommendation(s)

Members of the Outside Bodies Sub Committee are asked to recommend to the Policy and Resources Committee that:

- the City of London Corporation give its consent to the incorporation of the trustee body of The Central Foundation Schools of London, and subject to that consent;
- authority be delegated to the Town Clerk to write to The Central Foundation Schools of London to confirm the City of London Corporation's decision.

Main Report

Background

1. Central Foundation Schools of London (CFSL) (312695) is an educational foundation responsible for the maintenance of two schools; a voluntary aided Boys' School with 940 pupils and a voluntary aided Girls' School with 1,512 pupils.
2. The unincorporated charity is governed by a charity scheme dated 21 May 2010 and has a trustee body of 18 individuals, eight of whom are appointed by named "nominating" bodies" including the City of London Corporation ("nominated trustees"), and 10 of whom may be appointed by the trustee board

("co-opted trustees"). Trustees are usually each appointed for a term of four years.

3. In addition to the City of London Corporation which has the right to appoint one nominated trustee, other nominating bodies include: the trustees of the Dulwich Estate (one trustee), the Wardmote of the Ward of Bishopsgate (one trustee), the Senate of the University of London (two trustees), the London Chamber of Commerce and Industry (one trustee), the Governors of the Bank of England (one trustee), and the Parochial Church Council of the parish of St. Botolph Without (Bishopsgate) (one trustee).
4. The COLC has had a long relationship with CFSL and the Rt. Hon. Lord Mayor of London is named as the Patron of the charity, ex-officio trustee and Patron of the Charity.

Current position

5. The COLC currently appoints one Member, through the Court of Common Council, to serve as a trustee of the CFSL for the required four year term. The current COLC nominated trustee is Alderman Howard, appointed on 6 October 2011. He is currently serving his second term as a trustee which is due to expire on 31 October 2019. There is currently no express limit on the number of terms a trustee may serve, but best practice is that a trustee should serve not more than three terms.

Proposal

6. The trustees of CFSL have now resolved that it is in the best interest of the charity to incorporate their trustee body by establishing a company limited by guarantee to act as the sole corporate trustee of the CFSL. Before giving its consent to any proposed amendments to the charity's governing scheme, the Charity Commission will expect that there will have been consultation with any third party who has appointment rights which may be affected by the proposed changes, such as the nominating bodies in this case.
7. CFSL has, by letter dated 5 November 2017 (**Appendix 1**), therefore written to the COLC to seek our consent to the proposals, also confirming that they would very much like to have the COLC's continued involvement in the charity. To this end the proposals are reflective of the current rights of the COLC.
8. It is proposed that the Board of Directors of the new corporate trustee should mirror the current make-up of the existing Trustee Board, i.e. all the current nominating bodies would have a right to appoint directors consistent with their existing rights of appointment to the current Trustee Board (i.e. the COLC would have the right to appoint one director to the new company for a four year term), and the Board of Directors would also have the right to appoint up to 10 co-opted directors. Each director would also be a member of that company, with each member's liability being limited to £1. Consistent with best practice, directors will only be able to serve for a maximum of three consecutive terms
9. In addition, the proposed Articles of Association for the new corporate trustee of CFLS provide that nominating bodies, such as the COLC, will also have the

right to remove any director they have appointed and to appoint a replacement director which represents a strengthening of the COLC's rights.

10. The proposed structure is consistent with modern governance arrangements adopted for unincorporated charities. Appointing a sole corporate trustee in place of the current individual trustees will simplify for the charity the way in which assets are held and contracts are entered into. It will also help to avoid exposing individuals acting as trustees to the risk of personal liability (as is currently the case), although the directors of the corporate trustee will owe the usual fiduciary duties to the corporate trustee in directing the way in which it functions as the charity's trustee. The corporate trustee can also take out directors' and officers' liability insurance.

Conclusion

11. Considering the information provided by the CFLS and legal advice provided by the Comptroller & City Solicitor, it is concluded that the incorporation of the charity's trustee body as proposed is a reasonable change which is unlikely to have any adverse effect on the COLC's relationship with the charity.

Appendices

- Appendix 1 – CFSL Letter

Background Papers

1. Charity Commission Scheme dated 21 May 2010.
2. Draft Memorandum and Articles of Association of CFSL Trustee Limited.

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