



## Trustees Terms of Reference

### The Association for Cultural Enterprises

The Association for Cultural Enterprises is a company limited by guarantee registered in England and Wales under Company Number 06480726 and a charity registered in England and Wales with Charity Number 1122763.

The Association has been around in some shape or form since 1978 when it was called “*The Group for Museum Publishing and Shop Management*”. Over the next twenty years it became “*The Museum Trading and Publishing Group*” and then “*The Museum Trading Association*” (MTA) before settling on its current name. The Association was incorporated as a company and registered as a charity in 2008.

The Association is a membership organisation with (currently) two categories of members:

1. Full (voting) members who are interested in promoting the Association’s charitable objects who have applied to be members, been approved by the Board and paid their subscriptions. Full members must have charitable status or be otherwise run as a not-for-profit organisation.
2. Associate membership is unrestricted but associate members must apply, be approved by the Board and pay their subscriptions. Associate members are usually businesses that provide goods or services to full members. Associate members do not have any formal voting rights.

### The Charitable Objects

The Charitable Objects of the Association are as follows:

1. to provide education and training for all its members and the general public on commerce in the cultural and heritage sector; and
2. to promote the voluntary sector for the benefit of the public by assisting voluntary organisations and charities to maximise their revenue by providing a forum for sharing information and ideas on commerce in the cultural and heritage sector.

### Eligibility

To be eligible for election as a Trustee of the Association, applicants must normally be employed by a full Member organisation and be nominated for appointment to the Board by

that organisation. However, since November 2018 up to two Independent Trustees (not employed by or affiliated to a full member) may join the Board as Trustees.

Please see the separate document entitled *Appointment of a Trustee* for full details of the election process.

Certain people are not entitled to be trustees of registered charities without securing an express waiver from the Charity Commission. Trustees of registered charities **MUST NOT**:

1. Be under 18 years old.
2. Have an unspent conviction for:
  - i. an offence involving dishonesty or deception;
  - ii. any money laundering offence;
  - iii. any bribery offence;
  - iv. an offence of contravening a Charity Commission Order or Direction;
  - v. an offence of misconduct in public office, perjury, or perverting the course of justice; or
  - vi. aiding attempting or abetting the above offences.
- (b) Be on the sex offenders register.
- (c) Have been convicted of disobeying a Charity Commission Order.
- (d) Be a designated person (under anti- terrorist legislation).
- (e) Have been removed from the office of charity trustee, officer, agent or employee of a charity by an Order of the Charity Commission.
- (f) Be disqualified from serving as a company director.
- (g) Be the subject of an insolvency order or subject to any bankruptcy or insolvency proceedings.

***If any of the aforesaid apply to a Trustee or a potential Trustee they must disclose this to the Chair or the Secretary as soon as possible. This also applies where any of the aforesaid become true in respect of a Trustee whilst they are the trustee of a registered charity.***

### **Authority**

Trustees act in unison on the basis of resolutions passed on a qualified majority. Unless the Board has formally delegated any powers to a Trustee they will not normally have authority to bind the Association. Therefore, Trustees shall not enter into any legal or other commitment or contract on behalf of the Association in the absence of a valid resolution empowering them to do so.

### **Term of Appointment**

New Trustees are co-opted to the Board until their appointment is formally accepted by the members at an AGM.

At each AGM one third (or the number nearest one third) of the Trustees must retire. Those to retire at an AGM shall be made up as follows:

1. any Trustee who wishes to retire and does not seek re-election;
2. any new Trustee co-opted prior to the AGM; or
3. those Trustees longest in office and the choice between any of equal service being made

by drawing lots.

If a trustee has served for more than nine years, their reappointment must be subject to a particularly rigorous review that takes into account the need for progressive refreshing of the board and then be explained in the Trustees' annual report.

## **Expectations for Trustees**

Through a combination of the Association's objects, charity law, company law, Charity Commission guidance and best practice within the cultural sector, Trustees of the Association are expected to make sure that the Association is run effectively and consistently with the purposes for which it was established. This requires Trustees to do the following:

### **1. General Obligations**

To act in the way they consider, in good faith, would be most likely to promote the success of the Association, to be in its best interest and to ensure the protection and conscientious management of the Association's collection, taking into account:

- (a) the likely consequences of any decision in the long term;
- (b) the need to foster the Association's relationships with its members (both full and associate);
- (c) the impact of the Association's operations on the community, the economy and the environment;
- (d) the need to act fairly towards the Trustees; and
- (e) the directors' duties under the Companies Act 2006.

Trustees shall have particular regard to the charitable objects of the Association set out above.

### **2. Additional Responsibilities**

Consistent with the Association's Objects, the Trustees have been appointed due to the specialist skills they bring from areas of particular relevance to the Members of the Association. The current list of focus areas is set out below. In addition to the general roles set out above, the Trustees of the Association are therefore also expected to:

- (a) use their specific skills, knowledge, contacts and experience in those specialist areas to help the Association to develop its training and networking opportunities in those areas; and
- (b) specifically to act as the facilitator or provide a suitable speaker at one (or more) Study Day sessions and Convention sessions per annum.

It has also been agreed between the Board of the Association and its trading company, Cultural Enterprises (Trading) Limited ("CET"), that the Board of the Association will also consider what strategy CET should adopt, guide CET in its day-to-day activities and appraise and line manage on behalf of CET those employees of CET that CET shares with the Association. These responsibilities therefore also fall to the Trustees of the Association.

### **3. Specialist Areas**

The current list of specialist areas identified by the Board as being key to the Association's members is set out below:

- (a) Retail;
- (b) Publishing;
- (c) Catering;
- (d) E-Commerce;
- (e) Licensing;
- (f) Picture library;
- (g) Filming;
- (h) Wholesaling;
- (i) Venue Hire;
- (j) Events
- (k) Finance & Accounting;
- (l) PR;
- (m) Management, Strategy & Governance;
- (n) Digital;
- (o) Membership;
- (p) HR;
- (q) Ticketing;
- (r) Fundraising;
- (s) Intellectual Property rights; and
- (t) Learning & Education.

The Board also seeks to ensure full geographical representation to the extent that this is possible.

#### 4. Commitment

- (a) To attend board meetings four times a year, or as required. Unless urgent and unavoidable circumstances prevent a Trustee from doing so, it is expected that he or she will attend all of their Board meetings or give reasonable notice as far in advance as possible if they are unable to attend.
- (b) To attend the annual Away Day, Annual General Meeting and the two-day annual Convention plus meetings of any sub-committees. Where essential, attendance may be by conference call.
- (c) To consider all relevant papers before each meeting.
- (d) To devote such time as is necessary for the proper performance of their duties which may include preparation for meetings and following-up on action points. The nature of the role makes it impossible to be specific about the maximum time commitment.

#### 5. Behaviour in Board Meetings

- (a) To participate in Board meetings in a reasonable, objective and prudent manner, not allowing prejudice to impinge on the debate and decision-making process.
- (b) To contribute actively to the Board in giving firm strategic direction to the Association, monitoring its financial position and ensuring that its legal and management duties are being fulfilled.

- (c) To contribute actively to the Board in giving firm strategic direction to the charity, setting overall policies, defining goals and setting targets and evaluating performance against agreed targets.
- (d) To act collectively with other Board members and honour the collective responsibility for decisions properly taken channelling concerns or disagreements through the Chair.
- (e) To keep confidential all matters discussed at Board meetings.
- (f) To recognise, respect and welcome diverse, different and, at times, conflicting trustee views.
- (g) To provide oversight and direction to the Association and to support and constructive challenge the charity.
- (h) Where appropriate, to apply each of the above to the Board of CET.

#### 6. Staff

- (a) To treat the Chair, the other Board members, all members of the Association's staff and its members (both full and associate) with dignity and respect.
- (b) Through its relationship with the senior members of staff, to create the conditions in which the Association's staff are confident and enabled to provide information, advice and feedback necessary to the Board to perform its functions.

#### 7. Financial Discipline

- (a) To monitor the charity's financial position and ensure its financial stability and total accountability.
- (b) To ensure the proper investment of the Association's funds and review the performance of those investments.
- (c) To monitor the Association's compliance with external funding agreements.
- (d) To assist in the formulation of budgets and strategic plans.

#### 8. Decision Making

- (a) To regularly review which matters are reserved to the Board and which can be delegated.
- (b) To collectively with the other Trustees exercise the powers of delegation to senior managers, or individual trustees or staff.

#### 9. Conflicts of Interest

- (a) To make an annual declaration of interests, gifts and related party transactions, which is recorded by the Secretary.
- (b) To declare any conflicts of interests which do or might pertain to the business of a Board meeting at that meeting so they can be recorded in the minutes of the meeting.

#### 10. Board Effectiveness and Appraisals

- (a) To engage in a periodic review of the Association's charitable purposes, and the external environment in which it works, to make sure that the charity, and its purposes, stay relevant and valid.

- (b) To assist the Board in considering the benefits and risks of partnership working, merger or dissolution if other organisations are fulfilling similar charitable purposes more effectively and/or if the charity's viability is uncertain.
- (c) To actively engage in any board performance appraisals or reviews.
- (d) To assist the Board in agreeing the values, key policies and procedures and ensuring they remain consistent with the charity's purpose, that it wishes to promote and make sure that these values underpin all its decisions and the charity's activities.

#### 11. Ethics, Diversity and the Wider Community

- (a) To recognise the Association's broader responsibilities towards communities, stakeholders, wider society and the environment, and act on them in a manner consistent with the charity's purposes, values, available resources and Environmental Action Plan.
- (b) To consider how the Association is perceived by other people and organisations involved with the charity and the public.
- (c) To make sure that the Association operates responsibly and ethically, in line with its own aims, values and staff handbook procedures.
- (d) To ensure that the Association follows the law and all relevant regulatory guidance and other initiatives that promote confidence in charities.
- (e) To reflect on diversity and inclusion, understanding their responsibilities in this area in line with the Association's Equality and Diversity Action Plan, particularly when discussing the recruitment of new trustees.
- (f) To make a positive effort to remove, reduce or prevent obstacles to people being trustees.
- (g) To assist in the process of conceiving, monitoring and publishing plans to address the diversity and accessibility of the board.