

APPENDIX 4

Charity Commission Review April 2020 - Summary of issues, options and recommendations

	CC Review Para Ref	Charity Commission Comment	Factors and options	Recommendation
The Extent of the Charity's property				
1.	4.5.3(a)	<p>It is important to ensure that the Charity is receiving the right proportion of the sale premium and annual income in relation to its floor area.</p> <p>Consideration should also be given as to why the Charity is potentially losing out in terms of the premium that it will receive as a result of the swap of halls, which is being made for the Council's convenience as a result of the deal it negotiated.</p>	<p>It is not the case that the Trust will potentially lose out in terms of premium and annual income by reason of the land swap based on floor areas. No decision has yet been taken as to what a fair apportionment is. On 26 September 2019 the Trustee resolved:</p> <p><i>to authorise officers of the Council, acting on their behalf, to settle the apportionment of the lease premium and rent paid by Mastcraft (as well as the fair and reasonable contribution to be made by the Trust towards the Council's costs), in accordance with the advice received from the independent Valuer (and any further valuation advice required in that respect).</i></p> <p>As a result, whilst respective floor areas will be part of the considerations which are taken into account they will not exclusively determine what is the correct proportion of premium and rent that the Trust should receive.</p> <p>The independent valuation obtained by the Trust (which was attached as Appendix 4 to the 26 September report) noted that the respective floor areas for the halls which are proposed to be swapped are as follows Princes Hall: 370.8 sq.m (3,991 sq.ft)</p>	<p>Option a.</p> <p>The best interests of the Trust regarding the apportionment of premium and rent income will be protected by means of a negotiation between valuers instructed on behalf of the Trust and the Council respectively. Delaying a response to the Charity Commission is not recommended because of the need to resolve the Scheme and the limited time for doing so.</p>

			<p>Queens Hall: 214.0 sq.m (2,304 sq.ft)</p> <p>Also, and contrary to what is assumed by the Charity Commission, the land swap of the Princes Hall with the Queen's Hall was proposed for the benefit of the Trust rather than the Council. The Council's original proposal was that there should be a land swap of the Princes Hall with other hire space within the hotel lease area. However following correspondence with the Charity Commission, it was agreed that the Princes Hall should be swapped for the Queen's Hall instead. This was principally because the Queen's Hall is within the 'retained' part of the Town Hall intended to be subleased back to the Council and therefore under the control of the Council not the hotel operator. This then enables the Council to give the Trust more control of the use of the space by means of a sub under lease from the Council. This is in the interests of the Trust rather than the Council which will now lose the control of the Queen's Hall to the extent that it otherwise would have retained under the original proposal.</p> <p>With regard to the need for the Charity to receive the right proportion of the sale premium the identified options available to the Trust would be to:</p> <p>Options</p> <ul style="list-style-type: none"> a. Reaffirm the authorisation of 26 September 2019 quoted above b. Delay a response to the Charity Commission until the details of the apportionment have been agreed 	
The needs of the public in Ealing				
2.	4.5.3(b)	Consideration should be given to the public's need for facilities for recreation or other	In relation to meeting the needs of the public in Ealing, the Trustee may conclude that it would have arrived at the same	Option a

	<p>leisure-time occupation, having regard to current social and economic circumstances and the type of facility required to meet those needs. For instance, a study could be commissioned from relevant experts to provide this information. This could include consideration of the extent that the renovated Victoria Hall and the Queen's Hall will provide suitable facilities for recreational and leisure time occupation and the type of use that might be made of them.</p>	<p>overall conclusions as the Council with regard to the need for a facility, and the type of facility. There is no evidence that a different specification for community use would have been developed on the future use of the Trust property by the Trustee rather than by the Council had the distinction between the Council's dual roles been known at the time of seeking proposals for the Town Hall.</p> <p>When the Council first considered redeveloping the Town Hall as a whole, it was one of the Council's requirements that any redevelopment should cater for as much of the previous hirer activity as possible. The developer requirements and terms subsequently negotiated were also informed by information obtained from what community groups/hirers were requesting from other Council venues. The conclusion was that it did not appear that anything needed to be significantly changed to provide what the public wanted other than for the facilities themselves to be upgraded and modernised.</p> <p>This was supported on a review that the Council was undertaking of its community space provision, including Ealing Town Hall, and which did not identify any specific unmet need.</p> <p>In its Scrutiny Panel report dated 2016 it was noted that</p> <p><i>As of November 2015, there are now 52 organisations which use either Ealing Town Hall or Greenford Hall regularly. These comprise of a wide range of community activities from flower-arranging, religious groups, social networking, exercise and dance to children's homework classes, blood donor sessions and arts groups. They also include public sector organisations such as National Blood Service and NHS / Ealing CCG.</i></p>	<p>A new assessment is highly unlikely to reveal any significant additional information about the demands for space for public recreation and leisure time occupations in the area, or reveal any material change in the social or economic factors that bear on that. Also, the time it is likely to take to carry out that assessment would be likely to put the current proposals at risk (bearing in mind that without redevelopment, the Trust would then be seeking to rely on continued financial support from the Council).</p>
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In addition to this, a large number of community groups and charities use the facilities at both venues for regular adhoc, quarterly, bi-annual and annual events. Examples of these hirers include local pantomime shows, Met Police meetings, Ealing in Bloom awards, Jack Petchey Foundation, local schools' awards ceremonies and annual community religious/cultural festivals. Finally, they host a huge volume of one-off events and meetings for community organisations and charities.

This is considered to provide evidence of a continuing demand from the community for both large and small spaces. Nothing in the intervening period would suggest any change in this assessment.

It has not been suggested by any objectors to the Town Hall proposal that the needs of the community would be better met by relocation of facilities to a new location. The objections rather tend to support the view that the public wish to continue using facilities within the Town Hall (and for the same general purposes).

With regard to the need to reconsider the public's need for facilities for recreation or other leisure-time occupation and whether the proposals meet this need, options available to the Trust would be to:

- a. Accept that based on existing evidence the proposals meet the demands for space for public recreation and leisure time occupations in the area
- b. Commission a new study to reassess demands for space for public recreation and leisure time occupations in the area

3.	4.3.9	<p>The Queen's Hall Assessment of which of the halls [<i>Queens and Prince's</i>] provides the type of facility and space that best meets the needs of the public for recreational and leisure time occupation.</p>	<p>Members are already very familiar with the current layout of the Princes Hall and Queen's Hall.</p> <p>The Trust's independent report and valuation by Sanderson Weatherall and considered by the Trust on 26 September 2019 confirms the following in relation to the proposed land swap:</p> <ul style="list-style-type: none"> • Queens Hall currently generates a higher level of gross income than Princes Hall, which would show a greater margin if expressed on a net basis • Queens Hall is considered to be capable of maintaining higher occupancy than Princes Hall • Following the proposed refurbishment, Queens Hall will represent a function space that is comparatively more flexible than Princes Hall • Queens Hall is a size and configuration that we consider to be more suited to community use groups and workshops <p>One of the significant benefits of the land swap proposed is that the refurbished Queen's Hall would be capable of being subdivided. The Princes Hall could not be sub-divided and the split levels prohibit flexibility for community use. The fact that the Princes Hall has historically attracted fewer bookings supports the Princes Hall being less suitable for the delivery of the Trust's objects.</p> <p>With regard to undertaking a further assessment of which of the halls proposed to be swapped provides the type of facility and space that best meets the needs of the public for recreational and leisure time occupation, options available to the Trust would be to:</p> <ol style="list-style-type: none"> a. Reaffirm that it is accepted that a newly refurbished Queen's Hall better meets the needs of the public 	<p>Option a</p> <p>Given that an independent property consultant acting for the Trust has already made an assessment it is not considered necessary to commission any further assessment particularly given the risk of the delay to the project that this may cause.</p>
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			<p>for recreational and leisure time occupation than a refurbished Princes hall based on Sanderson Weatherall's independent assessment.</p> <p>b. Commission a further opinion from an expert to appraise the two spaces and their relative potential.</p>	
Use of the premium and rent				
4.	4.5.3 (c)	<p>The Commission needs clarity about how the Trustee proposes to use the premium, in the light of any study commissioned as above and for what purpose the interest from its investment and its share of the rent will be used.</p> <p>For instance, whether a new property should be purchased for use for the objects, such as a community hall in an area of Ealing without any such facilities.</p>	<p>There are a number of options as to how any premium and income could be used. For example, the Trust could use money to support groups in other ways, reduce hire rates, support dance groups that require different facilities to find other locations/subsidise hiring of other venues.</p> <p>The total premium is £2.5m and it therefore clear that even with a generous apportionment as between the Council and the Trust the amount due to the Trust would not be sufficient to purchase another property.</p> <p>With regard to further clarifying at this time how the Trustee would propose to use any premium, options available to the Trust would be to:</p> <p>a. To defer any decision as to how the premium and income might be used until the Scheme has been approved, but to give that active consideration once the Scheme is made and by means which are consistent with the objects of the Charity (as updated).</p> <p>b. Consider and agree what use the premium and income would be put to before responding to the Charity Commission</p>	<p>Option a</p> <p>It would seem premature to recommend how the premium and income is to be applied on a Scheme that has yet to be adopted by the Charity Commission and, as noted elsewhere, would place the proposals at risk through further delay.</p> <p>The Trustee may however wish to confirm to the Charity Commission its clear intention to give that matter serious and proper consideration, including by way of a study into the needs in the area that might be met through use of the premium and rent.</p>
The Charity's future use of the Victoria Hall				
5.	4.5.3 (d)	<p>Thought needs to be given as to how the community protocol can be strengthened to ensure the hotel will be obliged to let the</p>	<p>The Protocol (attached at Appendix 3) is already a comprehensive document and is part of the Lease with Mastcraft. It is enforceable as a lease covenant and</p>	<p>Option b</p>

		<p>facilities for community use, how this will be monitored by the proposed committee and how it would be enforced.</p>	<p>includes a mechanism for monitoring by means of the establishment of a Community Use Working Group to which independent members may be co-opted and which will meet at prescribed intervals. If despite this level of monitoring there are breaches of the Protocol by the Tenant then this may (depending on the nature of and extent the breach) amount to breach of the terms of the lease which would give rise to enforcement in the usual way.</p> <p>Options available to the Trust in relation to making further amendments to the Protocol include:</p> <ol style="list-style-type: none"> a. Make no further changes to the Protocol on the basis that it contains clear and enforceable protections to the Trust b. Require that arrangements are made with Mastcraft to further develop the Protocol. This could include: <ul style="list-style-type: none"> • Adding a further provision to the Protocol requiring them as the hotel operator to prioritise community over commercial use e.g. by means of an advance booking system. • A requirement to actively encourage/advertise the use of those areas for community purposes. • The introduction of further monitoring requirements and an ability to ensure compliance with the Protocol by means of other steps prior to enforcement of the lease by way of legal action. 	<p>Although the Protocol as it stands is enforceable and comprehensive, the Council have confirmed that Mastcraft are amenable to the Protocol being developed to accommodate the matters referred to.</p>
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Managing conflicts of interest

6.	4.5.3 (e)	<p>Procedures need to be implemented to manage the conflict of interest which may arise between the Council and the Charity.</p>	<p>There has already been correspondence with the Charity Commission about the potential for a conflict of interest between the Council and the Trust. Earlier guidance provided by the Charity Commission has been acknowledged and addressed by the Trust and the Council (as landowner) for some time.</p> <p>This issue was reviewed in detail by the Trustee at the meeting on 26 September 2019 and in its response to the minutes of that meeting the Charity Commission confirmed that:</p> <p><i>The reported decision of the Committee appeared to have complied with the Trustee's decision making responsibilities, and that the mechanism of the Committee making the decision sufficiently addresses the Council's conflict of interest in making a trustee decision (given its other interests in the Mastcraft proposal).</i></p> <p>With regard to implementing further procedures to manage any conflict of interest between the Trust and the Council, options available to the Trust are to:</p> <ol style="list-style-type: none"> a. Do nothing and reaffirm that existing procedures, which are consistent with earlier guidance from the Charity Commission, are in place to manage potential conflicts of interest b. Reaffirm that existing procedures are in place to manage potential conflicts of interest, which are consistent with earlier guidance from the Charity Commission, but undertake to review those arrangements to see what additional procedures can be put in place going forward. 	<p>Option b</p> <p>The conflict of interest point has been very thoroughly considered and taken into account. Nevertheless, and in order to provide further assurance to the beneficiaries of the Trust going forward, the Trustees should give further thought to these arrangements (including for example the co-option of external representatives as trustee(s)).</p>
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The section 67(3) issue – being the matters to be taken into account in relation to the disposal

7.	4.5.1	<p>.....a Scheme can be made to authorise the disposal of the Victoria and Prince's Halls, but only if the property realised can be applied for charitable purposes that are more suitable and effective than the original purposes, regard being had to the matters in s67(3) namely</p>		
7a		<p>(a) the spirit of the original gift,</p> <p>The Charity Commission are of the view that this is 'the provision of facilities for recreation and other leisure time occupation in the interest of social welfare for the public of Ealing and its neighbourhood'</p>	<p>Taking into account the way in which the Trust operated historically it is arguable that the Charity Commission's view is not an entirely accurate reflection of how the Trust was intended to and did operate in its early years and beyond. It is clear from the minutes of Trust meetings and Trust accounts that from its inception the Trust functioned by hiring Halls for recreational and leisure purposes as well as municipal ones and (in the early decades at least) also created surplus income which was applied elsewhere in the borough.</p> <p>For example, and as previously reported, minutes record that in 1937 surplus income was being applied to pay the rent for elderly residents living in 'Coronation Cottages'. This ended when the cottages were demolished. Later minutes also confirm that the 'deemed rent' paid by the Council to the Trust from the 1930s onwards was latterly applied to the Mayor's Fund to be applied for whatever charitable purpose was nominated by the Mayor from year to year.</p> <p>In summary any surplus received by the Trust has always been applied for wider charitable purposes and has not been limited to recreation and leisure purposes only, albeit that the availability of the Halls being for hire for recreational and leisure purposes (and a source of income) was also very much a key part of its objects.</p>	<p>Option a</p> <p>Given that the proposal will both secure the availability of premises for recreational and leisure purposes and is likely to create surplus income for the Trust (and which may then be applied for compatible purposes) it would appear that this requirement has been met.</p>

			<p>The Trust needs to be satisfied that the current Scheme meets the requirement that the proposal in is the spirit of the original gift.</p> <p>In relation to amending the proposals to reflect the views of the Charity Commission, options available to the Trust would be:</p> <ol style="list-style-type: none"> a. To agree that the proposals are in the spirit of the original gift b. To reconsider what future (viable) proposals could be considered to be in the spirit of the original gift 	
7b		<p>(b) the desirability of securing that the property is applied for charitable purposes which are close to the original purposes</p> <p>The Charity Commission confirm that they consider these to be facilities that can be provided in Ealing generally i.e. not necessarily in the Victoria Hall or Prince's Hall.</p>	<p>When the Council first considered the options for the redevelopment of the Town Hall, it sought to ensure that the existing recreational and leisure occupation facilities made available to the public in the Town Hall (including the Victoria Hall and Princes Hall) would be protected and would continue to be provided as a minimum.</p> <p>It is now suggested by the Charity Commission for the first time that the Trust consider whether it might be in the best interests of the Trust to dispose of the Victoria Hall and Princes Hall altogether presumably with a view to obtaining a capital receipt which it can then apply for charitable purposes which are close to the original purposes.</p> <p>This is likely (although not inevitably) to involve the Trust needing to invest in other premises in Ealing. It is not clear how this could be funded bearing in mind that the Halls have been subsidised by the Council since the 1930s and it is therefore unlikely that the disposal of the property</p>	<p>Option a</p> <p>Any outright disposal of the Trust Property pre-supposes that the resultant receipt would enable the Trust to acquire new property which is better suited to meeting the Trust's objects, and that there would be a willing buyer. Neither assumption is supportable. Even if the Council disposed of the Town Hall without any retained community use, it is unlikely that the resulting share of premium obtained by the Trust would be sufficient to fund such new premises. Also, it is abundantly clear that the beneficiaries want</p>

			<p>would achieve sufficient capital receipt to enable the Trust to invest in other property.</p> <p>It is also still possible for the Trust to apply its share of premium and rent income in support of <i>'additional facilities for recreation and other leisure time occupation in the interest of social welfare for the public of Ealing and its neighbourhood'</i> e.g. by subsidising groups wishing to hire other types of facilities in the event that the Victoria Hall and Queens Hall are not suitable for any reason.</p> <p>This also links to the points raised in section 9 below.</p> <p>In relation to the Trust exploring whether there are alternative routes to meeting the objects of the charity by securing alternative premises, options available to the Trust would be to:</p> <ol style="list-style-type: none"> a. Proceed with the disposal to Mastcraft as previously agreed b. Review options for disposal of Victoria Hall and Princes Hall to secure a capital receipt to invest in other premises 	<p>the Trust to retain its current ability to provide facilities in the Town Hall.</p>
7c		<p>c) the need for the relevant charity to have purposes which are suitable and effective in the light of current social and economic circumstances</p> <p>The Charity Commission consider a number of factors to be relevant to this including demand in the area for recreational/leisure time facilities, modern requirements for facilities, whether the Town Hall building adequately meets current needs and whether there are individuals or groups</p>	<p>The proposed new purposes of the Trust are set out in the draft Scheme and are summarised by the Charity Commission as the 'provision of facilities for recreation and other leisure time occupation in the interest of social welfare for the public of Ealing and its neighbourhood'.</p> <p>It is considered that these purposes are suitable and effective in the light of current social and economic circumstances. It is also considered that the Town Hall building (especially following its refurbishment) will more than adequately meet current needs, as is borne out by</p>	<p>No decision is required, but the response to the Charity Commission will reference this factor.</p>

		needing facilities which would not be met by the refurbished halls.	the consultation and other feedback in support of ongoing community use. However, it is acknowledged that the Charity Commission raise other relevant factors and these are therefore addressed as appropriate in this Table.	
9	4.3.8	Factors that make the use of the property less suitable and effective in meeting the charitable purpose include the following:		
9a.	4.3.8	(a) A 250-year lease is realistically a permanent disposition of the property. The charity will therefore no longer have any freehold designated land and will not have full control over the use of the property that it receives under sub-leases.	The charity will be granted an underlease of the Victoria Hall and sub-underlease of the Queen's Hall, in each case for a term of just under 250 years. The charity will therefore gain an 'effective freehold' in the trust property under these leases, in the same way that Mastcraft will under its long leasehold interest in the rest the building. In the case of the Queen's Hall it will be the Trust (not the hotel operator) who will have day to day control of the Queen's Hall as this will be part of the Town Hall to be retained by the Council not the operator (albeit under a sublease). The Trust will therefore control the use of the Hall by means of the sub-under lease. In addition to its rights with regard to the Queen's Hall by the sub-under lease proposed the underlease of the Victoria Hall will provide the Trust with a level of control in the form of landlord covenants for Mastcraft to make the Trust property available for use in accordance with the Community Use Protocol. If Mastcraft does not comply (or in relation to the Queen's Hall, the Council does not procure Mastcraft's compliance), then the Trust will have the right to enforce these covenants.	Option b. This will assure the Charity Commission that the lease structure not only reflects the suggestions they made, but also deals with the underlying concern about "control".

			<p>This underlease structure was put in place in accordance with the Charity Commission’s own suggestion in its letter dated 15 July 2019 (by way of follow up to the Council and Trustee’s meeting with it on 10 July 2019). The Commission’s view then was that if the Trust retains an interest in the Trust property by way of the grant of an underlease, this would ‘strengthen the charity’s position over the medium and longer term’, as it would not be left ‘relying solely on enforcement of covenants’ under the headlease.</p> <p>The Council will also have rights under the headlease (in its capacity as landlord, together with the Trust) and the DRP underlease (in its capacity as tenant) to enforce the Community Use Protocol against Mastcraft.</p> <p>It is acknowledged that the Protocol doesn’t currently reflect the fact that the hotel operator will not be responsible for the hiring of the Queen’s Hall, but the Protocol can be amended to reflect this; again, Mastcraft are understood to be amenable to this.</p> <p>In relation to the issue of the loss of Freehold interest in the Trust property as raised by the Charity Commission, options available to the Trust would be to:</p> <ol style="list-style-type: none"> a. Confirm to the Charity Commission that the existing lease structure combined with the Community Use covenant, does in fact provide the charity with the “control” referred to; b. Give that confirmation under a. but also confirm the amendment to the Protocol referred to (i.e. strengthened control of the Queen’s Hall). 	
		(b) [the charity commission could not] see that any consideration has been given as to	The Trust is aware of the position from the details set out in the various reports it has received in the past few years. The	Option a.

	<p>whether the proposals are the best that can be obtained for the Charity - the terms of the disposal were agreed by the Council in its corporate capacity before it realised that the Halls are held on charitable trust. The report and valuation prepared by for the Council by Sanderson Weatherall dated 9 September 2019 does not do this, having been prepared on the basis of the proposed transaction. Although the proposals were considered by the General Purposes Committee acting as trustee in September 2019, it consists entirely of members of the Council and is inherently conflicted.</p>	<p>independent report was prepared exclusively for the Trust and not the wider Council (who obtained their own separate valuation).</p> <p>The report was prepared in the knowledge that the Trust has been subsidised by the Council for decades in terms of the running of the Halls and that the Council can no longer continue to subsidise the Trust.</p> <p>With regard to the question of conflict of interest the members of the Committee are fully aware of their duties to the Trust rather than the Council and are receiving independent advice as a result.</p> <p>Every opportunity has been provided for the members of the Committee, when acting as the Trustee, to challenge and seek to reverse the approach being taken and the proposed transaction with Mastcraft.</p> <p>In relation to further considering whether the proposals are the best that can be obtained for the Trust, options available would either to</p> <ul style="list-style-type: none"> a) Confirm that the Trustee has evaluated all options, including whether to reverse out of the proposed transaction, and has done so with an independent mind acting in the interests of the Trust and its beneficiaries b) undertake a further review of options for the Trust property 	<p>Whilst it might be possible to entirely reverse out of the current proposal, the Trustee may conclude that the current proposal is the best that can be obtained because</p> <ul style="list-style-type: none"> (i) the Council ran a competitive process, (ii) that process was premised on the retention of community use on essentially the same basis as current, (iii) the resulting lease premium and rent are the best consideration obtainable (and have been signed-off as such by valuers), (iv) the Trust take a share of that premium and rent (on a fair and equitable basis), and (v) ongoing use of the Trust property is protected by the lease structure and Protocol. <p>Also, the Trustee may recognise that available options do not include the status quo, whereby it seeks</p>
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				to continue a reliance on Council subsidy.
		<p>c) Under the protocol, it will be the operator of the hotel who decides who can hire the facilities - not the Trustee. This could be detrimental to the Charity, particularly as the operator does not have to give priority to community use and there are no reserved times for community use. Given that hirers would access the facility through the hotel and use its facilities, the hotel may be reluctant to let the facility to certain groups that it did not want on its premises or prioritise use by one of its customers over community use. Further, the operator will have no incentive to encourage community use and potentially could discourage it. It is possible that certain community groups may be reluctant to hire facilities in, what [the Charity Commission] understand will be, a boutique hotel.</p> <p>(c) If, despite the covenants, the hotel operator refused to let the hall to community groups, it is not clear how this could be enforced. Whilst it would seem to fall to the Council in its corporate capacity as landlord to enforce the community use, it may have no incentive to do so. The Council as trustee would not have any funds to take legal action and it seems unlikely that the Council as trustee would act against the Council as landlord to enforce the community use.</p>	<p>Information related to protections to the Trust under the proposed lease arrangements are covered in section 9a above.</p> <p>In addition, the current proposals are that the hotel operator will grant a sublease to the Trust of the Victoria Hall. It is not however proposed that the Trust will be responsible for day to day management and maintenance of the Victoria Hall. It is expected that a management services agreement will be needed to enable the hotel operator to manage the Hall from day to day and this could include details for management of the hirings.</p> <p>The Trust will have control of bookings or how they are managed via the sub-underlease even where that is delegated to the Council via a Management Services Agreement.</p> <p>Assuming that the Management Services Agreement will include details of the agreed hiring arrangements, the Protocol could be amended to reflect the position with regard to the Queen's Hall and Victoria Hall.</p> <p>All of this needs to be seen in the context of how the Trust has operated historically, i.e. entirely reliant on the Council for the administration of community use. Therefore these suggested arrangements will improve on that and provide the Trust with a greater ability to enforce than is the case at present.</p>	<p>Option c)</p> <p>A Management Services Agreement will be developed and will include the agreed hiring processes for the Victoria Hall. Once this has been agreed with the hotel operator the Protocol can be amended to align with the process for the Victoria Hall and for completeness could include the Queens Hall.</p> <p>The Council have confirmed that Mastcraft are amenable to this.</p>

			<p>In relation to the Trust further considering whether the proposals represent a loss of control, options available to the Trust would be to:</p> <ol style="list-style-type: none"> a. Retain the Protocol as drafted b. Amend the Protocol to reflect the sub underlease of the Queens' Hall c. Amend the Protocol to include controls on the hire of the Victoria Hall and Queen's Hall 	
		<p>(d) The Halls will only be available for hire by, basically, registered charities and non-profit community groups with the majority of their members resident in Ealing. Whilst this may be a convenient way for the hotel to check whether a group is entitled to the reduced charges, this would potentially preclude other users.</p>	<p>This is incorrect. The Halls will be available for registered charities and non-profit making organisations but there is no reason that they should not also be available for other community groups or users. There appears to be confusion between community 'use' and those organisations that qualify for the community 'rate'.</p> <p>Options available to the Trust in relation to the issue of whether the proposals exclude certain groups:</p> <ol style="list-style-type: none"> A. Retain the Protocol as drafted B. Amend the Protocol to make it clear that any members of the public can hire the Victoria Hall. 	<p>Option a)</p> <p>The current system has worked successfully and there is not deemed any reason to amend it at this time.</p>
		<p>(e) The income from letting the Victoria Hall will go to the private company, Surejogi. Whilst it will bear all of the costs of making the property available, any 'profit' will stay with the Company and will not be available for application for the secondary purpose.</p>	<p>This is correct however the Trust will receive its share of profit generated from the Victoria Hall and without exposure to losses or ongoing maintenance costs.</p> <p>In particular, the head lease provides for payment of an annual Base Rent by Mastcraft to the Council (£250,000, subject to upward reviews). There will need to be a mechanism by which the Council pays the Trust a share of that rent. The apportionment has yet to be agreed but it will be based on the Trust and Council each obtaining their own independent advice and then agreeing an apportionment</p>	<p>This requires no action but the response to the Charity Commission will explain the position (they have had sight of the Lease already).</p>

			<p>The Council (and therefore the Trust) is <u>also</u> entitled to an annual Turnover Rent from Mastcraft. If 7% of Mastcraft's turnover in a year exceeds the Base Rent mentioned above, then Mastcraft has to pay the excess to the Council as rent, before it calculates its profit. The Turnover calculation takes into account any consideration received by Mastcraft in relation to the operation of the Community Use Property. The Trust will be receiving a proportionate share of this rent too.</p> <p>It should be noted that for many years the Trust has been subsidised by the Council and the ability of the facilities to be profit-making is questionable. The historical arrangement has exposed the Trust to liabilities for losses (albeit that the Council has funded these through subsidy). Whilst it is correct that the Mastcraft proposal would require the Trust to waive any future profit which might be generated it also removes the Trust's exposure to losses.</p>	
		<p>f) The refurbished Victoria Hall will no doubt provide function room facilities appropriate to a boutique hotel. Whilst this may be suitable for use for events such as a charity dinner dance fundraising event, it may not necessarily be the most suitable type of venue for recreational and leisure time use in the modern day. [The Charity Commission] have not seen any analysis of this.</p>	<p>The Victoria and Queen's hall will each be available for hire and provide facilities which will accommodate a range of modern uses and requirements. Other rooms in the hotel element of the development will also be available at community rates. To the extent that this range of types of accommodation is not suitable for specific types of new groups the Trust can consider applying its income to supporting groups in finding accommodation elsewhere.</p> <p>In summary it is considered that overall the facilities available in the hotel and in the Queen's Hall will provide a wide community offering and will be accommodate a wide and diverse variety of community activities as evidenced the range of demand.</p>	<p>See options / recommendation at 4.5.3 b) and 4.3.9 above.</p>

		(g) Although one of the benefits of the transaction has been presented by the Council as being the preservation of the Victoria Hall, this is not an object of the Charity.	Noted	To be noted.
		(h) The 'swap' of the Smaller Queens Hall for the Princes Hall will take place before the transaction with the Company is completed. Since the apportionment of the premium and rent will be on the basis of floor space, this means that that the Charity will receive a reduced premium and rent to what it might have been entitled if the swap had not taken place.	As 4.5.3 (a)	As 4.5.3 (a)