

Subject:	Old Market Trust		
Date of Meeting:	23 September 2010		
Report of:	Director of Finance and Resources		
Contact Officer:	Name:	Catherine Vaughan	Tel: 29-1333
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Key Decision:	No		
Wards Affected:	Brunswick & Adelaide		

FOR GENERAL RELEASE**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 This report sets out urgency action taken by the Director of Finance and Resources in accordance with Part 7.2 A 7(2) of the constitution ("Urgency Powers").

2. RECOMMENDATIONS:

- 2.1 That Cabinet notes the urgency action taken.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 In 1998 the council made a loan to the Old Market Trust of £275,000 in order to maintain the Trust's activities through refurbishing the building for use as a venue. While the loan was formally due for repayment in 2006 in accounting terms it had been treated in the council's accounts as a grant payment. However to provide protection against the Old Market being sold at a profit in the short term the council registered a charge to this value against the title to the building. The council also registered a charge in relation to £585,000 of SEEDA money given to the Old Market Trust for which the council was the Accountable Body.
- 3.2 On 15th September 2004 Policy & Resources Committee agreed the following recommendation:

To convert over time, the loan made to the Old Market Trust in 1998 to a grant. This would be integrated into the fundraising appeal and provide both support to the Old Market but also a strong challenge to succeed.

- 3.3 Over the subsequent years the Old Market Trust continued to face significant financial challenges and finally went into voluntary liquidation in January 2010. Receivers were subsequently appointed to sell the Old Market building. The council had two second ranking charges registered against the title to the Old Market as described above. SEEDA confirmed that they would not be making a claim in respect of their money.

- 3.4 The highest ranking charge belonged to Barclays Bank who appointed receivers to sell the Old Market in order for them to be able to recover some of their loan. The sale price was insufficient for them to recover their loan in its entirety, let alone the loans of any lower ranking lenders. The council sought evidence that the property had been widely marketed in order to ensure that the best sale price had been achieved in the circumstances.
- 3.5 In order to effect their sale, the receivers required the council to execute deeds of discharge in respect of the two council charges and this was done using the Director of Finance's urgency power to enable the sale to complete on schedule. This was a technical matter but one for which the council's constitution gave no express powers and therefore the use of urgency powers was required. The council had no control over the timetable for the sale and did not want to be in the position where the sale was potentially jeopardised through a failure to act reasonably.
- 3.6 There was no advantage for the council not to execute the deeds of discharge in the absence of any money left after Barclays had taken the proceeds of sale and indeed there may have been financial risk of not doing so if the sale had fallen through as a result and the bank considered seeking remedy from the council.
- 3.7 The council's understanding is that the venue will now be used by STOMP who, as a local company will have an interest in engaging with the local community and other cultural providers.

4. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications

- 4.1 There are no financial implications arising from this decision. The loan made by the council in 1998 was not expected to be repaid and had been converted over time to a grant by the decision of Policy & Resources Committee in 2004. Confirmation was obtained from SEEDA that they did not wish to seek repayment of their grant funding for which the council was accountable body.

Finance Officer Consulted: Catherine Vaughan *Date: 01/09/10*

Legal Implications:

- 4.2 The legal implications are essentially contained in the body of the report and it is a matter of formality to execute deeds of discharge in a situation such as this, where there is no prospect of receiving repayment of a loan out of the proceeds of sale.

Legal Officer Consulted: Anna MacKenzie *Date: 18/08/10*

Equalities Implications:

- 4.3 There are none.

Sustainability Implications:

- 4.4 In terms of the future use of the building, the purchase by Yes No Productions creates a more sustainable future for the Old Market both in terms of its upkeep and maintenance as a historic building as well as its operation.

Crime & Disorder Implications:

- 4.5 Should the building have become vacant, there could have been the risk of dilapidation and vandalism.

Risk and Opportunity Management Implications:

- 4.6 The matter of balancing the risk of not recouping the original loan made against supporting a highly regarded arts venue were previously taken into account by the council when investing in the Old Market..

Corporate / Citywide Implications:

- 4.7 The Old Market was sold to Yes /No Production Limited Pension Scheme which is part of a group of companies which includes the international band STOMP. The company has an interest in the city's cultural sector and will work in partnership with other cultural providers to ensure the Old Market remains part of the city's offer.

5. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 5.1 Covered in the body of the report.

6. REASONS FOR REPORT RECOMMENDATIONS

- 6.1 Covered in the body of the report.

SUPPORTING DOCUMENTATION

Appendices:

None

Documents In Members' Rooms

None

Background Documents

None

