

Report title	Cabrera Trust Management Committee - Constitution
Report author	Carol Holehouse, Democratic Services Officer
Department	Law and Governance
Exempt	No

Purpose of report:

To Resolve

Synopsis of report:

To ask the Committee to consider changing the Constitution of the Cabrera Trust Management Committee to enable two members of the Friends of Cabrera Trust to be co-opted on to the Committee.

Recommendation that:

To resolve that the Constitution of the Cabrera Trust Management Committee be changed to allow the addition of one person identified by the Friends of Cabrera Trust group to become a member of the Committee and, in the event that person is unable to attend a meeting, a further person identified by the Friends of the Cabrera Trust group be entitled to substitute for the person who cannot attend.

1. Context and background of report

1.1 In March 1991 the former Leisure Services Committee was asked to consider a draft Constitution for the Management Committee for the Trust. The Constitution was duly approved. It was amended in 2010 to allow the members of the Riverside Walk Advisory Group to join the management committee when the group disbanded. It has remained unchanged since.

2. Report and, where applicable, options considered and recommended

2.1 The Cabrera Trust (working name) is a charitable trust registered on 31 August 1961. The Trust is responsible for the management of the open space playing area on Cabrera Avenue and 52 acres of land next to the River Bourne known as Riverside Walk. The trust objects require that Riverside Walk is maintained for the exercise, recreation and benefit of the inhabitants of Virginia Water and the neighbourhood, and the open space on Cabrera Avenue is to be used as a public recreation ground.

2.2 Registered charities are normally managed in accordance with provisions contained in the documents which create them e.g. conveyances of land or trust deeds and powers set out in legislation. Historically the Charity Commission and previously the Secretary of State for Education (under powers granted by the Charity Act 1960) could make what were termed as Schemes for a wide range of reasons, including:

- authorising trustees to carry out particular actions
- appointing new trustees
- amending governing documents

- 2.3 In 1972, the Secretary of State for Education made a Scheme in relation to this charity. Scheme at Clause 5 allowed the Council to create a Committee for the management of the land and create a Constitution for the operation of that Committee. The Council used those powers in 1991 to create the current Committee and create a Constitution for it.
- 2.4 The Council can exercise its powers to vary that Constitution and vary the membership of the Committee by virtue of section 4.15 of the Council's Constitution.
- 2.5 The Friends of Cabrera Trust are a voluntary group who assist in the maintenance of the Trust land by providing regular working parties to clear areas of invasive species.
- 2.6 The current Committee consists of the three Virginia Water ward Councillors, two Officers, Paul French (Honorary Treasurer) and Chris Swatridge (Honorary Secretary) along with 3 Honorary Wardens.
- 2.7 At the Committee's recent Annual General Meeting in July, Members of the Friends of Cabrera Trust requested Officers look at changing the constitution of the Management Committee to allow them to be co-opted onto the Committee and attend meetings.
- 2.8. The request was for any member of the Friends of the Cabrera Trust to attend meetings on an ad-hoc basis with no one named. This would enable anyone from the Friends' Group to attend meetings when available.
- 2.9 Officers have considered this request and whilst they appreciate any member attending would provide resilience for the Friends of the Cabrera Trust, Officers felt that a Member and Deputy would be a more structured and beneficial solution. This would mean if the Member was unable to attend the Deputy could attend the meeting instead.
- 2.10 Officers, however, have noted that not all decisions made by the Committee would affect the Friends of the Cabrera Trust and proposed change would mean that the Friends of the Cabrera Trust would have a say in a wider range of matters. It would not be easy to alter the Constitution to, in essence, restrict the ability of certain members of the Committee to vote on only certain items.

3. Policy framework implications

- 3.1 Any changes would require the constitution of the Cabrera Trust Management Committee to be updated accordingly.

4 Resource implications/Value for Money (where applicable)

- 4.1 None identified.

5. Legal implications

- 5.1 As explained above the Cabrera Trust charity was created to manage two pieces of land which were transferred to Egham Urban District Council. The charity was formally registered in August 1961 with Egham Urban District Council being the sole trustee.
- 5.2 The framework under which a charity is governed can either be set out in the documents which create the charity or by reference to provisions created in legislation. One of the powers contained in the Charities Act 1960 was to confer a power on the Charity Commission and Secretary of State for Education to make what is termed as a Scheme to regulate various aspects of the operation of a charity.
- 5.3 That power was exercised in 1972 and 1989 to make Schemes to regulate the operation of the Cabrera Trust. Clause 5 of the Scheme made in 1972 and slightly amended in 1989 granted the Council, as the sole trustee of the charity the power to create a management committee in respect of the land and set out a Constitution to regulate the operation of that management committee. The Council has the power to create the management Committee and set out its constitution.
- 5.4 The Council exercised those powers in March 1991, when the former Leisure Services Committee approved the creation of the current Management Committee and set out its Constitution which was duly adopted. That decision was formally adopted by the Full Council in April 1991 as the practice then was to formally receive and adopt the Minutes of all the service committees. In 2010 the Management Committee's Constitution was changed when the Riverside Walk Advisory Group was disbanded and its members joined the Management Committee. This was approved by the former Leisure and Environment Committee in September 2010 under delegated authority as set out in the Council's Terms of Reference for Committees dated May 1991.
- 5.5 The current proposal before Members is to expand the membership of the current committee to include a person who can represent the views of the Friends of the Cabrera Trust organisation. It is proposed that organisation will nominate one of its members to sit on the committee and there will be a further member who will be authorised to attend if the initially appointed person is unable to attend.
- 5.6 If this Committee support this proposal by exercising its powers on behalf of the Council as sole trustee to vary the Constitution of the committee, to allow for this change to take place.

6. Equality implications

- 6.1 There are no equality implications associated with this report. If the Community Services Committee support the proposed change to the Constitution of the Management Committee, it will be open to the Friends of the Cabrera Trust group to nominate a person to take up the position they are being offered. Membership of the Management Committee is open to any person subject to them being nominated by the Friends of the Cabrera Trust group.

7. Environmental/Sustainability/Biodiversity implications

- 7.1 None identified.

8. Timetable for Implementation

8.1 A report would be prepared for the next ordinary meeting of the management committee in January 2024 advising them of this Committee's decision.

9. Background papers and Appendices

Appendix 'A' Constitution of the Management Committee