

Minutes of the Meeting of Lucky Ewe Trustees held on Monday, 12th April 2021 at 19:00 via Zoom

Present: Joan Brown (Chair), Jill Dawson (Treasurer), Alana Paterson-Brown, Libby Elliot, Richard Young and Mary Gibbon (Sec)

There were no matters arising

Agenda

Item 1: Community Asset Transfer

The meeting discussed NHS Fife's response, received on March 31st 2021, to our CAT application, submitted October 2020, for NHS land at Stratheden.

The email from Chris Van Rietvelde, Land and Property Manager, NHS Lothian, asked for clarification on a number of points:

a) "The Board wish to gain from you additional information on how Lucky Ewe's constitution is such that it can be said to establish Lucky Ewe as a 'community transfer body' . . . Your written constitution must include **a definition of the community to which the body relates**" . . . Lucky Ewe's constitution details two of the organisation's purposes. The Board take the view that this does not however define the community to which Lucky Ewe relates."

The Guidance from Scottish Government on a model Constitution /Your Community (clause 4) states that: Your community may be defined by geographical boundaries or by any common interests or shared characteristics.

Nicky Donald of *Development Trust Association Scotland*, suggests adding a geographic boundary which would help to define membership:

"For example, 'the Organisation has been formed to benefit the community of those in Fife who support or benefit from the purposes of Lucky Ewe' . . . members would then come from this area, and would have to be on the majority on the Board. You could have Associate Members who support your purposes but who come from outwith the area. They would not have a vote but could be co-opted on to the Board (but never in the majority)."

It was agreed to amend the Constitution, clause 4, to include a geographical boundary which would define more clearly "the community"

(b) "provision that the majority of the members of the body is to consist of members of that community. Under the Act the majority of the members of the body must consist of members of the defined community. In the absence of a defined community and that link being applied to membership the Board cannot consider that Lucky Ewe's constitution meets these requirements."

Trustees agreed that the amendment of Clause 4 (as above) defines the community and thus fulfils the requirement that the majority of members come from the defined community. This requirement is evidenced by the majority of postcodes given in our Survey Response Summary.

(c) “provision that the members of the body who consist of members of that community have control of the body.”

Trustees discussed the Lucky Ewe constitution and agreed that members of the defined community, through the voting rights and conditions of becoming a member as set down in the constitution, have control of the body.

It was agreed to check the terms for Associates and their voting rights.

(d) “provision that membership of the body is open to any member of that community. The Board cannot at this time see a link between membership criteria and a defined community.”

With the amendment of clause 4 and the defined community, there is now a link between membership criteria and the community.

(e) “a statement of the body’s aims and purposes, including the promotion of a benefit for that community. Again, as we cannot see that the community in this respect is satisfactorily defined, the purposes given in the constitution cannot be related to a benefit to that community.”

With the amendment of clause 4, the aims and purposes are now related to a benefit to the defined community

(f) “provision that any surplus funds or assets of the body are to be applied for the benefit of that community. There is no Clause in Lucky Ewe’s constitution that appears to fulfil this requirement.”

After advice from DTAS legal advisor, Elspeth Mathieson, trustees agreed to insert the following section:

Application of income and property

1 The income and property of Lucky Ewe shall be applied solely towards promoting the SCIO’s objects (as set out in clause 4) and in particular (but without limiting the generality of that provision) any surplus funds or assets of Lucky Ewe must be applied for the benefit of the Community.

2 No part of the income or property of Lucky Ewe may be paid or transferred (directly or indirectly) to the members of the SCIO, whether by way of dividend, bonus or otherwise - either in the course of the SCIO’s existence or on dissolution - except where this is done in direct furtherance of the SCIO’s charitable purposes.

3 No benefit (whether in money or in kind) shall be given by Lucky Ewe to any charity trustee except: (a) repayment of out-of-pocket expenses or (b) reasonable payment in return for particular services (outwith the ordinary duties of a charity trustee) actually rendered to the SCIO.

Item 2: Funding

Trustees addressed a number of other points raised by NHS Fife.

The NHS Board queried

- whether funding awarded by Fife Council for posts with Lucky Ewe had been used;
- how the first year's operating costs are to be covered fully considering the level of confirmed funding;
- how the significant expenditure of renovating the mortuary building would be provided
- whether Lucky Ewe has taken any steps to obtain comfort from the planning authority with regard to an application for the planned use
- with respect to the contribution from the neighbouring farmer, has any agreement in principle been made to date on the financial contribution and a 'handover' plan.

The Meeting noted that:

Section 9.4 of the Asset Transfer under the Community Empowerment (Scotland) Act 2015 Guidance for Relevant Authorities states that:

Only outline information under each heading is required to accept a request as complete. You can seek further information at a later stage if you feel this is needed to support the decision-making process

However it was agreed that Joan would reply to Chris Van Rietvelde and provide information relating to the above queries.

Item 3: Nature of CAT request

The NHS Board states that:

“The current CAT application is for a 25 year lease “with the option to buy”. The Board’s position is that the legislation does not allow for this and that this option would need removed from the request for the CAT application to be considered. There are separate considerations which the Board will need to take into account depending on whether the CAT is for lease or ownership.”

Lucky Ewe trustees have been advised that Section 79 (4) (f) (iii) of the Community Empowerment (Scotland) Act 2015 says that an asset transfer request, for a lease, is a request for the land to be leased to the community transfer body. The Act says that the CAT for a lease has to include the rent, the length of the lease, and **"any other terms and conditions"** that the community transfer body considers should be included in any such lease".

Therefore an option to buy would be covered by "any other terms and conditions"

Any Other Business

The Meeting discussed a number of other issues which emerged:

- Richard suggested that a caveat should be inserted in the constitution that interns could form a small committee if they so wished.
- trustees should clarify that non-members do not have a vote
- a volunteer forum could be established on the Lucky Ewe website
- there should be a particular person assigned as a contact for interns and volunteers

It was agreed that Lucky Ewe will call an EGM so that members can discuss all points raised and approve/ vote according to our constitution.

The following actions were agreed:

Mary: write up amendments/additions needed for constitution and email to trustees

Libby: contact Planning Department and Head of Stratheden Hospital

Joan: reply to C. Van Reitvelde and edit Survey Responses to send as attachment

Jill: email all relevant documents re. CAT request to trustees.

There was no other business and the meeting finished at 21:00.