

Questions Asked by Jonty Nicholls and the Board's Responses

1. **Confidentiality.** WPCC has been criticised for lack of openness and transparency (for example, by the recent governance review). Yet Conservators are barred by the WPCC Code of Conduct from communicating freely with the very people who elect them. Will the Board look at altering the Code of Conduct so that Conservators may communicate freely, if in their reasonable opinion, such communication is in the best interests of WPCC?

The Conservators fully acknowledge the need for openness and transparency and are aware that more needs to be done, particularly on contentious issues, to keep Levy-payers and the general public informed.

There will, however, always be some information which an organisation will need to withhold in order to protect its own commercial and other interests, including the rights of individuals and entities with whom it has dealings. The same applies to conversations within meetings of the Board to permit the free and frank expression of views on specific issues.

2. **Compliance With The Charities Act 2011.** Does WPCC now have clear advice that sale of the Putney Hospital access rights should have been treated as a sale of land under Sections 117-122 of the Charities Act (and thus that a QSR, as described in the Act should have been obtained and the transaction advertised to the public)?

The Charity has received advice that the disposition of land by way of an easement should have adhered to Sections 117-122 of the Charities Act 2011.

3. **Compliance With The Charities Act 2011.** Did WPCC or any of its then Conservators have any advice on this issue immediately prior to this sale and if so, what was this advice?

Throughout negotiations, initially with the WPCT and subsequently with Wandsworth Borough Council, the Trustees received advice from retained solicitors (including Leading Counsel in the Judicial Review and Appeal Court hearing) and from a senior valuation partner within a nationally established firm of property advisors.

4. **Valuation Advice.** Just prior to the 2015 election (in a "Q&A" release agreed by the Returning Officer) and on other occasions, WPCC publicly stated that it had received "independent" "professional" "valuation advice" on the Putney Hospital easement which set its valuation at £350,000. What was the nature of this valuation advice, when was it received and from whom? Can it now be published or at least evidenced in some way, so as to restore public confidence in WPCC?

The advice in relation to the sale of the access rights associated with the easement was received from retained solicitors and from a valuation partner within a nationally established firm of property advisors. If a potential under-valuation of the sale of access rights occurred the charity will seek further legal advice to consider its options at that point. In the meantime, the charity needs to protect its position.

5. **Retrospective Enquiries.** Now that a potential breach of the Charities Act 2011 by WPCC has been notified to the Charity Commissioners, does WPCC have any further obligations to investigate this matter? If so, please detail them.

A copy of the letter from Charity Commission dated the 22nd October 2015 to Wimbledon and Putney Commons Conservators is attached and sets out the Regulator's requirement for Conservators to implement their Formal Action Plan. That Action Plan was formally adopted by the Board at its meeting on the 11th November 2015.

6. **Valuation Of Access Rights.** Does WPCC plan to publish any 3rd party valuation at all of the Putney Hospital access rights, whether that be one already obtained or one it plans to commission?

A QSR was commissioned by a small number of Conservators who are members of the Audit and Risk Committee and there is a valuation "on the table" which indicates there is a significant difference between what the charity secured and what the valuation could have been. There is disagreement within the Board as to whether the QSR sought from the firm of valuers, reflected all relevant factors and circumstances that needed to be considered. . Through the implementation of the Formal Action Plan set out by the Regulator, a QSR will be commissioned taking into account any relevant factors and circumstances at the time of the original transaction, to determine if the charity has suffered a loss.

7. **Value of Retrospective Enquiries.** Has WPCC obtained advice as to there being any realistic prospect of recovering any part of the alleged under-valuation of the Putney Hospital access rights from any of the parties involved, including insurers? If not, when would it expect to obtain this?

Having obtained a retrospective valuation taking into account all relevant factors and circumstances at the time of the original transaction, the Regulator advises that if there is any significant difference in valuation the Trustees should seek further legal advice on whether it is appropriate and feasible to recover this loss and from whom.

8. **What is the plan of action** which has been agreed with the Charity Commission?

See the attached Charity Commission letter.

9. **Vacant Seat.** When will WPCC hold an election to replace the Conservator who recently resigned?

The Board will be considering this matter at its December 2015 Board meeting.

10. **Use of Commons Assets by 3rd Parties.** Will the Board agree to collate and publish, for the benefit of levy-payers, and also for the purpose of flushing out any unwitting and undiscovered breaches of the 2011 Charities Act, a schedule describing the assets involved, length and principle terms of all current arrangements for the use of Commons assets by 3rd parties, including, but not limited to, the golf club car park, the bowling green, Putney Lower Common tennis courts, cricket pitches on the Commons, advertising hoardings and the "Spencer benches"?

It is the responsibility of the Board of Trustees of the charity to manage assets held by the Charity. A schedule of the assets should be a matter of public record and will be made available to the extent consistent with normal considerations applying to commercial confidentiality.

11. **Recall Mechanism.** Given that there has been considerable and understandable disquiet amongst levy-payers as a result of WPCC's recent media statements, would the

Board consider putting in place a "Recall" mechanism so that between elections, not more than once a year, if there is a formal petition from a sufficient number of levy-payers (a number determined by you), any Conservator might be required to resign and, if appropriate, offer themselves for re-selection?

There are no powers within the Wimbledon and Putney Commons Act 1871 or the Commissioners Clauses 1847 for such action to be taken. It would require a change in primary legislation to introduce such powers.