

**By:** David Lewis, Director of Property, Chief Executive's Department

**To:** Mr Roger Gough, Cabinet Member for Corporate Support Services and Performance Management, April 2010.

**Subject:** Grant of a lease of the Turner Contemporary Gallery from KCC to the Turner Contemporary Trust

**Classification:** Unrestricted

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**Summary:** This report seeks to give the Director of Property, in consultation with the Cabinet Member for Corporate Support Services and Performance Management, delegated authority to finalise and grant a lease to the Turner Contemporary Trust.

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## **1.0 Background**

- 1.1 Construction work on the Turner Contemporary gallery ('the Gallery') is progressing well.
- 1.2 The County Council is responsible for the construction of the Gallery, and upon completion, will lease the Gallery to the Trust at a peppercorn rent, whilst ensuring that the County Council receives no consideration on the lease.
- 1.3 KCC will provide funding to the Trust for an initial 3 year period and thereafter through an annually renewable, three year Grant Agreement.
- 1.4 The Trust assumed operational responsibility on 1<sup>st</sup> April 2010 for all operational activities of Turner Contemporary, which includes the delivery of a public programme of exhibitions, new commissions, talks and events, learning and outreach work. The Lease will be granted to the Trust upon practical completion of the Gallery.

## **2.0 The Lease**

- 2.1 The Lease will govern the Trust's occupation of the building and detail the responsibilities and rights of both parties. This will include repair, maintenance, replacement of key plant and machinery responsibilities, early termination rights, etc.
- 2.2 The Lease has been drafted by KCC legal services, with support from KCC Estates and Mouchel (KCC's consultant surveyor advising on landlord and tenant matters) and seeks to protect the interests of KCC. Detailed negotiation of the Lease is ongoing with the Trust's solicitors.
- 2.3 It is imperative that upon completion of the Lease, HM Revenue and Customs (HMRC) confirm that it is a non-business transaction to ensure that the VAT on the construction is not counted in KCC's partial

exemption determination. The Lease has been drafted so that KCC receives no consideration and the Trust will only pay a peppercorn for the rent.

### **3.0 Resource Implications**

3.1 The County Council retains a number of responsibilities for ongoing maintenance of the structure of the Gallery, replacement of items of key plant and machinery and for ongoing insurance. In order to fund these responsibilities, the Communities Directorate will retain a £100K per annum budget and the Gallery will be managed alongside the Directorate's other capital assets.

3.2 If HMRC deem that certain clauses within the Lease need to be removed to ensure that KCC receive no consideration, and these have a resultant financial impact on the County Council, a mechanism within the Grant Agreement can take effect, allowing the annual grant to be revised accordingly

### **4.0 Conclusion**

4.1 Whilst the detailed negotiation of the Lease is ongoing, it has been drafted by KCC legal and seeks to protect the interests of KCC and to set out the responsibilities and rights of both the Trust and KCC

### **5.0 Recommendations**

5.1 The Cabinet Member for Corporate Support Services and Performance Management is asked to delegate authority to the Director of Property, in consultation with the Cabinet Member for Corporate Support Services and Performance Management, to finalise and enter into the lease with the Turner Contemporary Trust.

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