

ABERDEEN CITY COUNCIL

COMMITTEE	Guildry and Mortification Funds
DATE	5 December 2022
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	Revised Constitution - City of Aberdeen Council Guildry & Mortification Funds
REPORT NUMBER	COM/22/295
DIRECTOR	Gale Beattie
CHIEF OFFICER	Vikki Cuthbert
REPORT AUTHOR	Kundai Sinclair
TERMS OF REFERENCE	General Delegations to Committees 8.7

1. PURPOSE OF REPORT

- 1.1 To consult with the Committee on a proposal for a revised constitution for the City of Aberdeen Council Guildry & Mortification Funds (charity number SC011857).

2. RECOMMENDATION(S)

That the Committee:-

- 2.1 note and approve, as a consultee, the proposed revised constitution for the City of Aberdeen Council Guildry & Mortification Funds (charity number SC011857) ("the charity") in Appendix A;
- 2.2 note that the Chief Officer – Governance will submit a proposed revised constitution for the charity to a meeting of Council (as sole trustee of the charity) for its approval and thereafter submit it to the Office of the Scottish Charity Regulator (OSCR) for its approval.

3. CURRENT SITUATION

- 3.1 The City of Aberdeen Council Guildry & Mortification Funds are a charitable trust and Aberdeen City Council is sole trustee thereof.
- 3.2 Possession of the Guildry funds was transferred to the predecessor of Aberdeen City Council in 1838 by a Decree of Declarator granted by the Lords of Council and Session. Under the Aberdeen Town Council Act 1868, possession of the Mortification funds was also transferred to the predecessor of the Council. Since then, the Council (as sole trustee) has continued to manage the Guildry and Mortification Funds.
- 3.2 Until 1996, the sole purpose of the trust was to provide relief and support to Burgesses of Guild and their widows and families.

In 1996, the Court of Session approved that the trust purposes be broadened to allow for the provision, in certain circumstances, of financial support to individuals for education, vocational training and career advancement. See Appendix B for the current constitution. The current trust purposes are:

- (1) *Relieving financial hardship among the Burgesses of Guild of Aberdeen present and future and their widows or widowers and families (including without prejudice to the foregoing generality children of deceased Burgesses of Guild at Aberdeen) by the payment of annuities of such amounts as the trustees in their absolute discretion may determine; and*
- (2) *assisting persons born or habitually resident in the City of Aberdeen and intending to pursue careers that if pursued would qualify them for admission as Burgesses of Guild of Aberdeen to pursue educational or vocational training courses or otherwise to further their proposed careers, and that by means of grants or scholarships of such number and amounts as the trustees in their absolute discretion (but after such consultation with the Dean of Guild and his Assessors as the trustees in their absolute discretion may determine) may determine.*

Declaring that in the exercise of their discretion the trustees shall always give priority to purpose (1) above.

Since then, the Guildry Award Scheme has been administered by the Council and provides annuities, grants and scholarships in terms of the above purposes. The number of applications has however declined over the years.

- 3.3 The City of Aberdeen Council Guildry & Mortification Funds were registered as a Scottish charity by the Council's predecessor in 1992; and subsequently with OSCR in 2003 when the functions of the Scottish Charities Office were transferred to OSCR. The Council has recently worked with the Lord Dean of Guild to produce a proposed revised constitution which reflects modern charity legislation and the aspiration to use the Funds for a wider range of charitable purposes. This proposed constitution (including broader purposes) is at Appendix A and will require approval from the Council (as sole trustee) and, ultimately, from OSCR before it can take effect.

Charities and trusts do sometimes need to adapt the way they operate to reflect changes in society and the context in which they operate. It has been 25 years since the constitution was last updated. It is considered that the proposed changes are more in step with the modern needs of the inhabitants of Aberdeen.

In order to widen the pool of potential beneficiaries, it is proposed to remove the above requirement for applicants to demonstrate that they intend "*to pursue careers that if pursued would qualify them for admission as Burgesses of Guild of Aberdeen....*".

As well as retaining the above financial hardship purpose, it is proposed instead that the funds be used for:

(b) *assisting by means of grants or scholarships of such number and amounts as the Trustee in their absolute discretion (following consultation with the Lord Dean of Guild and her/his Assessors) may determine;*

(i) *persons born or habitually resident in the city of Aberdeen who are prevented or inhibited from pursuing their educational or career goals due to financial circumstances or who are intending to undertake educational or vocational training courses or otherwise to further their proposed careers; or*

(ii) *organisations or collective groups which are operating in the city of Aberdeen and undertaking, or intending to undertake, educational initiatives.*

The revised constitution would also contain criteria to ensure that only meritorious applications are granted (see clauses 3 and 4).

4. FINANCIAL IMPLICATIONS

4.1 There are no direct financial implications for the Council arising from the recommendations of this report.

5. LEGAL IMPLICATIONS

5.1 The proposed changes to the constitution are in line with the Charities and Trustee Investment (Scotland) Act 2005 (“the 2005 Act”). Chapter 5 of the 2005 Act describes what a charity must do in order for OSCR to approve an application for reorganisation.

6. ENVIRONMENTAL IMPLICATIONS

6.1 There are no direct environmental implications arising from the recommendations of this report.

7. RISK

Category	Risks	Primary Controls/Control Actions to achieve Target Risk Level	*Target Risk Level (L, M or H) <i>*taking into account controls/control actions</i>	*Does Target Risk Level Match Appetite Set?
Strategic Risk	No significant risk identified	N/A	N/A	N/A
Compliance	Council must comply with the	The recommendations are in compliance with the 2005 Act	L	Yes

	requirements under the 2005 Act			
Operational	No significant risk identified	N/A	N/A	N/A
Financial	No significant risk identified	N/A	N/A	N/A
Reputational	No significant risk identified	N/A	N/A	N/A
Environment / Climate	No significant risk identified	N/A	N/A	N/A

8. OUTCOMES

<u>COUNCIL DELIVERY PLAN</u>	
	Impact of Report
Aberdeen City Council Policy Statement	Supports the delivery of People Policy Statement 6 – Commit to closing the attainment gap in education while working with partners across the City.

9. IMPACT ASSESSMENTS

Assessment	Outcome
Integrated Impact Assessment	Not required
Data Protection Impact Assessment	Not required
Other	N/A

10. BACKGROUND PAPERS

10.1 [Governance Review - Guildry Trust Deed - CG/17/018](#)

10.2 [Governance Review of Trusts - Update - GOV/19/446](#)

11. APPENDICES

- 11.1 Appendix A - proposed revised constitution for the City of Aberdeen Council Guildry & Mortification Funds
- 11.2 Appendix B – current constitution for the City of Aberdeen Council Guildry & Mortification Funds

12. REPORT AUTHOR CONTACT DETAILS

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