

ABERDEEN CITY COUNCIL

COMMITTEE	Council
DATE	14 December 2022
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	Governance Review of Trusts – 2022 Update
REPORT NUMBER	COM/22/285
DIRECTOR	Gale Beattie
CHIEF OFFICER	Jenni Lawson
REPORT AUTHOR	Kundai Sinclair/Steven Inglis
TERMS OF REFERENCE	10 & 21

1. PURPOSE OF REPORT

- 1.1 To provide an update on activity in relation to trusts to which the Council is connected and to seek approval of proposed constitutional documents.

2. RECOMMENDATIONS

That Council:-

- 2.1 notes the activity, as detailed in this report, undertaken in relation to trusts to which the Council is connected;
- 2.2 approves, as sole trustee of Lands of Torry (charity number SC021299), the proposed constitution for that charity in Appendix E;
- 2.3 approves, as sole trustee of Lands of Skene (charity number SC018533), the proposed constitution for that charity in Appendix F;
- 2.4 approves, as sole trustee of City of Aberdeen Council Guildry & Mortification Funds (charity number SC011857), the proposed constitution for that charity in Appendix G;
- 2.5 instructs the Chief Officer – Governance to submit the proposed constitutions in Appendices E, F and G to the Office of the Scottish Charity Regulator (OSCR) for its approval; authorises that Chief Officer to make any amendments to those constitutions, prior to such OSCR approval being obtained, which that Chief Officer considers to be appropriate; and instructs that Chief Officer to take any necessary steps, following such OSCR approval being obtained, to bring those constitutions into effect; and
- 2.6 instructs the Chief Officer – Governance to bring a further update report to Council no later than December 2023 on future activity in relation to trusts to which the Council is connected.

3. CURRENT SITUATION

3.1 On 13 December 2021, Council considered a report providing an update on activity in relation to trusts to which the Council is connected. At this meeting, Council instructed the Chief Officer – Governance to bring a further update report to Council no later than December 2022 on future activity in relation to such trusts. This report fulfils that instruction.

3.2 This report provides a further update on such trusts, as listed in Appendices A – D. In those Appendices, the Balance Sheet Value for a trust represents its total funds (including the value of any investments) whereas the Revenue Value is the useable cash amount which is readily available for disbursement. The Balance Sheet Value includes the Revenue Value.

3.3 In terms of the Council's Powers Delegated to Officers (General Delegations to Chief Officers no.46), Chief Officers have the power to approve the making of payments from the funds of trusts in respect of which the Council is sole trustee and they are the lead Council officer - following consultation with the Chief Officer – Finance and provided always that such payments are in accordance with the relevant trust deeds. The lead Council officers for the different categories of trust are as follows:

- Educational Trusts: Chief Officer – Education
- Children's Social Work Trusts: Chief Officer – Integrated Children's and Family Services
- Adult Social Work Trusts: Chief Officer – Aberdeen City Health and Social Care Partnership
- Arts & Culture Trusts: Chief Officer – City Growth

3.4 Educational Trusts (Appendix A)

There are 37 Educational Trusts with a total Balance Sheet Value of £6,609,535 (as at 31 March 2022), which have trust purposes supporting the advancement of education in Aberdeen. That sum includes a total Revenue Value of £1,802,421.

In terms of the Powers Delegated to Officers, the Chief Officer – Education has approved the following trust fund requests made by the Council's Education Services:

- £90,662.90 from the Elizabeth H. Bain Bequest - to purchase a 5-year subscription to the Charanga music education online platform, for use by all schools, students and music instructors in Aberdeen. This platform will support explorative learning at home, includes focused topics to tie in with the curriculum at all levels from nursery to school leavers and has training materials for staff in schools and music instructors. The lessons and materials are also designed to be used in an Additional Support Needs (ASN) setting or with students who have ASN.

- £15,345 from the Primary & Intermediate School Sports Fund – will be managed by the Education Team to ensure each Aberdeen City Council school benefits from this funding and receives support to increase provision of sporting activities. The Council’s Education Team has partnered with a network of professionals to develop a Physical Education, Physical Activity and Sport (PEPAS) team to review and increase opportunities for children and young people to engage in physical activity and sport.
- £9,740 from the Logie Pirie Scholarship Fund - to help build a wooden sheltered area in the playground at Kingswells Primary School, with seating to accommodate two classes and a multi-purpose area which can be used for performance and outdoor learning and as an outdoor classroom. This sheltered area has now been built.

3.5 Children’s Social Work Trusts (Appendix B)

There are 11 Children’s Social Work Trusts with a total Balance Sheet Value of £62,730 (as at 31 March 2022), which have been established to support the delivery of social work services. That sum includes a total Revenue Value of £25,310.

3.6 Adult Social Work Trusts (Appendix C)

There are 20 Adult Social Work Trusts with a total Balance Sheet Value of £345,349 (as at 31 March 2022) that relate to specific adult social work functions or specific residential homes. That sum includes a total Revenue Value of £160,291.

3.7 Arts & Culture Trusts (Appendix D)

There are 23 Arts & Culture Trusts with a total Balance Sheet Value of £6,544,965 (as at 31 March 2022). That sum includes a total Revenue Value of £3,622,116.

In terms of the Powers Delegated to Officers, the Chief Officer – City Growth has approved the following trust fund requests made by the Council’s Aberdeen Archives, Gallery & Museums Service (AAGM). Disbursements were made from the Aberdeen Art Gallery Trusts (charity number SC018575) as follows:

- £250.00 towards the purchase of the screen-print titled “Landscape 1 (Ali)” by Scott Baxter from the Aberdeen Artists Society 2022 exhibition. Its addition to the collection will enable the AAGM to begin to fill notable gaps relating to work by LGBTQ+ artists.
- £350.00 towards the purchase of the wood and mixed media artwork “THEarcticFOX” by Ann Bowes from the Aberdeen Artists Society 2022 exhibition. The sculpture’s different elements capture Scotland’s identity, including maritime culture (boat), traditional music (fiddle) and nature (fox skull).

- £541.50 towards the purchase of three ceramics made in Edinburgh by artist Lara Scobie:
 - i) tall Vessel with Deep Orange Interior, H23 x W10 x D10cm;
 - ii) tilted Vessel with Deep Orange Interior, H16 x W10 x D10cm; and
 - iii) tilted Vessel with Deep Yellow Interior, H18 x W10 x D10cm.

AAGM has a commitment to developing its British ceramics collection and the focus is on collecting contemporary ceramics designed and/or made by British ceramicists.

These purchases will enhance the AAGM permanent collection.

In October 2022, in terms of the Powers Delegated to Officers (General Delegations to Chief Officers no.47), the Chief Officer – City Growth accepted a legacy bequest of £425,855.68 from the estate of the late Miss Patricia Carr Martin. This bequest has become part of the Aberdeen Art Gallery Trusts (SC018575) which has the following charitable purpose:

"The Trustee shall hold and apply any such other funds and assets as may from time to time be comprised in the Trust Property, in trust for the advancement of the arts by providing for the purchase of works of art for the collection of Aberdeen Art Gallery & Museum."

It was the late Miss Martin's wish that the bequest be used to assist Aberdeen Art Gallery with the purchase of artwork(s) for display in the Art Gallery.

3.8 **Lands of Torry (SC021299) and Lands of Skene (SC018533)**

Lands of Torry and Lands of Skene are charitable trusts and Aberdeen City Council is sole trustee of each.

The Lands of Torry trust was constituted in 1704 by a disposition executed by the Master of Mortifications for the purchase of a *pro indiviso* half of the lands and barony of Torrie.

The Lands of Skene trust was constituted in 1710 by a disposition executed in favour of the Magistrate and Town Council of Aberdeen.

Both trusts are now registered with OSCR but neither has a modern, fit-for-purpose constitutional document. OSCR has advised that the Council should prepare constitutional documents.

The proposed constitutions for Lands of Torry and Lands of Skene are in Appendices E and F respectively and are intended to provide clarity on how the trusts should be administered. The approval of the Council (as sole trustee) is now sought in respect of both constitutions. If such approval is obtained, the approval of OSCR will then be sought. If such OSCR approval is obtained, these constitutions will then be executed and thereby brought into effect.

3.9 **City of Aberdeen Council Guildry & Mortification Funds (SC011857)**

City of Aberdeen Council Guildry & Mortification Funds is a charitable trust and Aberdeen City Council is sole trustee thereof.

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 has continued to manage the Guildry and Mortification Funds.

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 educational or vocational training and career advancement. The current trust purposes are as set out in the final row of Appendix A.

Since then, the Guildry Award Scheme has been administered by the Council but the number of applications has declined over the years.

Council officers have been working with the Lord Dean of Guild to produce a modern constitutional document for City of Aberdeen Council Guildry & Mortification Funds. A proposed constitution was brought to the Guildry and Mortification Funds Committee on 5 December 2022 and was approved by that Committee in a consultative capacity. With minor subsequent adjustment, this proposed constitution is in Appendix G.

The proposed constitution retains the current financial hardship purpose but the educational/vocational/career advancement purpose is broadened by removing the 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....*”. The intention is to widen the pool of potential beneficiaries and reflect modern needs. The proposed purposes are in clauses 1 – 5 of Appendix G.

The approval of the Council (as sole trustee) is now sought in respect of this constitution. If such approval is obtained, the approval of OSCR will then be sought. If such OSCR approval is obtained, this constitution will then be executed and thereby brought into effect.

3.10 **Next Steps – 2023**

Throughout the coming year, the relevant Chief Officers will continue to promote the work of the trusts. Members are encouraged to highlight to the relevant Chief Officer any opportunities they may identify for the potential use of trust funds.

Constitutional documents for Lands of Torry, Lands of Skene and City of Aberdeen Council Guildry & Mortification Funds will continue to be progressed as mentioned above.

4. FINANCIAL IMPLICATIONS

4.1 The effective and efficient management of these trusts will maximise the funds available for expenditure on the trust purposes. The trusts should be viewed as a means of helping to support the provision of Council services, providing the opportunity for delivering additional benefit to the city and its people. As such, trust funds do not represent a recurring income source to support the discharge of the Council's core statutory duties.

5. LEGAL IMPLICATIONS

5.1 Trusts must operate in compliance with trust law and, where applicable, charity law. This report provides an overview of activity intended to ensure continued sound governance of trusts and appropriate use of the funds for the trust purposes.

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) *taking into account controls/control actions	*Does Target Risk Level Match Appetite Set?
Strategic Risk	None	N/A	N/A	N/A
Compliance	If a trustee fails to comply with their legal duties, they may be held responsible for resultant losses and OSCR may take action against them.	Council officers provide advice and support around trustee duties.	L	Yes
Operational	None	N/A	N/A	N/A
Financial	Failure to maximise the funds available	Council officers provide advice and support around use of funds.	L	Yes

	for trust purposes.			
Reputational	Failure to comply with legal duties may lead to adverse publicity.	Council officers provide advice and support around trustee duties.	L	Yes
Environment / Climate	None	N/A	N/A	N/A

8. OUTCOMES

<u>COUNCIL DELIVERY PLAN 2022-23</u>	
Impact of Report	
Aberdeen City Local Outcome Improvement Plan 2016-26	
Prosperous Economy Stretch Outcomes	The specific proposals in this report have no direct impact on the Council Delivery Plan. However, these trusts were created mainly for the benefit of the people of the city of Aberdeen. They have various purposes including the advancement of education, heritage, arts, culture, health, recreational activities and facilities, and the prevention or relief of poverty. Disbursement of the funds and rationalisation of the trusts should help ensure that the available funds are used as efficiently and effectively as possible to help contribute to the delivery of the outcomes set out in the Local Outcome Improvement Plan.
Prosperous People Stretch Outcomes	Same as above.
Prosperous Place Stretch Outcomes	Same as above.

9. IMPACT ASSESSMENTS

Assessment	Outcome
Integrated Impact Assessment	Full impact assessment not required
Data Protection Impact Assessment	Not required

10. BACKGROUND PAPERS

- 10.1 [Governance Review of Trusts - Update - GOV/19/446 \(reported to Council on 9 December 2019\)](#)

10.2 [Governance Review of Trusts – 2021 Update - COM/21/325 \(reported to Council on 13 December 2021\)](#)

10.3 [Revised Constitution – City of Aberdeen Council Guildry and Mortification Funds - COM/22/295 \(reported to Guildry and Mortification Funds Committee on 5 December 2022\)](#)

11. APPENDICES

11.1 Appendix A – Educational Trusts

11.2 Appendix B – Children’s Social Work Trusts

11.3 Appendix C – Adult Social Work Trusts

11.4 Appendix D – Arts & Culture Trusts

11.5 Appendix E – proposed constitution for Lands of Torry

11.6 Appendix F – proposed constitution for Lands of Skene

11.7 Appendix G – proposed constitution for City of Aberdeen Council Guildry & Mortification Funds

12. REPORT AUTHOR CONTACT DETAILS

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