

ABERDEEN CITY COUNCIL

COMMITTEE	Council
DATE	11 December 2024
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	Governance Review of Trusts – 2024 Update
REPORT NUMBER	CORS/24/350
DIRECTOR	Andy MacDonald and Gale Beattie
CHIEF OFFICER	Alan Thomson/Vikki Cuthbert and Julie Wood
REPORT AUTHOR	Steven Inglis and Helen Fothergill
TERMS OF REFERENCE	10 & 21

1. PURPOSE OF REPORT

- 1.1 To seek approval to establish a new charitable trust (“Aberdeen Archives, Gallery & Museums Trust”) and take specified actions in relation to the Alexander MacDonald Bequest, and to provide an update on other activity in relation to trusts to which the Council is connected.

2. RECOMMENDATIONS

That the Council:-

Proposed Aberdeen Archives, Gallery & Museums Trust

- 2.1 agrees the establishment of a new charitable trust (to be known as “Aberdeen Archives, Gallery & Museums Trust”) and approves the proposed constitution thereof in Appendix F;
- 2.2 instructs the Chief Officer – Governance to submit the necessary application (including signed trustee declaration form and the constitution) to the Office of the Scottish Charity Regulator (OSCR) for its approval; authorises that Chief Officer, prior to such OSCR approval being obtained but following consultation with the Co-Leaders, to make any amendments to the constitution which that Chief Officer considers to be appropriate; and authorises that Chief Officer to take any other appropriate action in relation to the application and any action necessary to bring the constitution into effect;
- 2.3 instructs the Chief Officer – Finance to arrange for registration of the new charitable trust with HM Revenue & Customs (HMRC), and to take any other appropriate action, in order to allow for gift aid to be claimed on monetary donations to the trust;
- 2.4 appoints the Chief Officer - City Development & Regeneration to be lead Council officer (in terms of the Council’s Powers Delegated to Officers) in respect of the new charitable trust; authorises that Chief Officer to approve the making of payments from the funds of the trust (in terms of the Council’s Powers

Delegated to Officers) and to take any appropriate action in relation to the operation and management of the trust; instructs the Chief Officer - Governance to add the trust to the Council's list of Arts & Culture Trusts (the current version of which list is in Appendix D); and appoints the Chief Officer – Governance to be secretary to, and the Chief Officer – Finance to be treasurer of, the trust;

Other Activity

- 2.5 instructs the Chief Officer – Governance to submit an application to OSCR in respect of the Alexander MacDonald Bequest (charity number SC018568) in order to permit the expenditure of its total remaining funds (capital and revenue) on artworks in terms of the trust deed's provisions and the winding-up of this charitable trust; and authorises that Chief Officer to take any other appropriate action in order to facilitate such expenditure and winding-up;
- 2.6 notes the other activity, as detailed in this report, in relation to trusts to which the Council is connected; and
- 2.7 instructs the Chief Officer – Governance to, as appropriate, bring a report to Council and/or provide a service update to elected members no later than December 2025 on future activity in relation to trusts to which the Council is connected.

3. CURRENT SITUATION

- 3.1 On 13 December 2023, Council considered a report on activity in relation to trusts to which the Council is connected, approved certain appointments and instructed the Chief Officer – Governance to, as appropriate, bring a report to Council and/or provide a service update to elected members no later than December 2024 on future activity in relation to trusts to which the Council was connected.
- 3.2 This report provides the requisite update on such trusts, as listed in Appendices A – D. In those Appendices, the Balance Sheet Value for a fund 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. In this report, the term “trusts” is used for convenience but also includes reference to bequests and the like.

Proposed Aberdeen Archives, Gallery & Museums Trust

- 3.3 At present, monetary (cash) donations are collected in donation boxes across all of the Council's Archives, Gallery and Museum venues. Digital “tap to give” options are available in Aberdeen Art Gallery, Aberdeen Maritime Museum, Provost Skene's House and Aberdeen Treasure Hub, and will be available in financial year 2025/26 in the Town House Archives and the Tolbooth Museum. Donations can be offered and paid through the website www.aberdeencity.gov.uk/AAGM/support-us/donate. Additional offers of monetary donations are received, infrequently, through correspondence (email and mail). Monetary bequests tend to be unexpected and without prior notice.

- 3.4 In financial year 2023/24, such cash donations received amounted to £37,966 and “tap to give” donations were £21,529. In financial year 2024/25 (up to October 2024), cash donations of £26,052 and “tap to give” donations of £10,458 have been received.
- 3.5 If cash, “tap to give” or online donations are received by a charity from a UK taxpayer, those donations are eligible for a gift aid claim. Local authorities themselves cannot claim gift aid.
- 3.6 There are a number of existing trusts which directly benefit the Council’s art collection, but do not allow for support of the wider heritage collection or service. The purpose of Aberdeen Art Gallery Trusts (charity number SC018575), for example, is “*the advancement of the arts by providing for the purchase of works of art for the collection of Aberdeen Art Gallery & Museum.*” This means that any donations or bequests which are made to this Trust can only be used for the purchase of artworks and cannot be spent on caring for, preserving, displaying or interpreting the current collection.
- 3.7 A significant, unsolicited bequest was received in 2022 and has been deposited into the Aberdeen Art Gallery Trusts account. This will allow the Gallery to expand its collection for a number of years into the future.
- 3.8 It is proposed that a new charitable trust – to be known as “Aberdeen Archives, Gallery & Museums Trust” - should be established. In summary, the purposes of the new trust would be to support the whole operation and delivery of the Aberdeen Archives, Gallery and Museums but would not prescribe how such support should be provided or what forms it may take. This is to help ensure the longevity and flexibility of the new trust and that the whole Aberdeen Archives, Gallery and Museums service should benefit in the years to come.
- 3.9 It is proposed that the Council would be sole trustee of the new trust and the Chief Officer – City Development and Regeneration would be the lead Council officer in respect of the trust. Reference is made to the Powers Delegated to Officers mentioned under the “Disbursements” header below. It is further proposed that the Chief Officer – Governance and the Chief Officer – Finance would respectively be secretary and treasurer of the new trust.
- 3.10 The proposed governance arrangements, involving expenditure decisions by the Chief Officer – City Development and Regeneration under delegated powers, would provide speed of decision-making around expenditure, which nonetheless must always be in compliance with the trust purposes. Appropriate regard may be had to whatever Council objectives exist at the time but the Council as trustee would of course require to act in the interests of the trust.
- 3.11 Local authorities without a charitable arrangement are ineligible to claim gift aid or claim under the Gift Aid Small Donations Scheme.
- 3.12 The establishment of a new charitable trust supporting the wider operation and delivery of Archives, Gallery and Museums provides:

- a receiving account for future bequests;
- an opportunity for a campaign related to legacy gifts, with tax relief;
- an opportunity to claim gift aid;
- a reduction in the reliance on public funding to run the service.

3.13 Disbursements

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. Following the organisational restructure earlier this year, the lead Council officers for the different classifications of trust are as follows:

- Educational Trusts: Chief Officer - Education & Lifelong Learning
- Children's Social Work Trusts: Chief Officer – Children's Social Work & Family Support
- Adult Social Work Trusts: Chief Officer – Aberdeen City Health and Social Care Partnership
- Arts & Culture Trusts: Chief Officer - City Development & Regeneration

3.14 Similarly, under General Delegation no.47, Chief Officers have the power to, following consultation with the Chief Officer - Finance, accept monetary gifts, endowments, bequests and donations which relate to their remit as Chief Officer and to approve the expenditure of same - in accordance with any terms applying thereto.

3.15 Details of disbursements from funds over the past year are provided in Appendix E.

3.16 Alexander MacDonald Bequest (charity number SC018568)

Alexander MacDonald's Trust Disposition and Deed of Settlement dated 11 December 1882 left one-third of the residue of his estate to the Council – with *“the whole of the revenueapplied....in the purchase of paintings, as a matter of preference, but it shall be optional to make an occasional purchase of a piece of statuary”*.

For the selection of works of art, this deed requires that an Art Committee be appointed from time to time - hence the periodic meetings of the MacDonald Art Committee, most recently in 2001 and 1992.

As of 31 March 2024, the capital figure is £25,040 and the revenue figure is £7,389.17. This revenue sum has only risen by around £1,600 since 2007. Currently only the revenue can be spent.

Approval is sought to make an application to OSCR so as to permit the expenditure of the total remaining funds (i.e. capital and revenue) on artworks in terms of the trust deed's provisions and the subsequent winding-up of this

charitable trust. This is considered to be a more efficient and effective approach to managing this old trust.

3.17 Aberdeen Endowments Trust (charity number SC010507)

Aberdeen Endowments Trust (AET) has approached the Council to explore whether the Council might be agreeable to the management of Educational Trusts listed in Appendix A being transferred to AET. The objective would be to ensure the more efficient and effective use of those funds alongside the funds which AET already administers. Importantly, any funds so transferred would continue to be used for their current purposes so far as those are still viable and unless amended according to the appropriate legal process. Discussions with AET are at an early stage and any proposal for transfer would be reported to Full Council for a decision.

3.18 Glover House Trustees Ltd (company number SC503243)

Glover House Trustees Ltd, a private limited company set up in 2015, is sole trustee of The Grampian-Japan Trust. The Council is sole shareholder of the company. On 13 December 2023, Council approved the appointment of Councillor David Cameron (Lord Provost), Councillor Alison Alphonse and the Chief Officer - Corporate Landlord (Stephen Booth) as directors of the company. These three director appointments took effect on 1 April 2024.

4. FINANCIAL IMPLICATIONS

- 4.1 Officer resource (from Archives, Gallery & Museums, Legal Services and Finance) would be required to set up a new charitable trust and to administer the gift aid claims, in addition to the current resource required to bank donations on a regular basis. Costs to the Council for print production in relation to gift aid envelopes for cash donations, and promotional leaflets for legacy giving, would be offset by income through the trust.
- 4.2 The efficient and effective management of the trusts referred to in this report will maximise the funds available for expenditure on the trust purposes. The trusts provide an opportunity for delivering additional benefit to the city and its people. However the 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 The proposed new charitable trust, like any charitable trust, would of course require to operate in compliance with charity law and trust law. To be registered as a charity, OSCR approval is required and their registration process must be adhered to. Non-charitable trusts must operate in compliance with trust law. This report details activity and proposed 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. Indirect implications are additional reliance on printed paper for processing gift aid and promoting legacy giving. Where possible, this will be managed through digital channels.

7. RISK

The assessment of risk contained within the table below is considered to be consistent with the Council's Risk Appetite Statement.

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	No significant risks identified	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. Where gift aid is being claimed by a charity, the rules on gift aid must be followed.	This report supports compliance and officers from Legal Services and Finance provide appropriate advice.	L	Yes
Operational	Risk of gift aid rules not being followed.	Implementation of appropriate procedures and staff training regarding gift aid.	N/A	N/A
Financial	Failure to maximise and make best use of the available funds for trust purposes.	This report supports members' oversight of the use of such funds.	L	Yes
Reputational	Failure to comply with legal duties may	This report supports compliance.	L	Yes

	lead to adverse publicity.			
Environment / Climate	No significant risks identified	N/A	N/A	N/A

8. OUTCOMES

<u>COUNCIL DELIVERY PLAN 2023-2024</u>	
Impact of Report	
<p>Aberdeen City Council Policy Statement</p> <p><u>Working in Partnership for Aberdeen</u></p>	<p>A Vibrant City – “We will work tirelessly to make Aberdeen a more attractive place to live, work, study and visit with a vibrant cultural offering”.</p> <p>More generally, the purposes of existing trusts support overall objectives such as Supporting People with the Cost of Living, A City of Opportunity, A Vibrant City and An Active City.</p>
<u>Local Outcome Improvement Plan 2016-2026</u>	
Prosperous Economy Stretch Outcomes	Purposes of existing trusts support the delivery of LOIP outcomes.
Prosperous People Stretch Outcomes	Same as above.
Prosperous Place Stretch Outcomes	Same as above.

9. IMPACT ASSESSMENTS

Assessment	Outcome
Integrated Impact Assessment	New Integrated Impact Assessment has been completed in respect of the proposal for a new charitable trust for Aberdeen Archives, Gallery and Museums.
Data Protection Impact Assessment	If the proposal to establish a new charitable trust is approved, a Data Protection Impact Assessment will be undertaken when there is more clarity on the nature of the personal data to be processed and the mechanics of such processing. For example, personal data will be processed in managing gift aid on monetary donations.
Other	Not required

10. BACKGROUND PAPERS

- 10.1 [Governance Review of Trusts - 2023 Update – COM/23/383 - \(reported to Council on 13 December 2023\)](#)

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 – Details of Disbursements
- 11.6 Appendix F – Proposed Constitution for proposed Aberdeen Archives, Gallery & Museums Trust.

12. REPORT AUTHOR CONTACT DETAILS

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