

## ABERDEEN CITY COUNCIL

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COMMITTEE	Council
DATE	16 <sup>th</sup> December 2015
INTERIM DIRECTOR	Richard Ellis
TITLE OF REPORT	Charitable Trusts Reorganisation
REPORT NUMBER	CG/15/150
CHECKLIST COMPLETED	Yes

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### **1. PURPOSE OF REPORT**

1.1 The purpose of this report is to:

- i) Update the the Council on the reorganisation of Charitable Trusts of which the Council is the trustee; and
- ii) Advise on any areas management action.

### **2. RECOMMENDATION(S)**

2.1 It is recommended that the Council:

- i) Note this report on the ongoing reorganisation of the Council's charitable trusts and management action that is contained herein; and
- ii) Instruct that officers continue to work with the Office of the Scottish Charity Regulator (OSCR) on the reorganisation of the charitable trusts.

### **3. FINANCIAL IMPLICATIONS**

3.1 The financial status of the charitable trusts has been included in the Council's 2014-15 accounts. There are no specific financial implications arising from this report.

#### **4. OTHER IMPLICATIONS**

- 4.1 Every charity has to be managed within existing charity legislation to maximize funds available for expenditure on charitable purposes. This report is part of that management framework and has been produced to provide an overview of the current and planned position of creating a governance environment that will maximize funds available for charitable purposes.

#### **5. BACKGROUND/MAIN ISSUES**

- 5.1 This report informs Members of the current status of the reorganisation of the charitable trusts. A number of reports have been presented to Council over the last 2 years on the reorganisation of the trusts resulting in many out dated or uneconomic trusts being removed from the Register of Scottish Charities and trust funds transferred to active charities with the same charitable purpose.

##### **5.2 Guildry**

- 5.2.1 The Guildry, now 800 year old, does not have a governing document that reflects modern charity legislation. The last update on the governance of the Guildry was a Court of Session ruling of 1997 allowing the Guildry to create an educational bursary, in addition to the scheme for providing assistance to members of the Guild and their family in need of financial assistance.

- 5.2.2 Officers are currently working with the Guildry and OSCR to draft a constitution for the Guildry which would allow expenditure on a wider range of charitable purposes. A further report to Council will be presented when negotiations with OSCR have been concluded.

##### **5.3 Bridge of Dee and Bridge of Don Trust**

- 5.3.1 These historic trusts were established in the 16th century to fund the maintenance of bridges across the Don and the Dee. When these trusts were established the maintenance of bridges was a charitable purpose. The 2005 Charities and Investments (Scotland) Act does not recognise bridge maintenance as a charitable purpose. Under the Roads (Scotland) Act 1984 the maintenance of bridges is the duty of the local council or in the case of bridges forming part of trunk roads, Transport Scotland has that duty.

- 5.3.2 OSCR have taken the view that within the 2005 Charities and Investment (Scotland) Act, that these charities have the purpose of the advancement of heritage as that best reflects their view of the trust purposes given the passage of time that the trusts have existed and the changes to charity legislation.

5.3.3 The Bridge of Dee Trust has insufficient annual income from its capital to meet the costs of administering a modern charity such as the production and full audit of accounts.

5.3.4 An application has been submitted to OSCR to wind up the Bridge of Dee Trust and transfer remaining trust funds to the Bridge of Don Trust.

5.3.4 The Bridge of Don Trust does not have a modern governing document and so a modern constitution is being drafted for consideration by OSCR. OSCR have given vocal support to the use of trust funds for the advancement of heritage within Aberdeen. A future reorganisation application to OSCR will reflect this change and so a future report to Council will reflect negotiations on this issue.

#### **5.4 Lands of Skene Trust**

5.4.1 The Lands of Skene Trust exists to provide a share of its annual income to the 3 participants in the trust according to the initial investment – Guildry 40%, Bridge of Don Trust 30%, and Common Good Fund 30%. No trust reorganisation is planned for this trust in the short term.

#### **5.5 Lands of Torry Trust**

5.5.1 The lands of Skene Trusts exists to provide a share of its annual income to the Common Good Fund – 51% and the University of Aberdeen Bursary Fund- 49%.%. No trust reorganisation is planned for this trust in the short term.

#### **5.6 Aberdeen Art Gallery & Museums Trusts**

5.6.1 This trust received funds from a number of uneconomic trust funds as part of the Council's recent trust reorganisation and exists to buy works of art for the museum collection. The trust is operating as planned with a modern constitution and no further trust reorganisation is planned in the short term.

#### **5.7 Alexander MacDonald Trust**

5.7.1 This trust was established by Alexander Macdonald who was instrumental in the establishment of Aberdeen Art Gallery and Museum. Trust funds are at a level that this fund is uneconomic. Trust funds will be used to purchase a work of art which will be unveiled as part of the opening ceremony of the refurbished Aberdeen Art Gallery & Museum and the future of this trust will be reviewed at that time.

## **5.8 John Murdoch Henderson Trust**

5.8.1 Council at its meeting on 13 May 2015 approved the winding up of this trust following the purchase of subscriptions to music download services. It is anticipated that trust funds will be expended in full during 2016 and the charity will then be removed from the register of charities.

## **5.9 Educational Endowment Investment Fund (EEIF)**

5.9.1 The charitable element of the EEIF consists of 16 school prize funds out of around 70 separate school and social care funds. Of these 16 charitable prize funds a number relate to schools that no longer exist. Officers are currently working with OSCR on reorganising the 16 funds that are registered as charitable.

## **6. IMPACT**

### **Improving Customer Experience –**

Active management of the Council's trusts will maximise funds available for expenditure on trust purposes.

### **Improving Staff Experience –**

Management initiatives, such as trust reorganisation, have been successful in minimising the administrative burden of the charitable trusts.

### **Improving our use of Resources –**

As a public sector organisation, the Council has a legal duty to be open, transparent and accountable for spending public funds. Trust funds must be spent on specific purposes and the ongoing trust reorganisation aims to maximise available funds to be expended on trust purposes.

### **Corporate -**

Aberdeen the Smarter City:

#### *Smarter Governance (Participation)*

The ongoing charity reorganisation contributes to the process of Smarter Governance.

#### *Smarter Living (Quality of Life)*

Trust fund expenditure contributes towards the quality of life in Aberdeen.

### **Public –**

The Council has a duty to ensure that best value is considered in all of its operations and this report helps to inform that process.

**7. MANAGEMENT OF RISK**

None.

**8. BACKGROUND PAPERS**

None.

**9. REPORT AUTHOR DETAILS**

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