

## ABERDEEN CITY COUNCIL

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COMMITTEE	Council
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REPORT TITLE	Governance Review – Trusts Update
REPORT NUMBER	CG/17/082
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### **1. PURPOSE OF REPORT:-**

The purpose of this report is to update and seek approval from Council on the reorganisation of Trusts outlined in the Trust Register in Appendix A, of which the Council or Elected Members are trustees of; outline and seek approval for the ongoing work to review, wind up and/or amalgamate uneconomic or obsolete Trusts in the three Phases outlined in the report.

### **2. RECOMMENDATIONS**

It is recommended that Council:-

- (a) acting in their capacity as trustees instruct the Head of Legal and Democratic Services, following consultation with the Head of Finance, to take necessary legal actions to reorganise the City of Aberdeen Council Guildry & Mortification Funds (charity number SC011857);
- (b) acting in their capacity as trustees of the Bridge of Dee Trust (charity number SC021297) and Bridge of Don Fund (charity number SC018551) agree to wind up the Bridge of Dee Trust and amalgamate its funds with the Bridge of Don Fund; and instruct the Head of Legal and Democratic Services, following consultation with the Head of Finance, to ensure that the necessary documentation is implemented;
- (c) acting in their capacity as trustees of the Bridge of Don Fund, approve the making of a grant of £36,216 from the Bridge of Don Fund to Aberdeen City Council for use by Aberdeen City Archives, with the University of Aberdeen, for the transcription of late medieval burgh records project as detailed in Appendix B and instruct the Head of Legal and Democratic Services, following consultation with the Head of Finance, to ensure that the necessary documentation is implemented;

- (d) acting in their capacity as trustees of the Lands of Skene (charity number SC018533) and Lands of Torry (charity number SC021299) instruct the Head of Legal and Democratic Services, following consultation with the Head of Finance, to take necessary legal actions to prepare constitutional documents for the Lands of Skene and Lands of Torry;
- (e) note the ongoing progress in winding up the Jack Wood Trust;
- (f) instruct the Head of Legal and Democratic Services following consultation with the Head of Finance, to investigate the various options for Phase 2 of the trust review which will involve the rationalisation of the Education Endowments Investment Fund; and
- (g) instruct the Head of Legal and Democratic Services, following consultation with the Head of Finance, to review the remaining Trusts on the trust register and bring the Phase 3 proposals on winding up or amalgamating these to Council.

### **3. BACKGROUND**

3.1 Aberdeen City Council is currently affiliated with around 100 trusts, some of which are registered with the Office of the Scottish Charity Regulator (OSCR) as charities. The amount of funds and assets held by these Trusts range from £310 to £3.8 million, and for some the cost of administration outweighs the annual income they generate.

3.2 In order to reorganise a trust, ACC needs to obtain approval from the trustees of the trust, as well as the Scottish Courts, the Lord Advocate or OSCR, depending on the circumstances of the trust as outlined below. This is a time consuming process, as all trustees need to be consulted and approval obtained at a formal meeting. Additionally, the Scottish Courts, Lord Advocate and OSCR have their own statutory processes to follow which means that authorisation can take several months.

3.3 The procedures for reorganisation vary depending on:

- the value and annual income of the trust;
- whether it has a constitution and what that constitution says;
- whether the trust is a registered charity; and
- who the trustees are.

3.4 The process for reorganising the trusts listed on the Trust Register in Appendix A is expected to take at least two years and will be done in the following three Phases.

#### **3.5 Phase 1 – Higher Value/HighProfile Trusts**

The first phase of the review will prioritise some of the higher value/high profile trusts, these are:

##### **3.5.1 The City Of Aberdeen Council Guildry & Mortification Funds (SC011857)**

- 3.5.2 The Guildry & Mortification Funds (hereafter “the Guildry”) has existed for 800 years. At present the Guildry’s trust purposes are for the relief of financial hardship among the Burgesses of Guild of Aberdeen and their families and for the assistance of persons resident in Aberdeen to pursue educational or vocational training courses.
- 3.5.3 The wording of the trust purposes has been a main concern for the trustees. It is outdated and does not allow for a wider pool of beneficiaries to benefit from the trust purposes. Legal and Finance officers are currently working with the Guild of Aberdeen to update the trust purposes to ensure that they are fit for purpose.
- 3.5.4 These plans will be submitted to OSCR as part of the reorganisation application by December 2017, subject to prior approval by Council as Trustees.
- 3.5.5 Bridge Of Don Fund (SC018551) and Bridge Of Dee Fund (SC021297)
- 3.5.6 The Bridge of Don Trust was reorganised in August 2016, after agreement from the Council (as trustees). The Bridge of Don Trust was set up in 1605 for the reparation and support of a bridge over the River Don (the Brig o’ Balgownie). The trust was later used to build the Bridge of Don in 1830 nearer the mouth of the river. Both bridges are Class A listed buildings.
- 3.5.7 OSCR advised that the trust had to be reorganised because the trust purposes for the maintenance of bridges was no longer a charitable purpose. Additionally, it was recognised that the maintenance of bridges was a task that was now in the remit of Roads Scotland. It was accepted that the trust had no purpose and a significant value of £1,251,000. So Legal and Finance officers with the approval from Council (as trustees) in August 2016 consulted with OSCR to change the trust purposes to the advancement of heritage. This new trust purpose will allow Council, as trustees, to approve plans that promote the local history and traditions, as well as plans that promote the preservation of historic land and buildings in Aberdeen.
- 3.5.8 For the same reasons as outlined in 3.5.7, it was agreed that the trust purposes for the Bridge of Dee Fund be changed to the advancement of heritage. Another reason that led to this change was the fact that the trust was not generating sufficient income to justify having it as a separate trust. Legal and Finance officers in consultation with OSCR have assessed the possibility of amalgamating the Bridge of Dee Fund with the Bridge of Don Trust.
- 3.5.9 Council, as trustees, will be asked to formally approve the reorganisation of the Bridge of Dee Trust. Once this stage is completed trustees will be asked at a later date to approve a new name for the Bridge of Don trust, which reflects its new purpose.
- 3.5.10 Aberdeen City Archives – Bridges Fund Proposal
- 3.5.11 Aberdeen City Archive is currently engaged with the University of Aberdeen in a three year project funded by the Leverhulme Trust to transcribe and make widely accessible the late-medieval records of the burgh.

3.5.12 This project fits within the Bridge of Don Fund's trust purpose – the advancement of heritage. Heritage might be regarded as part of a country's local or national history and traditions which are passed down through successive generations. Advancing heritage includes preserving historic land, buildings and items, as well as preserving or maintaining particular traditions where they are of benefit to the public. The records beginning in 1398 are handwritten in Latin and Middle Scots, and the transcription of the ancient writing is carried out by two post-doctoral Research Assistants. The timescale of the current project will see seven of the eight UNESCO-recognised volumes transcribed and made machine readable. This digital transcription is also enriched with annotations providing significant additional linguistic detail about the text.

3.5.13 The contracts of the Research Assistants will conclude at the end of 2017. A grant of £36,216 from the Bridge of Don Trust would enable their employment to be extended by six months for each Research Assistant. This would enable the 1200 pages of volume eight to also be included in the digital resource, with the same level of annotation.

3.5.14 The Council, as the trustees of the Bridge of Don Trust, are therefore requested to approve that the funds requested are granted to Aberdeen City Archives in order for the researchers' employment to be extended by six months. A breakdown of costs follows below. The funds granted to the City Archives would enable a secondary contract to be arranged with the University of Aberdeen to ensure the necessary extensions in order to achieve the outcome proposed.

**3.5.16 Breakdown of costs:**

Salary cost	£14,166 (x2) =	£28,332
Pension cost	£2,550 (x2) =	£5,100
NI cost	£1,392 (x2) =	£2,784
<b>TOTAL COST</b>	<b>£18,108 (x2) =</b>	<b>£36,216</b>

Further details on this proposal can be found in Appendix B.

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

The Lands of Skene Trust was constituted in 1710. The trust is worth £3,858,959 with £1.7 million in land and buildings and £2.1 million invested in the ACC Loans Fund.

3.5.18 The Lands of Torry Trust was constituted in 1704. The trust is now worth £1,674,081 invested in land and buildings.

3.5.19 It has been discovered that while these trusts have been around for 3 centuries, they do not have constitutional documents. OSCR has advised that ACC should prepare constitutional documents, and Officers from Finance and Legal Services are working together to prepare the documents. Once these have received approval from the trustees (Council), officers will apply to OSCR for approval of the reorganisation of these trusts. It is proposed that these plans will be submitted to OSCR by December 2017.

### 3.5.20 Jack Wood Trust

The Jack Wood Trust was established in 1989 by the City of Aberdeen District Council and the Aberdeenshire Amateur Football Association. The purpose of the trust is to advance the education of amateur footballers who are resident within the area of the Aberdeenshire Amateur Football Association.

3.5.21 For a while now the trust's purpose has not been given effect to as the earned interest has not been sufficient to make payments to beneficiaries after meeting the administration and accounting expenses.

3.5.22 The trustees passed a resolution in January 2017 to wind up the Trust and transfer the remaining assets to the Denis Law Legacy Trust, a charitable trust with similar trust purposes, who have consented.

3.5.23 Legal Officers are currently working to wind up the trust and transfer its assets. As trustee approval has already been sought, Council will be asked to note the update.

### 3.6 **Phase 2 – Education Endowments Investment Fund**

3.6.1 Once Phase 1, as detailed above has been completed, or is near to completion, officers from Legal Services following consultation with officers in Finance plan to rationalise the Education Endowments Investment Fund (the EEIF).

3.6.2 The EEIF contains around 17 charitable trusts and 52 non-charitable funds. Around half of these funds/trusts are for the purpose of providing school prizes for various subjects at a number of schools across the city, some of which do not exist anymore or have changed names. Most of the remaining funds were set up for the purpose of providing comforts to residents of various care homes across the city, and again, most of these homes no longer exist. The EEIF also includes the Corporation Prize Fund.

3.6.3 Officers therefore seek instruction and delegation to the Head of Legal and Democratic Services in consultation with the Head of Finance from the Trustees (Council), to start on a project to investigate options to rationalise these trusts to one or two trusts with the purposes of the advancement of education (a general prize fund to recognise success in our schools) and for the relief of those in need by reason of old age or disability.

### 3.7 **Phase 3 – Review of remaining Trusts**

3.7.1 There will still be a number of trusts that will require to be reviewed and where it is appropriate to do so, be wound up or amalgamated. Most of these trusts have independent trustees in addition to the appointed Council trustees. Any changes to these trusts will need to be progressed with the trustees. This will take time and will need to be handled sensitively. If the external trustees wish to continue with the trust and ACC feel that the trust is no longer practical or financially viable, it may be that the appointed Council trustees resign from the trust, hopefully with the agreement of the remaining trustees to appoint new external trustees in their place. There may be trusts that ACC will have to

retain in their current form, if felt that it is strategically important to retain that trust.

- 3.7.2 It is planned that near the completion of Phase 2, Council will be asked to approve plans to investigate the options for reorganising the remaining trusts.

#### **4. FINANCIAL IMPLICATIONS**

- 4.1 Officers within Finance and Legal Services will be progressing with the applications for reorganisation with OSCR, the Lord Advocate or the Scottish Courts to its conclusion. The cost of that time may be re-charged to the trusts. The charges will be in line with the normal charge out rate applied to public bodies.
- 4.2 The effective and efficient management of all these trusts will maximise the funds available for expenditure on purposes.

#### **5. LEGAL IMPLICATIONS**

- 5.1 Every charity has to be managed within existing charity/trust legislation to maximise funds available for expenditure on charitable purposes. This report provides an overview of the current and planned position of creating a governance environment that will maximise funds available for charitable purposes.
- 5.2 Approval of the above recommendations is not considered to pose any risk to the Council and will ensure that the Council meets its statutory obligations under various trust/charity legislation.

#### **6. MANAGEMENT OF RISK**

- 6.1 Approval of the above recommendations is not considered to pose any risk to the Council and will ensure that the Council meets its statutory obligations.
- Financial
    - failure to endorse the proposals in this report will result in failure to maximise the funds available for charitable purposes.
  - Employee
    - failure to endorse the proposals in this report will result in failure to streamline the administration of the trust.
  - Customer / citizen
    - failure to endorse the proposals in this report will result in failure to widen the pool of beneficiaries.
  - Environmental
    - None.
  - Technological

- None.
- Legal
  - failure to endorse the proposals in this report will result in failure to complete the reorganisation process with OSCR, the Lord Advocate or Scottish Courts.
- Reputational
  - None.

## **7. IMPACT SECTION**

- 7.1 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.

### **Economy**

- 7.2 The reorganisation will streamline the administration of the Trusts and Funds.

### **People**

- 7.3 The reorganisation will widen the pool of potential beneficiaries, thus allowing more awards to be made to those meeting the required criteria. Further work is required to develop a fair and equitable application process; this will be done independently for each Trust.
- 7.4 An Equality and Human Rights Impact Assessment is not required as the proposal does not disproportionately impact on persons with protected characteristics compared to persons without such characteristics.

### **Place**

- 7.5 It is essential that the Trusts are managed in such a way that will continue to support the aims within and needs of their community for which they are established.

### **Technology**

- 7.6 There will be no impact on technology arising from the recommendations.

## **8. BACKGROUND PAPERS**

None.

## **9. APPENDICES**

Appendix A – Trust Register.

Appendix B – Aberdeen City Archives Bridges Fund Proposal

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