

## ABERDEEN CITY COUNCIL

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<b>COMMITTEE</b>	Council
<b>DATE</b>	10 September 2018
<b>REPORT TITLE</b>	Governance Review – Trusts Update
<b>REPORT NUMBER</b>	GOV/18/124
<b>CHIEF OFFICER</b>	Fraser Bell
<b>REPORT AUTHOR</b>	Kundai Sinclair
<b>TERMS OF REFERENCE</b>	This matter is to be determined by Council.

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### 1. PURPOSE OF REPORT

The purpose of this report is to provide an update to elected members, on the ongoing work to review, wind up and/or amalgamate uneconomic or obsolete Trusts; and request approval to progress matters using the phased approach outlined in the report.

### 2. RECOMMENDATION(S)

It is recommended that Council:

- 2.1 note the progress made in relation to phase 1 as set out in Appendix A.
- 2.2 in respect of the Trusts outlined in Appendix B – Phase 2 and Appendix C – Phase 3:
  - i) instruct the Chief Officer – Governance, following consultation with Chief Officer – Integrated Children's and Family Services, to develop proposals for the future of these Trusts; and
  - ii) instruct the Chief Officer – Governance to report back to Council by September 2019.

### 3. BACKGROUND

- 3.1 Aberdeen City Council is affiliated with approximately 97 Trusts. 28 of these are registered with the Office of the Scottish Charity Regulator (OSCR) as charities. The amount of funds and assets held by the Trusts range from £1 to £3.8 million. For some, the cost of administration is greater than the assets held. Streamlining the administration of Trusts by either winding up and/or amalgamating those that are uneconomic or obsolete will ensure that their administration is carried out in a cost-effective manner. Modernising the constitutional documents will empower trustees to improve accessibility to the funds and ensure that the trust purposes are appropriate, and of a necessary standard, for their intended use. The spirit of these Trusts has always been to uphold the dignity of the city of Aberdeen and promote equal opportunity.

Therefore, the aspirations set out in the Local Outcome Improvement Plan will be at the forefront of this project.

- 3.2 The trustees of the Trusts are the Councillors of Aberdeen City Council and occasionally independent external trustees as well. Together these trustees are appointed to manage and have general control of each Trust and its assets.
- 3.3 On 23 August 2017, officers presented a report to Council titled '*Governance Review – Trust Update*' and the Council approved the reorganisation of Trusts, using a phased approach:
- Phase 1 aims to reorganise high value/high profile Trusts;
  - Phase 2 aims to review and prepare a plan to rationalise the Education Endowments Investment Fund with the view to bringing the proposals to Council; and
  - Phase 3 aims to review and prepare a plan to review the remaining Trusts with the view to bringing the proposals to Council.

## **GOVERNANCE REVIEW – TRUST UPDATE**

### **PHASE 1 – Reorganisation of Higher Value/High Profile Trusts**

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

- 3.4 The City of Aberdeen Council Guildry & Mortification Funds (SC011857) (Guildry) 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 The Trust's constitutional document sets out strict rules on eligibility for the award of educational or vocational training courses. When the constitutional document was updated in 1997, it was agreed that a total of approximately £10,000 *per annum* would be set aside for eligible candidates. In the period since the first award was made in 2001, over £150,000 has been available to award to candidates. However, it is estimated that the amount granted in the last 17 years has been less than £60,000. Additionally, the amounts being paid for the relief of financial hardship among the Burgesses are *de minimis* in relation to the Trust Funds available. The main reason for this is due to establishment of the National Health Service and Department for Work and Pensions. The availability of these services has reduced the number of requests by Burgesses and/or their families for financial assistance.
- 3.6 Officers are currently working with the Burgesses of Guild of the City and Royal Burgh of Aberdeen to update the Trust purposes. The aim being to ensure that a wider pool of people can benefit from the trust purposes. The finalised documents will be brought to Council (acting in their capacity as trustees) for approval by September 2019. Assuming they are approved, the last step in completing the process is to obtain approval from OSCR for the reorganisation. This normally takes approximately 6 months.

#### ***Bridge of Don Fund (SC018551) and Bridge of Dee Fund (SC021297)***

- 3.7 The Bridge of Don Fund (SC018551) 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. The Bridge of Don Fund was reorganised with the approval of Council in August 2016 and OSCR in November 2016. The reorganisation was required because the reparation and support of bridges is no longer considered as a charitable purpose under the Charities and Trustee Investment (Scotland) Act 2005. The Bridge of Don Fund charitable purpose has now been changed to the advancement of heritage across the city of Aberdeen.
- 3.8 Similarly the Bridge of Dee Fund (SC021297) was set up for the support, maintenance, reparation and when necessary the re-building of the new stone bridge over the River Dee. Over time the cost of administrating the Trust became greater than the amount of funds being distributed. An assessment was made by officers that the most economical decision would be to wind up the Trust and amalgamate its remaining funds with another Trust that can continue to fulfil the spirit of the trust purposes of the Bridge of Dee Fund. Officers obtained approval from Council and OSCR in May 2017 to wind up the Trust and transfer the remaining assets to the Bridge of Don Fund.
- 3.9 As the Bridge of Don Fund now incorporates the Bridge of Dee Fund and the Trust's charitable purposes have changed; officers propose that the name of the Trust should be amended to reflect its new charitable purpose. Officers intended to bring a further report to Council in September 2019 with proposed Trust names for Council (acting in their capacity as trustees) to consider and approve.

#### ***Aberdeen City Archives – Bridges Fund Proposal***

- 3.10 At the meeting of Council in August 2017, approval was given for a grant of £36,216 to the Archive Service from the Bridge of Don Fund to enable an extension to the 'Law in the Aberdeen Council Registers' (LACR) project (<https://aberdeenregisters.org>) and the transcription of Volume 8 of the City Council's UNESCO-recognised Burgh Registers covering 1398-1511.
- 3.11 Aberdeen City Archives has been engaged with the University of Aberdeen in this prestigious three-year project since 2016. Between January and June 2018, the Research Assistants working on the project have managed to complete the transcription of Volume 8. This comprises 329,453 words, representing approximately 20% of the total corpus. 71% of Volume 8 is written in Scots, 28% in Latin, and 1% in multiple languages. Checking and enrichment of the transcribed text is ongoing by other members of the project team and will be complete by the end of the project in February 2019. The volume is extremely rich in historical detail and is an invaluable addition to the project as a whole.
- 3.12 As part of the Council's original commitment to the LACR project, it has undertaken to ensure the perpetual electronic hosting of the new transcription of all eight volumes, alongside the digital images. As part of this process, a prototype search platform ('LACR Search') has been created by the University

and is now being installed and tested on a Council server. The launch of LACR Search to the public is planned for 2019. Digitalising the Burgh Registers is consistent with outcomes in the Local Outcome Improvement Plan. The project will transform the way that public services are delivered, provide access for a wider pool of people to review the Burgh Registers and contribute to the diversification of Aberdeen's economy.

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

- 3.13 The Lands of Skene (SC018533) 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. The Lands of Torry (SC021299) was constituted in 1704. The Trust has a balance of £2,830,081 and £2.8 million invested in land and buildings. As these are ancient Trusts, officers have not been able to locate the constitutional documents for these Trusts. It is assumed that they are lost or have never been created.
- 3.14 Officers are currently preparing the constitutional documents for these Trusts. These documents will be brought to Council (acting in their capacity as trustees) for approval by September 2019. If approved, officers will apply to OSCR for approval of the reorganisation of these trusts.

### ***Jack Wood Trust***

- 3.15 The trustees of the Jack Wood Trust passed a resolution in January 2017 to wind it up and transfer the remaining assets to the Denis Law Legacy Trust (SC043169), a charitable trust with similar trust purposes. A notification of intent to wind up the Trust was sent to the Lord Advocate. In September 2017, officers received confirmation that their request had been approved and the remaining assets (minus any debts) have been transferred to the Denis Law Legacy Trust.

## **PHASE 2 – Education Endowments Investment Fund**

- 3.16 The Aberdeen City Council Charitable Trusts (SC025063) is also known as the Education Endowment Investment Fund (EEIF). The EEIF originally comprised over 70 smaller Trusts, bequests and legacies split into two general areas:
- Education – Primarily concerned with school prizes or awards;
  - Social Work – Funds established to provide comforts at residential homes.
- 3.17 While reviewing the Trust's records, officers were advised by OSCR that only a small number of Trusts previously reported as part of the EEIF were actually registered charities. Phase 2 will only focus on the EEIF Trusts that are registered with OSCR; these are outlined in Appendix B – Phase 2. The Trusts highlighted in yellow (those below the Aberdeen City Council Charitable Trusts) are restricted funds – funds which a donor has designated or "restricted" the use of for a particular purpose or project – that form part of the EEIF.
- 3.18 Councillors are being asked to agree to instruct the Chief Officer – Governance, following consultation with the Chief Officer – Integrated Family and Children's Services, to review and develop proposals for the reorganisation of the Trust

and its restricted funds. The Chief Officers will develop proposals around which Trusts should be wound up and/or amalgamated. All proposals for the reorganisation of the Trust and its restricted funds will be brought back to Council, by the Chief Officer – Governance, for consideration by September 2019.

### **PHASE 3 – Review of Remaining Trusts**

- 3.20 Appendix C – Phase 3 shows that there are still be a number of other Trusts remaining where members are appointed as trustees. Most of these Trusts also have independent external trustees in addition to the appointed Council trustees. Any proposals associated with these Trusts would need to be progressed with the cooperation of all the trustees.
- 3.21 It is proposed that the Chief Officer – Governance, following consultation with the Chief Officer – Integrated Family and Children’s Services, review and develop proposals for the reorganisation of these Trusts and that the Chief Officer – Governance reports back to Council with the proposed reorganisation plans by September 2019. Any proposals would need to be developed with external trustees where relevant.

## **4. FINANCIAL IMPLICATIONS**

- 4.1 Officers within Finance and Governance will be progressing with the applications for reorganisation with OSCR, the Lord Advocate or the Scottish Courts, as required, 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. This report provides an overview of the current and planned position of creating an appropriate 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

	Risk	Low (L), Medium (M), High (H)	Mitigation
<b>Financial</b>	The administration of the Trusts is no longer cost effective, in some cases most of the trust funds are being used to administer the Trusts rather than to fulfil the trust purposes. Failure to approve the proposals in this report will result in failure to maximise the funds available for charitable purposes.	L	Council is strongly advised to approve proposals and officers are strongly advised to monitor the implementation of the proposals.
<b>Legal</b>	Failure to approve the proposals in this report will result in failure to streamline the administration of the Trusts.	L	Council is strongly advised to approve proposals and officers are strongly advised to monitor the implementation of the proposals.
<b>Employee</b>	None.	N/A	N/A
<b>Customer</b>	None	N/A	N/A
<b>Environment</b>	None.	N/A	N/A
<b>Technology</b>	None.	N/A	N/A
<b>Reputational</b>	None	N/A	N/A

## 7. OUTCOMES

<b>Local Outcome Improvement Plan Themes</b>	
	<b>Impact of Report</b>
<b>Prosperous Economy</b>	The Trusts are Public Trusts created for the benefit of the people of the city of Aberdeen. Combined these Trusts have various trust purposes ranging from the advancement of education, heritage, arts, culture, health, recreational activities and facilities, religion, and the prevention or relief of poverty. When administered properly and efficiently these

	Trusts can have a positive impact on the outcomes of the Local Outcome Improvement Plan.
<b>Prosperous People</b>	<i>As above.</i>
<b>Prosperous Place</b>	<i>As above.</i>
<b>Enabling Technology</b>	<i>As above.</i>

<b>Design Principles of Target Operating Model</b>	
	<b>Impact of Report</b>
<b>Customer Service Design</b>	Streamlining the administration of the Trust will redesign the way trustees engage with the public. The project aims to increasing the public's awareness of the Trusts and will potentially have the effect of increasing the pool of people who can benefit from the trust funds.
<b>Partnerships and Alliances</b>	These Trusts do not operate in a vacuum rather they are there to provide support to the public, private and third sectors. Key stakeholders will always be consulted before any changes are carried out.

## 8. IMPACT ASSESSMENTS

<b>Assessment</b>	<b>Outcome</b>
<b>Equality &amp; Human Rights Impact Assessment</b>	Not required.
<b>Privacy Impact Assessment</b>	Not required.
<b>Duty of Due Regard / Fairer Scotland Duty</b>	Any impact at all will be positive as a wider pool of people would be able to benefit for the Trust purposes.

## 9. BACKGROUND PAPERS

Governance Review - Trusts Update - CG/17/082 (reported to Council on 23 August 2017).

## 10. APPENDICES

Appendix A – Phase 1

Appendix B – Phase 2  
Appendix C – Phase 3

## **11. REPORT AUTHOR CONTACT DETAILS**

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