

ABERDEEN CITY COUNCIL

COMMITTEE	Council
DATE	13 December 2023
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	Governance Review of Trusts – 2023 Update
REPORT NUMBER	COM/23/383
DIRECTOR	Gale Beattie
CHIEF OFFICER	Jenni Lawson
REPORT AUTHOR	Steven Inglis
TERMS OF REFERENCE	10 & 21 and GD 8.2

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 appointments to an external body.

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 the appointment of two or more individuals (whether officers and/or elected members) as directors of Glover House Trustees Ltd and instructs the Chief Officer – Governance to take any necessary action to give effect to this decision; and
- 2.3 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 2024 on future activity in relation to trusts to which the Council is connected.

3. CURRENT SITUATION

- 3.1 On 14 December 2022, Council considered a report on activity in relation to trusts to which the Council is connected and instructed the Chief Officer – Governance to bring a further update report to Council no later than December 2023 on future activity in relation to such trusts.
- 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.

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 classifications 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

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.

3.4 **Educational Trusts (Appendix A)**

There are 37 Educational Trusts with a total Balance Sheet Value of £6,621,447 (as at 31 March 2023), which in summary have purposes supporting the advancement of education in Aberdeen. That sum includes a total Revenue Value of £1,660,211.

In terms of the Powers Delegated to Officers, the Chief Officer – Education has approved the following expenditure:

- £400 from the Elizabeth H Bain Bequest - to assist St Peter’s RC Primary School with the cost of running an African drumming workshop for pupils during the school’s Africa Week in February 2023;
- £4,200 from the Elizabeth H Bain Bequest - to purchase a wide range of musical instruments for Ashley Road Primary School in March 2023, to support the development of musical skills/talents and to increase interest in the uptake of musical tuition; and
- £100 in total from various prize funds - for funding prizes (gift vouchers) at Hazlehead Academy’s Achievement Assembly in July 2023, as follows:
 - Jessie Durno Prize Fund (Mathematics)
 - Margaret C Harper Prize Fund (best pupil in German)
 - George Mackenzie Prize Fund (best pupil in German)
 - Elizabeth M M Laing Prize (best pupil in French)
 - Mary Durno Prize Fund (English)

- Athol Benzie Prize Fund (best all-round pupil in fifth year)
- Duncan B Heriot Prize Fund (English and History)

3.5 Children's Social Work Trusts (Appendix B)

There are 11 Children's Social Work Trusts with a total Balance Sheet Value of £62,048 (as at 31 March 2023), which in summary have been established to support the delivery of children's social work services. That sum includes a total Revenue Value of £20,466.

3.6 Adult Social Work Trusts (Appendix C)

There are 20 Adult Social Work Trusts with a total Balance Sheet Value of £342,119 (as at 31 March 2023), which in summary relate to specific adult social work functions or specific residential homes. That sum includes a total Revenue Value of £120,787.

3.7 Arts & Culture Trusts (Appendix D)

There are 21 Arts & Culture Trusts with a total Balance Sheet Value of £6,812,640 (as at 31 March 2023). That sum includes a total Revenue Value of £3,976,046.

In terms of the Powers Delegated to Officers, the Chief Officer – City Growth, at the request of the Council's Aberdeen Archives, Gallery & Museums Service (AAGM), has approved the following expenditure:

From the Aberdeen Art Gallery Trusts (charity number SC018575)

- £750 towards the purchase of a satin and marbled leather skirt, jacket and top made by Bill Gibb in 1973. AAGM has a focus on collecting clothing designed by Bill Gibb who was born and raised in Aberdeenshire and became renowned in the 1960s and 1970s as one of the UK's top fashion designers;
- £3,000 to purchase 6 prints taken by the photographer Martin Parr. Representation of the city and its people is a key collecting priority for AAGM, and these prints show contemporary Aberdonians living in a variety of ways and represent an unusual crossover between social history and fine art;
- £1,343 towards the purchase of the mixed media overhead light titled "*Semi Skimmed*" created by the artists Clare Waddle and David Robson repurposing plastic milk bottles. The work aligns with the AAGM priority collecting theme of "Energy, Environment & Economy" and aims to communicate the importance of reducing plastic production through recycling;
- £1,750 towards the purchase of three sculptures created by the artist Vicky Higginson. The sculptures align with the AAGM priority for collecting contemporary glass designed and/or made by British artists. This

acquisition serves as a legacy from the first-of-its-kind partnership between AAGM and Jerwood Arts and Art Fund on the Makers Open project between 2021 and 2023; and

- £2,500 towards the purchase of “*Rocks and Sea, Tiree*” (oil on canvas), a painting by the artist Frances Walker. This painting aligns with the AAGM priority collecting theme of “Energy, Environment & Economy” by exploring the Scottish landscape and the presence of humans in the natural environment.

From the Mrs McBey Fund No.1

- £70,000 towards the purchase of a portrait titled “*Vessie Owens*” (oil on canvas), painted by the artist James McBey in America in 1940 during a hugely formative time in his life. This arresting portrait of an American 7-year-old girl of that name is a unique addition to the city’s extensive and renowned McBey collection.

The acquisitions listed above will enhance the AAGM permanent collection.

From the Hilda B S Duthie Bequest

- £27,944 for a programme of improvements to Aberdeen Maritime Museum, focussing on visitor access, engagement and enhanced interpretation of the city’s significant maritime collection. The improvements include the re-display of a significant portion of the ground floor, on the theme of lifesaving at sea, to coincide with the 200th anniversary of the RNLi (Royal National Lifeboat Institution) in 2024, thereby revitalising under-utilised space, adding to the visitor experience and allowing the display of significant items from the collections that have been in long term storage. Other improvements include the introduction of interactive opportunities for play and family fun, refreshing popular existing displays, a servery partition wall and making improvements to visitor facilities and the hugely popular education suite.

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

Lands of Torry and Lands of Skene are charitable trusts (with charity numbers as stated above) and Aberdeen City Council is sole trustee of each. Both trusts formerly lacked modern, fit-for-purpose constitutional documents and OSCR (Office of the Scottish Charity Regulator) had advised that the Council should prepare constitutional documents.

On 14 December 2022, Council approved proposed constitutions for each and instructed the Chief Officer – Governance to seek the necessary approvals from OSCR and thereafter bring those constitutions into effect. Both constitutions were subsequently approved by OSCR and they were then duly signed on behalf of the Council on 25 October 2023, thereby bringing them into effect. OSCR was notified thereafter as required. The terms of each signed constitution are as approved by Council at that meeting.

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

City of Aberdeen Council Guildry & Mortification Funds is a charitable trust (with charity number as stated above) and Aberdeen City Council is sole trustee thereof.

On 14 December 2022, Council approved a proposed new constitution for this trust, which retained the existing financial hardship purpose but broadened the educational, vocational and career advancement purpose 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....*”.

At that meeting, Council also instructed the Chief Officer – Governance to seek the necessary approval from OSCR and thereafter bring the constitution into effect. The constitution was subsequently approved by OSCR and it was then duly signed on behalf of the Council on 25 May 2023, thereby bringing it into effect. OSCR was notified thereafter as required. The terms of the signed constitution are as approved by Council at that meeting.

3.10 Glover House Trustees Ltd (SC503243)

Glover House Trustees Ltd, a private limited company with company number as stated above, is sole trustee of The Grampian-Japan Trust. Richard Sweetnam (formerly the Council’s Chief Officer – City Growth) was sole director of the company until his sad passing earlier this year. The company currently has no directors. The Companies Act 2006 requires a private company to have at least one director who is a natural person (i.e. an individual). Companies House has been informed that the Council, as sole shareholder of the company, is progressing new director appointment(s).

It is recommended that the Council approves the appointment of two or more individuals (whether officers and/or elected members) as directors of the company and instructs the Chief Officer – Governance to take any necessary action to give effect to this decision.

3.11 Next Year

Throughout the coming year, the relevant Chief Officers will continue to identify opportunities for use of the funds and approve such use where appropriate. Members are encouraged to highlight to the relevant Chief Officer any such opportunities that they may identify.

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 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 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. Companies must operate in accordance with company law and this report recommends a course of action to this end.

6. ENVIRONMENTAL IMPLICATIONS

- 6.1 There are no direct environmental implications arising from the recommendations of this report.

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	<p>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.</p> <p>Companies House will eventually strike off a company which does not have a director.</p>	<p>This report supports compliance with trustee duties.</p> <p>This report recommends a course of action to enable director appointment(s).</p>	L	Yes
Operational	No significant risks identified	N/A	N/A	N/A
Financial	Failure to maximise and make best use of the available	This report supports members' oversight of the use of such funds.	L	Yes

	funds for trust purposes.			
Reputational	Failure to comply with legal duties may lead to adverse publicity.	This report recommends a course of action to comply with company legislation.	L	Yes
Environment / Climate	No significant risks identified	N/A	N/A	N/A

8. OUTCOMES

<u>COUNCIL DELIVERY PLAN 2023-2024</u>	
Impact of Report	
Aberdeen City Council Policy Statement <u>Working in Partnership for Aberdeen</u>	The specific proposals in this report have no direct impact on the Policy Statement. However the trust purposes do support overall objectives such as Supporting People with the Cost of Living, A City of Opportunity, A Vibrant City and An Active City.
<u>Aberdeen City Local Outcome Improvement Plan 2016-26</u>	
Prosperous Economy Stretch Outcomes	The specific proposals in this report have no direct impact on the LOIP. However the trust purposes do 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	Stage 1 Assessment has been completed.
Data Protection Impact Assessment	Not required
Other	Not required

10. BACKGROUND PAPERS

- 10.1 [Governance Review of Trusts - 2022 Update - COM/22/285 \(reported to Council on 14 December 2022\)](#)

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

12. REPORT AUTHOR CONTACT DETAILS

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