

REPORT TO CABINET

16 May 2018

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| Subject: | Transfer of Dormant Trust Funds to Heart of England Community Foundation |
| Presenting Cabinet Member: | Councillor Simon Hackett – Cabinet Member for Children's Services |
| Director: | Director – Education, Skills and Employment – Chris Ward |
| Contribution towards Vision 2030: |  |
| Key Decision: | Yes |
| Forward Plan (28 day notice) Reference: | SMBC05/04/2018 |
| Cabinet Member Approval and Date: | Cllr Simon Hackett – 28/03/18 |
| Director Approval: | Chris Ward – 17/04/18 |
| Reason for Urgency: | Urgency provisions do not apply |
| Exempt Information Ref: | Exemption provisions do not apply |
| Ward Councillor (s) Consulted (if applicable): | Ward councillors have not been consulted |
| Scrutiny Consultation Considered? | Scrutiny have not been consulted |
| Contact Officer(s): | Heather Chinner heather_chinner@sandwell.gov.uk |

DECISION RECOMMENDATIONS

That Cabinet

1. Agree that, subject where necessary to the agreement of the Charity Commission, 21 dormant trust funds listed in Part 1 of Appendix 1 to this report are transferred to the Heart of England Community Foundation
2. Agree, in respect of the above charitable funds, that the following resolutions be adopted by the council as charity trustee:

- it is apparent that none of the charitable funds has gross income in the last financial year exceeding £10,000, the charity is not a body corporate and does not hold any land (that is land held on trust for the purposes of the charity)

- the purposes of these charities be replaced as follows:-

“For the advancement of education and the prevention or relief of poverty to support and improve the quality of life and opportunities for children, young people in Sandwell in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantage and for that purpose to support general community activity, especially those facing challenges in their lives, whether by the Trustees or others or for enabling or facilitating the same”

- it is expedient to the interests of the charity in each case that the purposes of the respective charities are replaced and the new purposes consist of or include purposes that are similar in character to those which are to be replaced
- (where a restriction has been placed on the use of the permanent endowment by the charity in each case) the transfer of the permanent endowment to Heart of England Community Foundation as described below is for purposes substantially similar to the purposes of the original charity
- the whole of the funds in the name of the charitable trusts as set out above be transferred to Heart of England Community Foundation for the purposes set out above and to be administered insofar as practicable having regard to the intentions of the original donor as to the nature of the benefit and to the residence of potential beneficiaries.
- that the Council, as charity trustee, is satisfied that it is expedient in each case, in the interests of furthering the purposes for which the funds are held by it, for the fund now standing to the credit of each charity to be transferred in accordance with that resolution and that the purposes of the charity to which the fund is to be transferred under that resolution are substantially similar to the purposes (or any of the purposes) of the transferor charity

3. Agree that the Director/Monitoring Officer be authorised to send a copy of these resolutions to the Charities Commission and that these resolutions take effect 60 days from such notification subject to the provisions of the Charities Act 2011.

4. Agree that, subject to the due diligence still proceeding in respect of the 4 charities listed at Part 2 of Appendix 2 to this report, and as charity trustee of each of those charities, resolves that it is minded to pass the resolutions in respect of each of those charities as is set out in recommendations 2 above.
5. Agree that in respect of recommendation 4 above, the charity trustee authorises the Director of Education, Skills and Employment, in consultation with the Chief Finance Officer, the Cabinet Member for Children's Services and the Cabinet Member for Core Council Services to take the necessary decisions to transfer such funds to Heart of England Community Foundation on the same terms as outlined in this report.
6. Request that Heart of England Community Foundation enters into an agreement with the council as set out in Appendix 3 to this report.

1 PURPOSE OF THE REPORT

- 1.1 The council is the trustee for a number of trust funds as described in Appendix 1 and Appendix 2 of this report. Due to a range of factors these trusts have become dormant and no awards have been made for some time. In August 2017 the Heart of England Community Foundation (HoECF) approached the council and offered to take over any dormant trusts and turn them into a single, active Community Fund for Sandwell. This report seeks approval to the transfer of these dormant trust funds to the Heart of England Community Foundation.

2 IMPLICATIONS FOR SANDWELL'S VISION

- 2.1 The proposed new "Sandwell Community Fund" will have funding criteria that directly links to Vision 2030, particularly ambition 4. "Our children benefit from the best start in life and a high-quality education throughout their school careers with outstanding support from their teachers and families" and ambition 1. "Sandwell is a community where our families have high aspirations and where we pride ourselves on equality of opportunity and on our adaptability and resilience".

3 BACKGROUND AND MAIN CONSIDERATIONS

- 4.1 In August 2017 the Heart of England Community Foundation (HoECF) approached the council and offered to take over any remaining dormant trusts and turn them into a single, active community fund for Sandwell. The Charity Commission is keen to see the release of the many dormant and frustrated trust funds locked in local authorities around the country, and the Commission particularly supports the release of these funds to leading charitable bodies such as HoECF.

It is therefore timely to determine the future of the remaining dormant funds so that benefits can be released as far as practicable in line with the donor's original intent. One particular advantage is that community foundations are well placed to maximise the benefits of funds through their knowledge of funding opportunities, potential donors and the voluntary and community sector.

- 4.2 The Charity Commission acknowledges that community foundations have a reputation for the effective management of charitable funds in order to maximise their impact at local level. The Charity Commission and Community Foundations have worked closely in recent years to ensure that trustees seeking to revitalise moribund (dormant) or ineffective trust funds (and who are looking for an effective way of carrying on their good work in future years) can release their funds to a community foundation as part of their appraisal of options.

4 THE CURRENT POSITION

- 4.1 There are 25 dormant trust funds of which 10 are registered charities. In March 2018 the capital value of the invested funds was just over £100,000 and the revenue value available for distribution was over £200,000 (including annual interest of over £2,000). The last grant award was made prior to 2010, with the exception of the Edward Wheatley Trust when the last award was made in 2012. Further information is contained in appendices 1 and 2.

5 CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)

- 5.1 SCVO support the proposal to transfer these dormant funds to HoECF and welcome this new opportunity for the voluntary and community sector and the residents of Sandwell.

6 ALTERNATIVE OPTIONS

- 6.1 If no action is taken the trusts are likely to remain moribund as the amounts remaining are disproportionately small, the cost of administering the charity and its investment is disproportionate to the benefit and level of funding and because of the difficulty in identifying suitable beneficiaries.

7 STRATEGIC RESOURCE IMPLICATIONS

- 7.1 The proposed transfer to HoECF will result in a small saving to the council, in terms of officer time required to bring these trusts back to life and then manage them. HoECF will make no charge in respect of their work on taking over the trusts, including liaison with the Charity Commission.

This would also include PR and press coverage of the transfer of the trusts. There will be an annual charge for running the new community fund. This will not exceed 1% of the income generated by the investment of the transferred funds in an endowment portfolio and will be met from that income.

- 7.2 The funding will be invested with the CCLA, the government approved investment bank. CCLA is a charity in its own right.
- 7.3 There are no significant risks associated with the transfer of these dormant trusts to HoECF. The Charity Commission and Community Foundations have worked closely in recent years to ensure that trustees seeking to revitalise dormant or ineffective trust funds can release their funds to a Community Foundation. The Charity Commission acknowledges that Community Foundations have a reputation for the effective management of charitable funds in order to maximise their impact at local level. HoECF was established 22 years ago and is growing from strength to strength. In 2016/17 they managed 38 endowment funds valued at over £8.9 million and awarded over 1000 grants to local organisations totalling over £2.3 million.

8 LEGAL AND GOVERNANCE CONSIDERATIONS

- 8.1 This report comes to Cabinet as the Council is the trustee of the charitable funds described. The recommendations proposed reflect the requirements of the Charities Act 2011.
- 8.2 The objects of the HoECF are "The promotion of any charitable purpose for the benefit of the community in the City of Coventry, the County of Warwickshire and elsewhere in the United Kingdom. And in particular the advancement of education, the protection of good health both mental and physical and the relief of poverty and sickness, and any other exclusively charitable purposes which are in the opinion of the Trustees beneficial to the community in the area of benefit".
- 8.3 Whilst Sandwell is not mentioned in particular it is covered by the area of benefit. To give effect to its decision and to ensure the benefit of the funds for the area of benefit they currently serve, it is proposed that the Council as Trustee will require that Heart of England Community Foundation enters into the obligations set out at Appendix 3 to this report.

9 EQUALITY IMPACT ASSESSMENT

- 9.1 The new "Sandwell Community Fund" will be promoted locally so that a wide range of organisations supporting Sandwell residents will be made aware of its existence.

10 DATA PROTECTION IMPACT ASSESSMENT

- 10.1 The new "Sandwell Community Fund" will comply with the GDPR in terms of any personal data collected to enable awards to be made.

11 CRIME AND DISORDER AND RISK ASSESSMENT

- 11.1 Reviving moribund funds that can deliver benefits in terms of the advancement of education and the relief of poverty will contribute to community cohesion and capacity building within the community. The new Sandwell Community Fund will bring the opportunity for positive publicity for the council, HoECF and Sandwell.

12 SUSTAINABILITY OF PROPOSALS

- 12.1 HoECF present the council with a sustainable way forward. They will bring the dormant funds into life and will then make the funding available to Sandwell residents. HoECF will also work to grow the capital value of the fund, for example by contacting local businesses to seek donations.

13 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)

- 13.1 Applicants to the new Sandwell Community Fund will be expected to outline the community benefits they will achieve as a result of the grant

14 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND

- 14.1 There is no impact on any council managed property or land.

15 CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS.

- 15.1 The proposed transfer of dormant trust funds to HoECF presents an effective way of bringing these funds back into use, aligning them to Vision 2030 and securing their long-term future through the creation of a larger single fund.

16 BACKGROUND PAPERS

- 16.1 HoECF Sandwell Community Fund proposal.

17 APPENDICES:

Appendix 1 Dormant trust funds analysis

Appendix 2 Summary of the purposes of the dormant trusts

Appendix 3 Heads of Terms between Sandwell Council and the Heart of England Community Foundation

Chris Ward

Director – Education, Skills and Employment