
Cabinet

11th October 2022

Name of Cabinet Member:

Cabinet Member for Housing & Communities – Councillor David Welsh

Director Approving Submission of the report:

City Solicitor and Monitoring Officer

Ward(s) affected:

All

Title:

Transfer of Charitable Trust Funds

Is this a key decision?

No - although the proposals affect more than two electoral wards, the impact is not expected to be significant.

Executive Summary:

The Council acts as trustee for a number of charitable funds operating in and around the City, with varying numbers of charitable trustees appointed and different degrees of control. Many of these are active and effective in utilising their assets and delivering their charitable objectives, however others have limited or no activity. Following a review of the charities, this report now seeks to transfer those charitable funds into a Coventry established fund which will be managed by Heart of England Community Foundation and utilised for the benefit of the residents of Coventry.

Recommendations:

Cabinet is requested to:

1. Approve the transfer of 3 Charitable Trust Funds as detailed in Appendix 1, subject where necessary to the agreement of the Charity Commission and other trustees, to the Heart of England Community Foundation (HOECF).
2. Agree, the setup of a Coventry Trust managed by the HOECF to serve the residents of the City with the following charitable objectives:
 - Projects benefitting children and young people
 - Projects to support the welfare of older people
 - Projects that support general community/cultural/sporting activity

3. Agree that (to the extent necessary) the Monitoring Officer be authorised to:
 - (a) support the charitable trustee complete the necessary and legal processes including but not limited to the making of the necessary resolutions; and
 - (b) send a copy of these resolutions to the Charity Commission to progress the transfer.

List of Appendices included:

Appendix 1: Proposed Charitable Funds

Background papers:

None

Other useful documents

None

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

1. Context (or background)

1.1 The Council is associated with a number of charitable funds operating in and around the City, with varying numbers of charitable trustees appointed and different degrees of control. Many of these are active and effective in utilising their assets and delivering their charitable objectives, however others have limited or no activity or may have historical objectives which have now been superseded.

2. Options considered and recommended proposal

2.1 Option 1: Do nothing

The selected charities could continue to remain as they are, which whilst continuing to benefit from any assets invested, would provide limited or no benefit to intended recipients and would continue to incur the administrative costs associated with trustee and officer time in adhering to charitable requirements.

2.2 Option 2: Transfer Charitable Funds into a Coventry Fund managed by Heart of England Community Foundation (recommended)

The Charity Commission is keen to see the release of funds from dormant and frustrated trust funds locked in small charities around the country and works to release these funds to charitable bodies such as Heart of England Community Foundation (HOECF). HOECF approached the council and offered to take over inactive/ineffective charities and to set up a Community Fund for Coventry from any assets transferred. They already manage 45 charitable trusts and have setup similar funds with other Councils in a similar position. Once the fund is set up, other charitable funds can be transferred into it and the new fund can be grown with other charitable resources.

3. Results of consultation undertaken

Each charity has a charitable deed document which details the Governance required to manage the charity in question and outlines the requirements of trustees and decision making. For each of the charities included in the proposal, the trustees (both internal and where applicable, external) have had the opportunity to meet HOECF and discuss the proposal. Trustees will be required to approve the transfer (make a resolution) in line with the charitable deeds.

4. Timetable for implementing this decision

Due to the nature of the work, it is difficult to say how long it will take to complete actions arising from this report. If the proposal is supported, officers will work with Heart of England Community Foundation and the Charities Commission to enact the transfer at the earliest opportunity.

5. Comments from Director of Finance and Director of Law and Governance

5.1 Financial implications

The charities have assets as outlined in Appendix 1 of the report. If the transfer is approved, these assets will be transferred into the new Community Fund for Coventry managed by Heart of England Community Foundation.

There will be no direct financial implications to the Council as the charitable assets are held in the name of the charities and are separate to Council assets. There will be a small saving to the Council relating to the officer time involved in administering the charities.

Heart of England Community Foundation will charge the Fund an annual fee to cover administration costs which will be met from the investment income generated.

5.2 Legal implications

This report comes to Cabinet as the Council is the trustee of the charitable funds described (also with external trustees where identified). The recommendations proposed reflect the requirements of the Charities Act 2011. Although the resolution made by the Trustees of the various charities named in Appendix 1 need to follow their own governing documents to make the resolution, the actual transfer of funds outlined is a transfer under legislative powers as opposed to under the charity's governing documents.

Sections 267-272 of the Charities Act 2011 offer a means by which the assets of unincorporated charities, such as trust funds and bequests, can be released to another charity to be applied in more appropriate and effective ways. This power can be used where the unincorporated charity's gross income is less than £10k in the last financial year and it does not hold land to be used for a specific purpose.

Sections 267-272 can be applied to the charities identified at Appendix 1, and in respect of those charities, it is proposed that the Trustees resolve that they should be freed from any restrictions that apply to the expenditure of capital on the basis that, in each case, the income of the trust is insufficient to serve the purposes of the trust. Subject thereto, it is also proposed that all the assets of those charities should then be transferred to HOECF for the purposes of HOECF.

It should be noted that the Trustees can only agree to a transfer under section 268 if it satisfied both that it is expedient in the interests of furthering the purposes for which the trust was established for the assets to be transferred to HOECF and that the purposes of HOECF are broadly in line with the original objectives of the trust funds being transferred.

The objects of the HOECF are "The promotion of any charitable purpose or 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".

Coventry is covered by the area of benefit and the objects of HOECF are aligned with that of the original objectives of the trust funds named at Appendix 1. To give effect to its decision and to ensure the benefit of the funds reach the area they currently serve, it is proposed that the Council as Trustee will require that HOECF set up a specific Coventry Trust to manage the transferred funds.

The proposed transfer is also in keeping with the Charity Commission's wider strategy. The Charity Commission published guidance in 2019 to encourage dormant charities to either close and transfer their assets or to change their purposes and operate more effectively. The Charity Commission has identified that £20m is being held in dormant charitable trusts, which could be redirected within the sector.

6. Other implications

Any other specific implications

6.1 How will this contribute to the Council Plan (www.coventry.gov.uk/councilplan/)?

This proposal seeks to make the most of assets available to support residents in the city, working with a charitable partner to deliver it.

6.2 How is risk being managed?

There are limited risks associated with the proposal. Transfer of the resources will be governed by the requirements of the specific charitable deeds as well as requirements of the Charity Commission. If anything is later identified during the process of transfer that prevent an individual charity transferring, then it can be removed from the process at the relevant stage.

6.3 What is the impact on the organisation?

As highlighted in the financial implications there will be a small saving in time generated as the various charities involved generate annual administrative processes.

6.4 Equality Impact Assessment (EIA)

There are no direct impacts on protected groups associated with this proposal. HOECF strive to be an equitable, diverse and inclusive funder, and evaluate their grant making, benchmark against protected characteristics and ensure the decisions they take are informed by intelligence.

6.5 Implications for (or impact on) climate change and the environment

None

6.6 Implications for partner organisations?

Creation of the Coventry Fund will enable HOECF to provide financial support to other organisations in the city which in turn support local residents.

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Councillor D Welsh	Cabinet Member for Housing & Communities		12/09/2022	14/09/2022

This report is published on the council's website:

www.coventry.gov.uk/councilmeetings

Appendix 1 – Charities proposed to transfer to Coventry Fund

Name of Charity	Charity Number	Investment Held	Value of investments	Valuation Date* (latest statement)	Trustee Information
Tansley Charity Trust	505364	<p><u>Charity Funds</u> Treasurers Account Cash on Deposit with CCC</p> <p><u>Charity Investments</u> Blackrock Charity Investments CCLA Charity Investments</p> <p>The above investments generate circa £4,600 of income per annum</p>	<p>£43,109 £5,750</p> <p>£46,599 £95,340</p>	<p>31/05/22</p> <p>30/06/22 30/06/22</p>	Council & External
Doctor William MacDonal of Johannesburg Trust	225876	<p><u>Charity Funds</u> Treasurers Account Cash on Deposit with CCC</p> <p><u>Charity Investments</u> CCLA Charity Investments</p> <p>The above investments generate circa £3,700 of income per annum</p>	<p>£10,857 £2,000</p> <p>£123,024</p>	<p>31/05/22</p> <p>30/06/22</p>	Council only
The John Friends Memorial Fund	702700	<p><u>Charity Funds</u> Treasurers Account</p> <p><u>Charity Investments</u> CCLA Charity Investments</p> <p>The above investments generate circa £2,300 of income per annum</p>	<p>£22,692</p> <p>£78,993</p>	<p>28/02/22</p> <p>30/06/22</p>	Council only

*Differing valuation/balance dates relate to when statements are issued. Due to the limited number of transactions some are only issued annually. These balances will also be impacted by any outstanding transactions up to the date of any approved transfer.