



Council Overview Board
1 June 2016

Trust Funds

Purpose of the report: This report provides Members with the findings of the Council Overview Board Task and Finish Group who were reviewing the management arrangements of the Council's Trust Funds, with the aim to bring them into effective use.

Introduction:

1. Many local authorities act as trustees for funds that have been set up for charitable or non charitable purposes. These are known as trust funds and many of these trusts are set up through a bequest from a local resident for a very specific purpose.
2. Surrey County Council currently acts as custodian trustee to 44 trust funds, of which for 38 the Council is the sole trustee. The Council has shared responsibility with other trustees for the remaining 6 (see Annex A).
3. The majority of the trusts were established in the mid 20th century, although some are considerably older, and over time the aims and objectives of many of the trusts have become obsolete and the trusts are effectively dormant.
4. Last year Internal Audit carried out a review of trust funds and concluded that the Council is not making best use of the trusts. At the 2 March 2016 meeting, the Council Overview Board agreed to set up a Task and Finish Group (TFG) to proactively review the trust funds. The aim of the TFG was to ensure options are explored so that the trust funds:
 - are effectively brought back into use, to support the communities of Surrey as originally intended.
 - are invested effectively to produce the best returns possible, while ensuring the security of the investments.
 - reduce the risk of them becoming dormant again in the future.
 - reduce the administrative burden to the Council, while ensuring the Council is fulfilling its responsibilities in respect of these funds.

Background:

5. At the time that many of the trust funds were established and passed over to the County Council, the Committee Structure operated in the Council, with the responsibility of the trust overseen by the relevant committee. Of the 44 trusts, 34 are education or school based.
6. As time has progressed, the aims and objectives of many trusts are no longer relevant and the schools to which they related no longer exist. In addition, the council moved to an Executive and scrutiny committee model in the late 1990s leading to the majority of the trust funds becoming inactive.
7. Of the 44 trusts, seven of them can be considered to be active, that is, they are making payments. Annex A provides a schedule of all the trust funds. This shows the purpose of the trust, its value and activity at the end of 2015/16 financial year.
8. The monies received from the bequests are held by the Council or invested and the return on this investment has either built up the trust over the years or has been used to support the aims of the fund. Investment is usually through a specific charitable investment fund, provided by the fund managers, BlackRock.
9. Finance supports a number of the trusts by providing basic bookkeeping services and the production of year-end statements and accounts, as required. They also provide an overview of any investments, but do not actively manage them.

Council Overview Board Task & Finish Group

10. The Council Overview Board considered a report on the Council's current trust fund management arrangements at its 2 March 2016 meeting. At this meeting Members agreed to form a smaller group to carry out an in depth review of the management of the trusts. Three Members volunteered to serve: Steve Cosser, Mark Brett-Warburton and Nick Harrison.
11. The primary purpose of the TFG was to find an effective and sustainable solution that would bring the moribund trusts back into use for the communities of Surrey.
12. A range of options were considered, based on the size of the trust, whether the County Council was the sole trustee, whether there was an obvious succession route and the general activity of the trust. Below is a summary of the range of options and considerations that were discussed:
 - The trusts the Council would be immediately focusing on would be the ones for which Surrey County Council is the sole trustee.

- Where the school or natural successor to the school is identifiable, the Council could liaise with them and the Charity Commission to consider transferring the trust where possible. In some cases, where the amount was small, and if agreed, this could be a one off payment, rather than the transfer of the trust for the school to continue to administer.
 - Where the school or natural successor school is not identifiable, the Council could liaise with the Charity Commission to group these if possible and pass to the relevant service area, such as Education Service.
 - The Council could liaise with the Charity Commission and transfer all trusts to the Community Foundation for Surrey, wherever possible.
13. These options were explored individually and the TFG concluded that to transfer trusts to the Community Foundation for Surrey was the most favourable option. The reasons for this conclusion can be summarised as follows:
- It is best aligned to deliver the original requirements of the funds in a sustainable way;
 - It would ensure legal and financial compliance with charity law;
 - It is the least complicated option to administer and deliver;
 - It would consider the individual needs of the original bequest and maintain the opportunity to involve and consult with all interested stakeholders in the transfer of funds and the ongoing decision-making.
 - It meets the objective of trying to ensure the effective investment of funds.
14. During the course of the TFG activity, Members became aware that some work was already being carried out to negotiate the terms of a number of trusts. It was agreed that this work would be considered when reviewing the individual trust funds with the Community Foundation for Surrey and linkages with relevant stakeholders will be made at the point the funds are transferred to ensure their input into the ongoing decision making in relation to the funds.

Community Foundation for Surrey (CFS):

15. The Community Foundation for Surrey (CFS) was established in 2005 and is an independent charitable trust, raising the charitable donations for the benefit of people in Surrey. It aims to connect people who want to give, with those in need. The CFS currently manages over 60 individual charitable funds that have been donated by individuals, families, companies and trusts. These funds support an ongoing programme of grant-making to communities across Surrey. During 2015-16, over £1 million of grants were distributed to over 339 local community and voluntary projects. Since establishing, CFS has awarded approximately £6 million to 2,144 projects. In addition, CFS has built up permanent community funds of £9.5 million from which the income generated is used to award grants in perpetuity.

16. The TFG met with the Community Foundation on 29 April to discuss the potential to transfer charitable trust funds held by the Council, identify and explore any potential obstacles and define processes and understand possible benefits.
17. The TFG concluded that transferring trust funds to CFS would result in the following benefits:
 - All the **legal** responsibilities would pass to the Trustees of CFS, relieving the Council of all legal liabilities in line with the Charity Commission requirements;
 - All **financial** obligations, including investment, quarterly and annual reporting, payment of cheques and full administration of the funds would be undertaken by CFS;
 - It provides a **sustainable**, stable and effective solution that enables funds to grow, to be held in perpetuity as a legacy for local communities;
 - The trust funds would be used as close to the **original objectives** as possible, ensuring the aim and spirit of the donor is maintained;
 - There is scope to **involve** Surrey County Council and other relevant stakeholders as much as required in the award of grant decisions, devoid of the administrative, legal and financial responsibilities;
 - The CFS has an existing **infrastructure**, processes and resources to undertake the transfer and administration of the trust funds effectively;
 - The CFS has extensive **outreach** links and networks in place to ensure funds provide support to local communities and people in need;
 - The assets will be transferred in a **bespoke** way, in that a discrete named fund or funds can be established with a separate identity but with the added security of being part of the CFS;
 - There is an option to **merge** a fund with an existing fund with similar objectives to increase the benefit of the Trust;
 - CFS would use its **expertise** to manage the detailed work in transferring the fund with the Charity Commission, significantly reducing the time and cost to the County Council;
 - The CFS is an **accredited** organisation, passing the standards set by the Charity Commission at an exemplary level.
18. The Charity Commission (Annex B) actively supports and encourages the transfer of charitable trusts from Councils to Community Foundations and 37 Councils have transferred £38million to their Community Foundations in recent years.
19. In 2012 and 2013 respectively, two trust funds were successfully transferred to the CFS by Surrey County Council. This was done by involving all the relevant stakeholders, such as Parish Councillors, local Members and youth groups, to which the trust related to and was managed successfully and smoothly. One was the Chobham Lawson Bequest and the second the Abbey Barn Trust – both have been

providing support and benefit to the relevant communities in Surrey Heath and Runnymede since then, with the full involvement of local panels in decision making.

Process:

20. The work can be led primarily by the Community Foundation and the link person to the Charity Commission, who has already led on a wide range of trust transfers from local authorities to Community Foundations across the country. The County Council will support as needed but this approach would save both time and cost to the Council.
21. A two stage approach is likely to be recommended and this is based on the experience of other local authorities and trust transfers to Community Foundations. This would be as follows:
 - Stage one will be to seek 'in principle' agreement from the Charity Commission to close, amalgamate and transfer the Trusts. This would involve reviewing all the Trusts being focused on, including examining the governing documents.
 - Stage two will involve understanding the details, involving relevant stakeholders and preparing the detailed papers to seek formal permission from the Charity Commission and to enable the transfer.

Finance:

22. The financial implications of this proposal are:
 - 1% of the total capital value of each fund, per annum (or 1.5% for Funds with a capital value under £250,000) would be taken from the income by the CFS and paid quarterly in arrears.
 - A one off set-up fee, to cover the initial cost of transferring and making any necessary changes, would be taken from the funds at the time of transfer. This would cover some of the administrative costs of the specific work in liaising with the Charity Commission, seeking their approval and providing all the legal requirements for the transfer. This cost is in line with the standard process all Community Foundations have when setting up or transferring trust funds. When the Council transferred the two trusts listed in paragraph 19, a 3% and 5% set up cost was agreed with the CFS at that time. This will be negotiated by the Council with CFS as the amount of the transfer is larger than previous transfers.
 - All other costs including audit fees and end of year accounts would be covered by CFS.

Management arrangements:

23. Each fund would be managed through a Fund Agreement which would show how funds are to be managed and used. This would have a separate fund identity if required and all funds would be used towards

meeting the objectives of the fund, less the agreed contributions of management fees, as highlighted above.

24. Any grant issued and related procedures will be in the specified name of the fund and will be acknowledged in the CFS annual report and any other publications. There will be an opportunity for future donations or legacies to be added to these funds, enabling them to potentially grow over time.
25. The funds will be invested in accordance with the CFS Investment Policy and will benefit from the existing expertise and skills of the Foundation's Finance and Investment Group and Board of Trustees. The investment manager is currently Investec and has a performance target return of 4% plus RPI.

Eligible Funds:

26. The TFG have concluded that all trust funds where the Council are the sole trustee should be recommended to be transferred to the CFS. With the exception of the following two funds:
 - Lingfield Guest House – while at present Surrey County Council is the sole trustee, there is a request, currently awaiting Charity Commission approval, to change this and other trustees have been identified. It is therefore suggested by the WTFG that this fund be treated alongside the other trusts where Surrey County council is not the sole trustee.
 - Looked after Children – these represent monies left to specific looked after children who are currently in the Council's care. This money has to be held in trust by the Council until the child turns 18. The TFG propose that no action is taken in relation to these trusts and they continue to be held by the Council, as corporate parent, until the children reach 18.
27. For the remaining trust funds, where the Council is not the sole Trustee, it is recommended that there should be separate discussions held with each individual fund. In each case, the Council should facilitate a discussion between themselves, the other trustees and the CFS to examine if transfer of the trust to the CFS would deliver the benefits identified above while enabling the existing trustees to maintain full oversight of the trust and decision making in relation to the awarding of funds.
28. A further report to Cabinet in due course will summarise the conclusions of these discussions and make recommendations in relation to these remaining trust funds as appropriate.

Future Bequests:

29. If a new fund is bequeathed to the Council, the Council will look for solutions that ensure the trust fund is used in line with the bequest and maximum value is drawn from the fund.

30. The Council will liaise with the Community Foundation for Surrey and relevant stakeholders to seek to develop a permanent and sustainable solution in line with the recommendations in this report.

Recommendations:

31. That the Council Overview Board supports the proposal of the WTFG and asks the Cabinet to agree to:
- the transfer of trust funds for which the County Council is the sole trustee, to the Community Foundation for Surrey and to authorise officers to begin the liaison with the CFS to ensure this is actioned at the earliest possible date.
 - a further report outlining the proposals in relation to those trust funds where the Council is not the sole trustee, is submitted in due course following discussions with the other trustees.
 - Cabinet request the Council Overview Board monitor these arrangements on an ongoing basis and report back to Cabinet on any recommendations in the future as needed.

Next steps:

- A report is taken to Cabinet for agreement on 21 June 2016
- Officers from the County Council work immediately thereafter with the Community Foundation for Surrey and the Charity Commission in making arrangements for the transfer to the trust funds to the CFS – work to start in June 2016.
- Officers set up discussions with relevant trustees of those funds that are not solely managed by the County Council.
- An initial report on progress is submitted to COB in six months time.

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Sources/background papers:

Annex A – List of existing Trust Funds
Annex B – Charity Commission Statement

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