



Council Overview Board
1 March 2017

**Transfer of Inactive Trust Funds to the Community
Foundation Surrey**

Purpose of the report: To update the Council Overview Board on the progress of transferring inactive Trust Funds the County Council is responsible for to the Community Foundation Surrey (CFS) to bring back into use for Surrey residents.

Background:

1. In April 2016, the Council Overview Board set up a Trust Fund Task Group to review bringing a number of inactive Trusts back into use for the residents of Surrey. These were Trusts that had been bequeathed a long time ago, their objectives had become obsolete and the funds dormant over time.
2. The task group reported the findings of its review to Cabinet on 21 June 2016. The Cabinet agreed that the Trusts for which the Council had sole Trustee responsibility would be transferred to the Community Foundation for Surrey (CFS). This would exclude the Looked After Children Fund, Lingfield Guest House, the Henrietta Parker Trust Fund and the Tulk Fund, however the Henrietta Parker and Tulk funds would be reviewed in two years' time.
3. It was also agreed that work should be carried out to review Trusts Funds for which the Council is not the sole Trustee, with a report back to the Council Overview Board following discussions with other Trustees.
4. The main reasons for transferring the funds to the CFS were:
 - the original trust criteria could be met as closely as possible whilst creating a viable fund that can be brought back into community benefit;
 - the organisation had the expertise and was best placed to deliver the original requirements of the funds in a sustainable way;
 - it ensured legal and financial compliance with Charity Law;
 - it considered the individual needs of the trust and would consult interested stakeholders in the transfer of funds and ongoing decision making for future distribution of the funds and
 - other local authorities had transferred to their local Community Foundations and this was supported fully and encouraged by the Charity Commission.

Update:

5. Following the Cabinet decision, officers have been working with the CFS to undertake the necessary work to enable the transfer. This included:
 - identifying and contacting any existing stakeholders that needed to give permission, have first refusal or needed to be consulted;

- reviewing the governing documents for each of the Trusts highlighting any specific requirements;
 - finalising and agreeing the final list of trusts that would be included in the transfer (as shown in **Annex A**);
 - submitting the proposal and the documents to the Charity Commission to seek an 'in principle' agreement, to close, amalgamate and transfer the funds;
 - preparing the detailed papers to seek formal approval from the Charity Commission to enable the legal transfer of the funds to enable a viable community fund to be created and
 - gaining formal approval from Legal Services that the Trust Transfer Declarations and Funding Agreements are appropriate and acceptable to be signed by the Council.
6. Given the broad range of Trusts identified, it was agreed to phase the work. The first phase focused on transferring the agreed funds for which the Council had sole responsibility. Phase two will focus on the Trusts for which the Council has shared responsibility.

Process:

7. Following the above work in paragraph 5, it was agreed to categorise the funds to ensure the original objectives were best maintained and in a way that creates a viable fund to benefit local communities. This is also in line with the Cabinet recommendation to ensure the relevant Trusts are transferred to CFS at the earliest possible date.
8. As the majority of the funds had objectives relating to education, CFS suggested that the best approach would be to create a Surrey Educational Fund (SEF). The Surrey Educational Fund will bring long term benefits to the residents of Surrey who require additional support with a wider criteria including education, training, employment, arts, music and sport, to improve their wellbeing and life chances.
9. Each and every individual Trust deed and governing document was reviewed to check for any special considerations or stakeholders that needed to be consulted. This was done in conjunction with the Charity Commission, CFS and County Council officers. Of the two larger trusts, Yarrow and Henry Blanchett, finance officers requested Yarrow Trust was set up as a separate fund outside of the SEF which was enabled. Finance highlighted there had been some proposals by the Schools Commissioning team around the potential use of funds thus asking for a separate fund. This will be considered when making decisions about awarding grants relating to this Trust. The Charity Commission recommended the Henry Blanchett Trust was transferred as part of the SEF and there were a number of reasons for this:
- Without a larger sum like one linked to the Henry Blanchett Trust (HBT) the Surrey Educational Fund would not be a viable and functional unit;
 - The objectives of the HBT were very narrow and by broadening this through SEF, it increased the opportunity for the residents of Epsom and Ewell to use grants in a more useful and effective way;
 - This would not disadvantage Epsom and Ewell residents as the decision making panel would be made aware of the proportion of funding coming from HBT and the panel could set a criteria to prioritise grant applications from this area;

10. In total, four Declarations and two Funding agreements were drawn up and signed to enable the transfer to CFS. This was in line with the decision taken by the Cabinet on 21 June and was agreed with the Charity Commission. This is summarised as follows:
- An individual Declaration to transfer assets from the Yarrow Trust Fund and an individual Funding Agreement to enable this. These will be placed in a newly established Yarrow Fund, for the benefits of residents Haslemere, in the parishes of Grayshott and Frensham who require additional support for education, wellbeing or to improve their life chances.
 - An individual Declaration to close down the charity and transfer the funds was signed for the Henry Blanchett Trust. These assets will be moved to the Surrey Educational Fund and transferred through the Funding Agreement for SEF.
 - A combined Declaration to close down and transfer 12 Trusts where permanent endowment existed. These will be moved to the SEF through the SEF Funding Agreement.
 - A combined Declaration to close down and transfer 17 Trusts where no permanent endowment existed. These will be moved to the SEF through the SEF Funding Agreement.

Current Status:

11. The four Trust Transfer Declarations and two Funding Agreements have been signed by the council and CFS as needed. These were sent back to the Charity Commission who have given their final, formal approval to enable the transfer on 30 January 2017.
12. Once the funds are transferred to CFS, an on-line form which will close all the Trusts will be formally filed with the Charity Commission. This will then remove the Council from any liability, administrative and financial obligation relating to the Trusts named in Annex A. The CFS will invest the funds to generate ongoing income to award as grants in line with the fund criteria approved by the Charity Commission.
13. Parallel work is ongoing in identifying and setting up a decision making panel that will be responsible for ongoing decisions on grant distributions. This panel will include any members agreed by the County Council. Given the education based objectives of the fund, it is recommended that the Cabinet Member with responsibility for education should be on the panel but the Council may wish to include additional representation. Other members of the panel would consist of CFS and community representatives. Community representatives will be selected based on relevant knowledge and expertise linked to the fund criteria. Transferring the funds together in to a viable unit and widening the fund criteria will enable the funds to be reactivated and brought back into public benefit.
14. A second phase of work looking at Trusts for which the Council has shared responsibility will begin now that the first phase of work is near to completion. This phase of work will need more intensive consultation with local stakeholders, including Members, the relevant borough or district council, parish or others as needed.

Recommendations

The Council Overview Board notes the progress made, supports commencement of the second phase of work and recommends a second report relating to this is presented to the Board.

Next steps

- Officers from the Council to close the investments and finalise the amounts to be transferred at the latest market value - by end March 2017.
- Officers to liaise with the Cabinet Member for Schools, Skills and Educational Achievement and CFS to agree the composition of the Decision Making Panel – by end of February 2017.
- Officers to begin the second phase of work and begin discussions with other Trustees where the Council is not the sole Trustee – February 2017

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Annex A: List of funds agreed to be transferred following review of governing documents

Sources/background papers:

Declarations, funding agreements and formal Charity Commission approval (can be made available if needed)