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## **CHARITY REORGANISATION UPDATE**

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### **Report by Chief Financial Officer**

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## **SCOTTISH BORDERS COUNCIL**

**21 December 2017**

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### **1 PURPOSE AND SUMMARY**

- 1.1 **This report provides an update on the progress of the charity reorganisation of the Council's registered and unregistered Trust Fund Charities and proposes the amalgamation of some trusts.**
- 1.2 Scottish Borders Council currently administers a number of Trust Funds and Bequests for a range of purposes, which it inherited from previous Scottish Borders Town, County, District and Regional Councils. These were a mixture of Charities registered with HMRC, and subsequently OSCAR (Office of the Scottish Charity Regulator) and some unregistered. Through the passage of time, the purpose or low value of the funds, have resulted in many no longer being able to be disbursed.
- 1.3 Following a report to Council on 30 January 2014 work commenced on the establishment of 3 OSCAR registered new Trusts and the reorganisation of Trusts into the new Trusts. A further report was presented to Council on 21 May 2015 to reorganise some of the registered Trusts into the 3 new Trusts.
- 1.4 The report on 21 May 2015 also amended the Scheme of Administration to establish Charitable Sub Committees and approve amendments to the Scheme of Delegation for grants to be disbursed from the SBC Education Trust and SBC Welfare Trust.
- 1.5 The Council approved a further report on 30 March 2017 which agreed the dispersal of ten trusts to other organisations and agreed a process and timetable for the review of the remaining trusts. The aim of the review was to where possible reorganise the trusts into the 3 new OSCAR registered Trusts, whilst preserving the ethos and locality of the original trusts.
- 1.6 Two consultation meetings have been held in each locality area with invitations to all Members and Community Councils. Additional meetings have also been held with interested groups and members of the public. OSCAR have also been consulted on the process and recommendations contained within the report.
- 1.7 **Appendix 2** details the proposed criteria to be used in the disbursement of grants from the SBC Community Enhancement Trust.

- 1.8 **Appendix 3** details the proposed criteria to be used in the disbursement of grants from the SBC Welfare Trust.
- 1.9 **Appendix 4** details the 70 individual Trusts recommended for amalgamation into the SBC Welfare Trust.
- 1.10 **Appendix 5** details the 99 individual Trusts recommended for amalgamation into the SBC Community Enhancement Trust.
- 1.11 **Appendix 6** details the Trusts which have been fully disbursed during the consultation and also Trusts where work is currently ongoing with the Community to finalise either one-off projects or further recommended amalgamations.
- 1.12 **Appendix 7** details the remaining 50 Trusts where there is currently no recommended outcome.

## **2 RECOMMENDATIONS**

### **2.1 It is recommended that Scottish Borders Council:-**

- (a) Notes the consultation undertaken on the re-organisation of the Council's Charitable Trust Funds;**
- (b) Approves the criteria detailed in Appendix 2 for the SBC Community Enhancement Trust;**
- (c) Approves the criteria detailed in Appendix 3 for the SBC Welfare Trust;**
- (d) Agrees to the amalgamation of the 70 individual Trusts detailed in Appendix 4 into the SBC Welfare Trust, subject to approval from OSCR for those registered;**
- (e) Agrees to the amalgamation of the 99 individual Trusts detailed in Appendix 5 into the SBC Community Enhancement Trust, subject to approval from OSCR for those registered;**
- (f) Notes the ongoing work for the individual Trusts detailed in Appendix 6;**
- (g) Notes a further report will be presented by the Service Director for Children and Young People for the Education Trusts detailed in Appendix 7;**
- (h) Agrees to disband the Charitable Trusts Sub-Committees and remove these from the Scheme of Administration;**
- (i) Agrees to amend the Scheme of Delegation to replace the delegated authority for the Service Director Customer and Communities "to make payments to individuals or families from SBC Welfare Trust according to set criteria" with the following:**

- (i) Approve applications for funding up to the value of £500 from the SBC Community Enhancement Trust and SBC Welfare Trust;**
  - (ii) Approve applications for grants from £501 to £2,500 to the SBC Welfare Trust, subject to the agreement of at least 50% of the Members in the relevant Wards; and**
  - (iii) Approve applications for grants from £501 to £5,000 to the SBC Community Enhancement Trust, subject to the agreement of at least 50% of the Members in the relevant Wards.**
- (j) Agrees that the Executive Committee should approve grants from the SBC Welfare Trust and SBC Community Enhancement Trust, in situations where grant applications exceed the limits specified in the Scheme of Delegation or less than 50% of the Members in the relevant Wards are in agreement.**

### 3 BACKGROUND

- 3.1 On Local Government re-organisation in 1996 Scottish Borders Council inherited a total of 289 individual Trusts and Bequests from previous Scottish Borders Town, County, District and Regional Councils. The Trusts cover a range of purposes and geographical locations. Many of these through the passage of time have become moribund and unable to disburse funding due to their original purpose being out of date or due to the low value of the funds.
- 3.2 With the establishment of the Office of Scottish Charity Regulator (OSCR) in 2006, 112 of the Trusts previously registered by Scottish Borders Councils predecessors as Charities with HMRC were all adopted by OSCR. This registration led to the requirement to produce fully audited accounts from 31 March 2014 for each individual registered Trust. This would have placed a significant additional administrative burden on the Council for little if any benefit. The Council therefore agreed with OSCR and Audit Scotland that there would be no requirement to produce accounts for these bodies nor would there be any audit requirement if an application was made to wind up a charity prior to 31 March 2014.
- 3.3 The Council on 30 January 2014 approved the establishment of 3 new Trusts relating to the relief of poverty, educational and community enhancement; with the current Trusts to be reorganised into these new Trusts. OSCR approval was received in March 2014 for the establishment of the 3 new Trusts. The 3 Trusts established are as follows:
- SBC Community Enhancement Trust – SCO044764
  - SBC Welfare Trust – SCO004765 and
  - SBC Educational Trust – SC044762
- 3.4 A further report was presented to Council on 21 May 2015 to agree the initial phase of reorganisation of the Trusts. The outcome of this and the agreed purpose of the new Trust are detailed in Appendix 1. Each of the 3 new Trusts contain restricted funds covering specific geographical areas and charitable purpose, which reflect the ethos of the original fund given.
- 3.5 The Council on 21 May 2015 also approved the following delegated authority to:
- Service Director of Children and Young People –To make payments to individuals from various Education trusts and the SBC Education Trust according to a set criteria
  - Service Director – Neighbourhood Services (now Customer & Communities)- To make payments to individuals or families from the SBC Welfare Trust according to set criteria.
- 3.6 The Council report on 21 May 2015 also established within the Scheme of Administration Charitable Trusts Sub Committees for each locality which were able to approve grants of up to £500 from the 3 new Trusts and the Ormiston Trust. No grant applications have been made to the new Trusts since the establishment of these Sub Committees.
- 3.7 The report also established a further SBC Charitable Trust to act as a holding Trust for a variety of trusts until the full reorganisation could be

completed. Two further remaining OSCR registered trusts remained, these being the Ormiston Institute, and the Thomas Howden Wildlife Award Trust. Each of these 3 trusts is required to provide fully audited accounts. The SBC Charitable Trust contains 76 individual Trusts, which OSCR allowed as a temporary position subject to these being moved into the 3 new Trusts in the future. Approval was subsequently gained from OSCR on 12<sup>th</sup> July 2017 to amalgamate the Thomas Howden Wildlife Award into the SBC Education Trust as from 1<sup>st</sup> April 2017.

- 3.8 There are also currently a further historical 177 charitable trusts/bequests managed by the Council which are not registered with OSCR and for which no constitutive deeds or documentation are held. These cover a range of geographical areas and purposes. The total value of these trusts as at 31 March 2017 was £2.886m with an income of £0.082m for 2016/17.
- 3.9 Council on 30 March 2017 approved the timetable shown below for the next phase of the reorganisation.

<b>Steps</b>	<b>Time Period</b>
Meetings to discuss initial suggested amalgamations	June – July 2017
Consultation with OSCR and Communities	Aug – Sept 2017
Meetings to agree final recommended amalgamations	Oct – Nov 2017
Report to Council to approve amalgamations	21 Dec 2017
Submissions to OSCR for amalgamations	Jan – Feb 2018
Amalgamations completed	31 Mar 2018

## **4 CONSULTATION**

- 4.1 Two meetings have been held in each locality area. The first round of meetings took place during late June, early July 2017. The second round took place during October and November 2017. Invitations were sent to all Councillors and Community Council contacts. The meetings in the main were well attended with some Community Councils who were unable to attend contacting the Officers directly. The consultation meetings reviewed the draft criteria for the SBC Welfare Trust and SBC Community Enhancement trust as well as the lists of Trusts. The questions and feedback have been considered and form the basis of the recommendations contained within this report.
- 4.2 A number of individual meetings were also held with individual groups and individuals who were able to provide further detail on individual trusts or who had an interest in specific trusts. The information gathered has been utilised in the formation of the recommendations contained within this report.
- 4.3 The report approved by Council in March 2017 and a draft of this report have been shared with OSCR on a confidential basis. A meeting has also been held with OSCR to discuss the recommendations for those Trusts which are registered with OSCR. OSCR is supportive of the work

undertaken to date and has agreed to work with Officers to streamline the documentation required to complete the necessary reorganisation work.

- 4.4 Due to the workload within the Education Team at the current time, consultation with Head Teachers and parents has not commenced for the Education trusts. This work will be undertaken as soon as resources allow.

## **5 OUTCOME OF CONSULTATION**

- 5.1 The criteria for the SBC Community Enhancement Trust and the SBC Welfare Trust shown in **Appendices 2 and 3** reflect the discussions from the consultation meetings. The criteria for the SBC Education Trust is being developed by the Service Director of Children and Young People and will be reported separately at a later date.
- 5.2 **Appendix 4** details the recommended amalgamation 70 individual Trust into the SBC Welfare Trusts.
- 5.3 **Appendix 5** details the recommended amalgamation of 99 individual Trusts into the SBC Community Enhancement Trust.
- 5.4 **Appendix 6** details the Trusts where work is ongoing with Community parties for one-off projects which will see the funds held fully utilised and funds which have been drawn down by Communities during the consultation period following approval from Elected Members.
- 5.5 Work is also ongoing with Kalewater Community Council and the Australian Trustees to establish a revised process for the Sir Walter Leitch and James Henderson Bequests respectively. This will ensure the Community Council leads the identification and recommendations of applicants for the two funds which have specific requirements and which require the income derived from these funds each year to be fully disbursed.
- 5.6 **Appendix 7** details the 50 remaining Trusts which currently have no recommended outcome. 43 of the remaining Trusts are Education Trusts and these will be reported in a separate report. The George Knox Bequest and the Chambers Institute will remain as individual Trusts.

## **6 GOVERNANCE ARRANGEMENTS FOR DISBURSAL OF FUNDS**

- 6.1 During the consultation process a number of concerns were expressed around the lack of Members involvement in the decision making process for some grant applications, the bureaucratic nature of the process and the ability to approve grant applications in a timely way. Although Charitable Trust Sub-Committees are detailed in the Scheme of Administration, they have never met. It was also highlighted that a number of the applications for the Welfare fund will be from individuals, will contain personal sensitive information and may be of relatively low value.
- 6.2 To allow this sensitive information to be kept confidential and the applications to be dealt with in a timely and non-bureaucratic way it is proposed in future that a similar grant approval process to that of the Community Grant Scheme is utilised. The process and delegation limits for

officers approving grant applications for the SBC Welfare Trust and SBC Community Enhancement Trust would be as follows:

- Application for grants up to the value of £500 from the SBC Community Enhancement Trust and SBC Welfare Trust
- Applications for grants from £501 to £2,500 to the SBC Welfare Trust, subject to the agreement of at least 50% of the Members in the relevant Wards. £2500 would be the maximum grant awarded under delegation. Exceptions awards recommended above this amount would be submitted to Executive Committee.
- Applications for grants from £501 to £5,000 to the SBC Community Enhancement Trust, subject to the agreement of at least 50% of the Members in the relevant Wards. £5,000 would be the maximum grant awarded under delegation. Exceptions awards recommended above this amount would be submitted to Executive Committee.

6.3 All grant applications will be submitted to Customer and Communities Services staff to ensure the application meets the agreed criteria for the specific fund to which the application pertains and the appropriate approvals are gained.

6.4 Should the above processes be approved, then delegated authority will be added to the Scheme of Delegation for the Service Director Customer and Communities, and the Charitable Trust Fund Sub-Committees will be removed from the Scheme of Administration.

## **7 IMPLICATIONS**

### **7.1 Financial**

There are no financial implications resulting from the recommendations contained in this report.

### **7.2 Risk and Mitigations**

No significant risk to the financial position of the charity funds is identified; in fact these proposals enable the funds to be used for appropriate purposes to support the community and the revised governance and approval process will mitigate the administration and information governance risks.

### **7.3 Equalities**

The reorganisation of the trusts will allow the disbursement of funds which, in some cases, have currently been prohibited due to the historic restrictions of the purpose. This will improve the equality implications.

### **7.4 Acting Sustainably**

Whilst there are no economic, social or environmental effects arising from the proposals contained in this report, there should be easier access to funds by beneficiaries, which will impact upon the economic, social and environment of the Borders. The fund amalgamations should produce more sustainable funds.

### **7.5 Carbon Management**

There are no significant effects on carbon emissions arising from the proposals contained in this report.

## 7.6 Rural Proofing

There are no significant effects on carbon emissions arising from the proposals contained in this report.

## 7.7 Changes to Scheme of Administration or Scheme of Delegation

- (a) The Scheme of Administration is proposed to be amended to remove the Charitable Trusts Sub-Committees.
- (b) The Scheme of Delegation is proposed to be amended to include under the Service Director Customer and Communities:
- Approve projects for funding and authorise grants up to the value of £500 from the SBC Community Enhancement Trust and SBC Welfare Trust.
  - Approve applications for grants from £501 to £2,500 to the SBC Welfare Trust, subject to the agreement of at least 50% of the Members in the relevant Wards.
  - Approve applications for grants from £501 to £5,000 to the SBC Community Enhancement Trust, subject to the agreement of at least 50% of the Members in the relevant Wards.
- (c) The proposed revised arrangement will also require the Scheme of Delegation to be amended to remove from the Director of Neighbourhood Services delegated authority to "make payments to individuals or families from SBC Welfare Trust according to set criteria."

## 8 CONSULTATION

- 8.1 The Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Chief Officer HR and the Clerk to the Council have been consulted and any comments received have been incorporated into the final report.

### Approved by

**David Robertson**  
Chief Financial Officer

Signature .....

### Author(s)

Name	Designation and Contact Number
Kirsty Robb	Pensions and Investments Manager (01835 825249)

**Background Papers: Nil**

**Previous Minute Reference:** Scottish Borders Council, 30 March 2017



**Note** – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Kirsty Robb can also give information on other language translations as well as providing additional copies.

Contact us at Kirsty Robb, Financial Services, Scottish Borders Council, Newtown St Boswells, TD6 0SA. Tel: 01835 825249.

**SBC Welfare Trust - Charity Number: SC044765****Charitable Purposes of the Trust:**

- a Prevention or relief of poverty
- b Relief of those in need by reason of age, ill-health, Disability, financial hardship or other disadvantage
- c Advancement of Health, including the advancement of education in health

Area Restriction	Charitable Trust purpose Restriction	Total Reserves 31/03/17 £
Mid & East Berwickshire	a & b	61,294
Galashiels & District	a & b	4,170
Leaderdale & Melrose	a & b	9,070
Jedburgh & District	a & b	20,274
Hawick & Denholm/ Hawick & Hermitage	a & b	8,281
Tweeddale East & West	None	731
Tweeddale East & West	a & b	7,148
		<b>110,968.00</b>

**SBC Community Enhancement Trust - Charity Number: SC044764****Charitable Purposes of the Trust:**

- a Advancement of community development
- b Advancement of the arts, heritage, culture or science, including the upkeep of heritage assets.
- c Advancement of recreational facilities, or the organisation of recreational activities, with the object of improving condition of life for the persons for whom the facilities or activities are primarily intended
- d Advancement of environmental protection or improvement.

Area Restriction	Charitable Trust purpose Restriction	Total Reserves 31/03/17 £
Borders Wide	a	1,524
Berwickshire	None	13,220
Berwickshire	b	28,506
Berwickshire - Henderson Park and War Memorial, Gordon	Specific to location	529

Cheviot -Allerley Well Park, Jedburgh	Specific to location	1,632
Selkirkshire	None	1,118
Hawick & Denholm/ Hawick & Hermitage	b	20,060
Hawick & Denholm/ Hawick & Hermitage	a&b	671
		<b>67,260</b>

## **SBC Education Trust - Charity Number: SC044762**

### **Charitable Purposes of the Trust:**

To advance and/or promote cultural exchange by, among other things, the payment of grants and/or loans, the award of bursaries, the award of prizes, payment towards cultural exchanges that further an educational purpose both within Scottish Borders area and further afield (including abroad), to such educational institution, charities or other organisation or to such individuals deserving of benefit as the Trustees shall, in their sole and unfettered discretion, select as suitable recipients of such benefit, to be applied by such recipients for the charitable purpose of the advancement of education and/or promotion of cultural exchange

<b>Area Restriction</b>	<b>Total Reserves 31/03/17 £</b>
Borders Wide	1811
<b>Total SBC Education Trust</b>	<b>1811</b>

### **The Scottish Borders Council Community Enhancement Fund**

The Community Enhancement Fund is a registered charity and was established to promote advancement of community development, advancement of the arts, heritage, culture or science, including the upkeep of heritage assets, advancement of recreational facilities, or the organisation of recreational activities, with the object of improving condition of life for the persons for whom the facilities or activities are primarily intended and advancement of environmental protection or improvement.

#### **How to access Trust funds:**

The Community Enhancement Fund awards grants of up to a maximum of **£1,000** to **non-constituted groups/individuals** and up to a maximum of **£5,000** to **fully constituted groups**.

To be successful a group/individual **MUST**:

- Carry out positive work in the community and be of charitable nature and be 'Not for Profit' status.
- Be community, socially or environmentally focused
- Deliver the activity or project within the specified locality/area
- Provide an outcome that will benefit all members of the community regardless of race, gender or religion

#### **The project or activity you are undertaking should offer two or more of the following:**

- To improve, enhance, protect and conserve the natural and built environment; or offer heritage conservation;
- To provide better appreciation of the natural and urban environment;
- To demonstrate lasting benefit to the community.
- To contribute to the development of the arts, culture/science including the upkeep and preservation of heritage assets
- To the improvement of recreational facilities or reorganisation of activities within the facility to improve the quality of life for its users
- To promote environmental protection and/or improvement within the specified area
- To provide maintenance and/or improvement of public parks, public open space and other public amenities and other environmental/regeneration projects

#### **Who to contact:**

You can download an application form **here** or we can send you a hard copy for you to complete.

Please send the completed application form and any supporting documents via email to [communitygrants@scotborders.gov.uk](mailto:communitygrants@scotborders.gov.uk) or the hard copy to SBCs Grants Co-ordinator, Scottish Borders Council, Council Headquarters, Newtown St Boswells, TD6 0SA. Telephone 01835 826502

### **The Scottish Borders Council Welfare Trust**

The Scottish Borders Council Welfare Trust is a registered charity and was established to assist in the prevention of the relief of poverty.

To promote relief of those in need by reason of age, ill-health, disability, financial hardship or other disadvantage.

To aid the advancement of health, including the advancement of education in health.

#### **How to access Trust funds:**

The Community Enhancement Fund awards grants of up to a maximum of **£1,000** to **non-constituted groups/individuals** and up to a maximum of **£2,500** to **fully constituted groups** dependent on funds available.

To be successful, a group/individual **MUST**:

- Demonstrate need **or**
- Carry out positive work in the community and be of charitable nature and be 'Not for Profit' status **or**
- Be community or socially focussed
- Deliver the activity/project within the specified locality/area

#### **As a group/individual, your project or activity should offer one or more of the following:**

- To promote health and wellbeing specifically amongst the residents of the area specified in your application
- To provide activities which address social isolation, dementia and barriers to accessing services
- To address welfare, sickness, disability, inequality and those in need
- To promote physical, mental and spiritual wellbeing, healthy living and improve opportunities for local people to live a full and active life.
- To address need and suffering caused by poverty, financial hardship, debt and unemployment or other areas which address the impact of welfare reform

#### **Who to contact:**

You can download an application **here** form or we can send you a hard copy for you to complete.

Please send the completed application form and any supporting documents via email to [communitygrants@scotborders.gov.uk](mailto:communitygrants@scotborders.gov.uk) or hard copy to SBCs Grants Co-ordinator, Scottish Borders Council, Council Headquarters, Newtown St Boswells, TD6 0SA. Telephone 01835 826502

