

REVIEW OF CHARITABLE TRUSTS HELD BY ARGYLL & BUTE COUNCIL

1.0 EXECUTIVE SUMMARY

- 1.1 The Council at their meeting on 21 January 2016 approved the proposal for reorganising the Norman Stewart Institute Trust (Scottish Charity Number SC019601) to apply OSCR to reorganise the Trust by transferring all the funds held to For Bute (Scottish Charity Number SC044153).
- 1.2 The main purpose of this report is to advise members of the decision by Office of Scottish Charity Regulator to approve the proposal to transfer the funds held by the Norman Stewart Institute Trust to For Bute.

The report details the steps that now require to be taken to formally wind up the trust.

2. RECOMMENDATIONS

- 2.1 For the proposal approved by OSCR for the Norman Stewart Institute Trust (SC019601) give final authorisation for the action outlined detailed below. The trustees now require to provide authority to make payment to the recipient charity as detailed and have the trust wound up and removed from the OSCR register namely:-

Norman Stewart Institute Trust (SC019601). Approve the payment of the remaining funds to the For Bute Trust (SC044153) and then wind up the Trust and remove it from the OSCR register.

REVIEW OF CHARITABLE TRUSTS HELD BY ARGYLL & BUTE COUNCIL

1.0 INTRODUCTION

- 1.1 The Council at their meeting on 21 January 2016 approved the proposal for reorganising the Norman Stewart Institute Trust (Scottish Charity Number: SC019601) to apply to OSCR to reorganise the Trust by transferring all the funds held to For Bute (Scottish Charity Number: SC044153).

OSCR have now approved the proposed charity reorganisation scheme for this charity. It is therefore necessary for the trustees to give final authorisation to the reorganisation scheme for it.

2.0 RECOMMENDATIONS

- 2.1 For the proposal approved by OSCR for the Norman Stewart Institute Trust (SC019601) give final authorisation for the action outlined detailed below. The trustees now require to provide authority to make payment to the recipient charity as detailed and have the trust wound up and removed from the OSCR register namely:-

(1) Norman Stewart Institute Trust (SC019601). Approve the payment of the remaining funds to the For Bute Trust (SC044153) and then to wind up the Trust and remove it from the OSCR register.

3.0 DETAIL

3.1 APPROVAL BY OSCR OF REORGANISATION SCHEMES

The Council at their meeting on 21 January 2016 approved the proposal for reorganising the Norman Stewart Institute Trust (SC019601) to transfer all the funds held to For Bute (Scottish Charity Number: SC014153). OSCR have approved this proposal, therefore it is now necessary for the trustees to give final approval on this action. The trustees now require to provide authority to make payment to the recipient charity as detailed and have the trust wound up and removed from the OSCR register namely:-

(1) Norman Stewart Institute Trust (SC019601). Approve the payment of the remaining funds to the For Bute Trust (SC044153) and then to wind up the Trust and remove it from the OSCR register.

3.2 **PROCESS OF REORGANISATION**

If the trust is a registered charity then reorganisation requires to be undertaken in terms of the Charities and Trustees Investment (Scotland) Act 2005. In order to be able to reorganise a charity, the proposals must meet all of the reorganisation conditions.

There are three types of reorganisation namely (1) varying the terms of the constitution of the charity (2) transfer of the property to another charity and (3) amalgamation of the charity with another charity. All of these changes require approval of the Office of the Scottish Charity Regulator.

The reorganisation conditions which are relevant for the purposes of this report in relation to registered charities are:-

- (a) that some or all of the purposes of the charity have been fulfilled as far as possible or adequately provided for by other means;
- (b) can no longer be given effect to (whether or not in accordance with the directions or spirit of its constitution);
- (c) that some or all of the purposes of the charity have ceased to be charitable purposes;
- (d) that some or all of the purposes of the charity have ceased in any other way to provide a suitable and effective method of using its property having regard to the spirit of its constitution; or
- (e) that the purposes of the charity provide a use for only part of the property.

The reorganisation scheme must lead to either (a) if seeking reorganisation because the current purposes are in some way no longer relevant, useful or appropriate that the scheme would enable the resources of the charity to be applied to better effect for charitable purposes consistently with the spirit of its constitution, having regard to changes in social and economic conditions since it was constituted (b) if seeking reorganisation because can no longer give effect to a provision or a provision is no longer desirable that the reorganisation would enable the charity to be administered more effectively.

The Council, if satisfied that any of those conditions are met, can then resolve to proceed on this basis. An application would thereafter require to be made to the Office of the Scottish Charity Regulator seeking approval of the reorganisation scheme who will publish the proposal on the OSCR website for those charities with annual income of less than £250,000. None of the trusts which the Council is trustee for has an income over this level. The public may object to the proposal and it will then be for OSCR to determine whether they will approve the reorganisation. If the reorganisation is approved the funds would be disbursed to the recipient charities and the trusts wound up.

- 3.3 The Council has a duty to ensure it manages and invests the funds of the trusts appropriately. Currently we have numerous charitable trusts that are effectively dormant as they do not earn enough interest on their own to be able to pay any grants out. By combining some of the trusts this would allow us to make grant payments from the combined interest and also invest the funds in a higher earning interest deposit account.

The Council is also currently undergoing a review of the investment management of the trust funds, therefore ensuring the best possible performance is achieved.

Previously all registered charitable trusts were independently examined by Inverclyde Council and Argyll & Bute Council reciprocated this service by examining Inverclyde Councils trusts. However, from 2013-14 the Local Government (Scotland) Act 1973 requires a full audit to be carried out on all registered charitable trusts by the appointed auditor of the local authority. Audit Scotland charge for this service therefore by reducing the number of trusts we administer, through some of the options mentioned above, will subsequently reduce the number of audit fees charged.

For some of the smaller charities, after the payment of the audit fee there may be insufficient funds remaining to pay out grants, or it could even eliminate the charity altogether. Therefore, by amalgamating charities this avoids excessive fees and the potential elimination of the smaller trusts.

The Trustees have certain legal duties and obligations they must perform and the Council is also required to carry out legal and administrative work in relation to the trusts. By reducing the number of trusts, this process becomes more streamlined.

4.0 CONCLUSION

4.1 In order that the funds of the registered charities can be used more effectively and the trusts achieve their objectives, the members are asked to consider giving final approval to the reorganisation of the Norman Stewart Institute Trust (SC019601) as outlined, the proposed scheme have been approved by OSCR.

5.0 IMPLICATIONS

5.1 Policy - None

5.2 Financial – None

5.3 Legal – In reorganising charities it is necessary to comply with the Charities and Trustees Investment (Scotland) Act 2005.

5.4 HR - None

5.5 Equalities - By reorganising the charities it should enable more equal access to funds.

5.6 Risk - Failure to reorganise the charities would lead to the objectives of the charity not being met and potential that trusts could be eliminated due to audit fees.

5.7 Customer Service - Reorganising the charities will enable more individuals to access the funds.

Executive Director of Customer Services

16 March 2016

Kirsty Flanagan

Head of Strategic Finance

For further information contact: Sheila MacFadyen – 01546 604265

Sandra Coles – 01546 604303