



Report of the Assistant Chief Executive (Corporate Governance) & the Director of Resources

Executive Board

Date: 16th July 2008

Subject: Transfer of Dormant Funds to launch a new City of Leeds Fund

Electoral Wards Affected: All

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Eligible for Call In

Not Eligible for Call In

(Details contained in the report)

EXECUTIVE SUMMARY

It is proposed to establish a new City of Leeds Fund to be administered and managed by the Leeds Community Foundation. The new Fund will make grant awards to voluntary organisations and community groups and activities within the city. It is proposed to transfer the resources of 17 dormant trust funds and bequests currently administered by the Authority to the new Fund. These resources would enable the new Fund to make annual grant awards in the region of £34k for the first three years, tapering down to £15k per annum in subsequent years, with permanent assets of £331k.

Applications to the new Fund will be assessed against defined criteria which will be developed to represent the city's community priorities, once agreed. The role of the new Fund is expected to contribute to the Council's Narrowing The Gap agenda. Leeds City Council will have representation on the Grants Panel of the new Fund.

This transfer of dormant fund resources dovetails with a wider national initiative to access the resources of dormant trust funds with local authorities in England, Wales and Scotland and put them to active use for the benefit of the community. The total under consideration currently stands at £26 million of identified, potential trust funds with 77 individual authorities.

Members of the Executive Board at this meeting are requested to

- Support the establishment of the new City of Leeds Fund to be administered and managed by the Leeds Community Foundation.

- Agree the transfer to that fund of the resources of 16 dormant trust funds and bequests administered by Leeds City Council.
- Agree in principle to Leeds City Council representation on the Grants Panel of the new Fund.

1.0 PURPOSE OF THIS REPORT

The purpose of this report is to seek Members' approval to:

- Work with the Leeds Community Foundation (LCF) to establish a new City of Leeds Fund to provide support to community groups and organisations.
- Agree the transfer of the resources of redundant existing trust funds and bequests administered by the Council to the new Fund.
- Approve ring-fencing arrangements for intermittingly active trust funds proposed for transfer.
- Agree in principle Leeds City Council representation on the Grants Panel of the new Fund.
- Agree to continue to review the trusts under control of the Council with a view to transferring any further dormant/obsolete/inactive trusts to the new Fund in due course.

2.0 BACKGROUND INFORMATION

- 2.1 A review of trust funds and bequests administered by the Council has revealed that a number of them are dormant, inactive or obsolete, in that very few, if any, awards have been made out of them over the last few years. In the majority of cases, this is because the purposes for which the trust was originally established were very tightly defined, and have little, if any, relevance today.
- 2.2 The issue of dormant trust funds is not unique to Leeds, and it is the subject of an ongoing national initiative (known as the Boost Initiative) between the Charity Commission and the Community Foundation Network (which represents 55 local community foundations including LCF). The Boost Initiative is a national project and aims to unlock dormant charitable assets and enhance the impact of inactive charitable assets for the benefit of people and communities across the UK. The intention is to link the trustees of dormant and inactive trusts to local community foundations, so that the trustees can take advantage of the foundation's knowledge and expertise in delivering charitable funds. The initiative aims to identify such dormant funds and make them available for local community use. The Charity Commission regards community foundations as having the experience and knowledge to lead on this issue. The current balance sheet value of the Council's dormant trusts is £374k, whilst it is estimated that nationally there are millions of pounds worth of resources that could be released and put to more effective use.
- 2.3 For example, an initiative involving a number of local authorities working with the Community Foundation for Greater Manchester has succeeded in releasing almost

£2.2m of dormant funds into new Area Funds involving 8 out of 10 of the local authorities across Greater Manchester. They are now being used to support grass roots community activity in some of the most deprived areas of the region. This initiative was honoured at the Charity Awards in 2007.

- 2.4 Given the success of the Greater Manchester scheme, Leeds City Council officers have been working with Leeds Community Foundation (LCF), and through them, the Charity Commission, to identify which of the Council's dormant trusts might be suitable for transfer to a new City of Leeds Fund to be established by LCF as a source of grant funding for Leeds based community groups and activities. LCF would be actively seeking applicants to the new Fund, would bring to bear its expertise in this field and, as explained elsewhere in this report, may succeed in attracting additional match funding resources.
- 2.5 Leeds Community Foundation is an independent, non-profit making, charitable company which was set up in 2002 to help tackle issues facing some of the most marginalised and vulnerable groups in Leeds. It has two key roles. One is to act as a "donor services agency", working with individuals and companies to establish and then manage a wide range of charitable funds. The second is to act as the bridge with the local community and voluntary sector, ensuring that grants are used to address real needs, problems and issues. Further information about the Foundation is set out in Appendix D.
- 2.6 As a result of discussions with LCF, a number of the Council's dormant trusts (as shown in Appendix A) have been identified as being suitable for transfer to a new City of Leeds Fund to be operated and administered by LCF.

3.0 MAIN ISSUES

- 3.1 The establishment of the new City of Leeds Fund to utilise the monies of currently dormant trust funds to make awards to voluntary organisations, community groups and activities would be one means by which the City Council could respond to its Narrowing The Gap agenda.
- 3.2 This would be part of a whole series of initiatives under the banner of "Leeds, By Example". Such initiatives would include a new council payroll giving scheme by which employees could make donations to the new Fund and thus support Leeds-based community groups. A new charter has been launched which encourages contractors working for the Council to provide additional community benefits either in cash or in kind to support local community priorities. Another such initiative is the "slivers of time" programme which will enable those who can only work for short time periods to take up new employment opportunities.
- 3.3 These and other initiatives will then be developed into a Corporate Responsibility policy which would be a long term commitment to ensuring that the Council continues to contribute to Narrowing The Gap through its own business activities.
- 3.4 The new City of Leeds Fund will make grant awards to community groups and projects in Leeds. It will accept applications for funding from grass-roots local community and voluntary groups in Leeds. Such applications would be assessed against defined criteria which will be developed to represent the city's community priorities, once agreed. There will be some broader parameters for the Fund, determined by Charity Commission guidelines, so that grants will continue to be made "in the spirit" of the dormant funds' original donors' wishes.

- 3.5 All grant decisions of the new Fund will be taken by a local Grants Panel which, as explained later, would include representation from Leeds City Council. Details of how the panel might operate are given in Appendix C.
- 3.6 The names of the original donors to the now dormant funds will be preserved by being listed as donors to Leeds Community Foundation, both on its website and in its annual reports.
- 3.7 Leeds Community Foundation envisages a number of ways that it might be able to grow the new City of Leeds Fund. It hopes to benefit from the Boost Initiative, a national endeavour between the Community Foundation Network and the Charity Commission which is aiming to unlock and enhance dormant and inactive charitable assets throughout the UK so that they meet real and current needs. Any such assets that are based in Leeds could be transferred to the City of Leeds Fund, and LCF will be approaching local solicitors who typically have to deal with obsolete trusts, on the basis that the fund will give them a way to resolve long standing issues about closing these funds down. In addition, the Foundation has recently submitted a bid to the Office of the Third Sector to run the Leeds element of a national scheme called Grassroots Grants. In addition to a £300,000 a year grants fund, the Grassroots Grants scheme also encompasses an “endowment match challenge” where the OTS will match, £1 for £1, the first £700,000 raised in endowment for Leeds above and beyond the proposed transfer of dormant trust funds in this report. Central to the submission by LCF, was the establishment of the City of Leeds Fund to act as a source of permanent, future endowment. Local residents will therefore be encouraged to make donations to the Fund. The LCF will know, on 4th July, if their bid has been successful.
- 3.8 Subject to Executive Board’s approval of the proposals in this report, a number of practical steps have to be taken to progress the transfer of dormant trust funds from Leeds City Council to the new City of Leeds Fund. Firstly, LCF needs to formally set-up the new fund into which the resources of the dormant funds can be transferred and this is in progress. The LCF has formally confirmed, at a trustees meeting, that it is willing to accept the transfer of resources from the identified dormant funds.
- 3.9 Whilst the Charity Commission have already indicated that they would be agreeable to the Council’s dormant trusts being transferred to LCF, their formal approval is still required. However, this cannot be sought until Executive Board has itself approved the transfer.

4. IMPLICATIONS FOR COUNCIL POLICY AND GOVERNANCE

- 4.1 As mentioned earlier, the proposal to transfer the Council’s dormant trusts to LCF to fund the new City of Leeds Fund is one means by which the Council can meet the objectives of the Narrowing the Gap agenda. This would be just one of a number of initiatives, grouped under the banner of “Leeds, By Example”, that it is anticipated will be developed into a Corporate Responsibility policy. This would be a long term commitment to ensuring that the Council continues to contribute to narrowing the gap through its own business activities, alongside its ongoing commitments to regeneration.

- 4.2 Under the new Fund, all award decisions would be taken by a local Grants Panel of approximately 8 to 10 people including individuals from across the city with a proven track record within the community sector alongside individuals drawn from appropriate support agencies. The Grants Panel would also include up to two representatives from Leeds City Council. The identity of the Council's nominated representatives could be determined later.

5. LEGAL AND RESOURCE IMPLICATIONS

- 5.1 Sections 74 and 75 of the Charities Act 1993 offer a means by which the assets of small charities, such as trust funds and bequests, can be released to be applied in more appropriate and effective ways.
- 5.2 Section 75 applies to any charitable trust whose gross income in its last financial year did not exceed £1,000, or which has assets of less than £10,000. It allows the trustees of the fund to declare that the fund should be freed from any restrictions that apply to the expenditure of its capital.
- 5.3 As will be seen from Appendix A, section 75 applies to the majority of the Council's dormant trusts and bequests, and in respect of those trusts, it is proposed that Executive Board 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 trusts should then be transferred to Leeds Community Foundation for the purposes of the new City of Leeds Fund. It is anticipated that the money so transferred would be given out in grants over a three year period.
- 5.4 Section 74 applies to charitable funds where the gross income of the fund in its last financial year did not exceed £10,000, and allows the trustees to transfer the fund to another charity (though unlike section 75, any restrictions as to the expenditure of capital would remain). As will be seen from Appendix A, section 74 applies to three of the Council's dormant trusts, and it is proposed that the assets of those trusts be transferred to Leeds Community Foundation, with the income therefrom to be applied to the new City of Leeds fund.
- 5.5 It should be noted that Executive Board can only agree to a transfer under section 74 if it is 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 Leeds Community Foundation and that the purposes of Leeds Community Foundation are broadly in line with the original objectives of the trust funds being transferred.
- 5.6 The largest fund proposed for transfer, the Joseph Emmott Education trust fund, has annual income and assets both in excess of £10,000 and therefore is not covered by Sections 74 and 75 of the Charities Act. Instead, to effect transfer to Leeds Community Foundation the Council will have to agree a scheme with the Charity Commission whereby the assets of the fund will be transferred to LCF for the purposes of the new City of Leeds fund. These assets would be held under a permanent endowment and thus protected and the income generated could be used to make grants. Therefore the outcome of the scheme transfer process is similar to that of the transfer of other larger funds under Section 74. At this stage, approval is being sought in principal to such a transfer being made through a scheme, and it is proposed that power to formally approve the finalised scheme be delegated to the

Assistant Chief Executive (Corporate Governance). In the meantime, detailed work preparing the scheme will be progressed in conjunction with LCF and the Charity Commission. This fund has a current balance sheet value of £169k and currently generates annual income of £11-12k.

5.7 In total 17 funds have been identified for transfer at this stage. A full schedule of all the funds proposed for transfer is attached as Appendix A to this report. These funds have a total current balance sheet value of £374k. Appendix B details the projected resources likely to be available to the new Fund following the transfers. There would initially be two elements to the proposed new Fund – a permanent fund of approximately £331k (which the Foundation anticipates would generate an annual net income of approximately £15k) and a ‘flow through’ fund of £56k which (together with the income from the permanent fund) would be made available to community groups etc. by way of grants. If the resources transferred to the flow-through fund within the new City of Leeds Fund are disposed over a three year period, this would suggest that the new Fund could make annual grant awards of about £34k for the first three years tapering down to £15k per annum for subsequent years. These projections are largely based on the balance sheet value of the assets of the current funds but their market value may fluctuate with different amounts being realised when they are liquidated for transfer to the new fund. These projections would be bolstered to the extent that any additional resources are donated to the new Fund from other sources.

5.8 As explained, the new City of Leeds Fund will be managed, administered and supported by the Leeds Community Foundation (LCF). The fund will be separately identified in LCF’s accounts. The LCF levies a specific management fee for services provided in relation to managing any fund within its portfolio. The current fee is 1% per annum on endowment funds and 10% on flow-through funds. This management fee would cover a range of services including :

- Provision of support and advice staff to handle all administration, monitoring and evaluation
- Recruiting and training Grants Panel members and supporting and providing administration for meetings of the Panel
- Providing regular financial statements of the Fund in line with the Council’s requirements
- Financial management, accounting and ensuring independent auditing
- Annual returns to the Charity Commission and Company House
- Receiving payments into the Fund
- Making payments to successful Grant applicants
- Promoting the Fund through the media and voluntary sector infra-structure organisations, as well as by websites
- Developing the Fund by seeking to grow both the permanent endowment and Distribution Fund elements through organic growth and acquisition

The LCF currently invests the longer-term funds under its management in a Guaranteed Investment Bond which has a return of approximately 5.5% on the capital sum invested. The LCF has recently appointed Newton Investment to act as investment managers to ensure that future investment performance is sustained. Newton Investment is a London-based global asset management subsidiary of the Bank of New York Mellon Corporation. Newton’s division catering to its private and charities clients manages £7.9 billion on behalf of these clients and has recently won an Investors Chronicle and Financial Times Wealth Management Award for Best Cautious Fund Manager.

5.9 While the vast majority of the funds nominated for transfer in this report have been completely dormant for at least the last five years, two of the Education trust funds, have proved intermittently active over this period. The first is the Holbeck Mechanics fund, whose purpose is to provide support to the living costs (but not the tuition costs) of students living in Leeds. This fund has only made two small awards in the last five years. The second fund is the Joseph Emmott fund, whose purpose is to support higher education students from Leeds with no assessed contribution to their student support. It has not made any awards since 2005/06 and in years when it has made awards, its income has still significantly exceeded its expenditure. So whilst these two funds are not completely dormant (despite being subject to limiting criteria) it is proposed that nevertheless they should be transferred to the new Fund but that sufficient resources are earmarked each year to make awards for their original purpose. The Charity Commission has indicated it believes they are fit for liberation. If no such awards are made in a financial year then these unspent resources are made available for awards from the wider City of Leeds Fund in the following financial year. This proposal would allow these funds to fulfil their original purpose as need arises while still making their resources available for wider use. Similar ring-fencing arrangements have been put in place in Greater Manchester for the transfer of intermittently active trust funds. Similarly, where the purposes of the transferred funds are geographically based (i.e. earmarked for a specific ward) it would be possible for an equivalent amount of the City of Leeds fund to be earmarked so as only to be available for use in the relevant area of the city.

6.0 CONCLUSIONS

Very few of the trust funds identified in this report have made any awards for several years, and where awards have been made, the amount concerned has been nominal. In addition, the Council is restricted by the terms of the trusts as to the purposes for which awards can be made.

In the case of those trusts listed in Part Two of Appendix A (i.e. those with an annual income of less than £1,000 or assets of less than £10,000) the Council could simply resolve that those funds should be freed from the restrictions which apply to them. However, whilst this would enable the Council to better utilise those funds, it would still be the case that those funds would have to be used for charitable purposes.

As regards those funds listed in Part One of Appendix A (i.e. those with income between £1,000 and £10,000 a year and assets of no more than £10,000) the Council does not have the power under the Charities Act 1993 to resolve that they should be freed from the restrictions which apply to them. If the Council did not transfer those funds to the Leeds Community Foundation the purposes for which those funds could be used would remain very limited.

The proposal to transfer the Council's dormant trusts to Leeds Community Foundation would contribute to the Boost Initiative, a Community Foundation lead project which aims to unlock and enhance dormant and inactive charitable assets and use them to meet real and current needs of local people. Leeds Community Foundation is dedicated to strengthening the local community and has extensive knowledge and expertise in managing and distributing charitable funds and it is unlikely that any other organisations would be able to manage the funds in the same way. If the new City of Leeds fund is established, there would be an

opportunity to enhance it by attracting other dormant trust funds resources within the city, such as ones currently administered by local solicitors. Furthermore, if Leeds Community Foundation's bid to the Office of the Third Sector is successful, any such further growth in the new Fund would be supplemented by attracting match funding. In addition, it is also felt that the Foundation is better placed than the Council, through its expertise in this field, to manage transferred trusts as part of a larger City of Leeds Fund.

The Council would however continue to be involved in the administration of the Fund by way of representation on the local grants panel. Further, as a registered charity, Leeds Community Foundation is subject to supervision and regulation by the Charity Commission.

By declaring that those trusts listed in Part Two of Appendix A should be freed from the restrictions which apply to them and then transferring them and the other trusts to Leeds Community Foundation the Council will be making those funds more widely available so that they can be used to meet real and present needs.

7.0 RECOMMENDATIONS

Members of the Executive Board are requested to

- Support the establishment of the new City of Leeds Fund to be administered and managed by the Leeds Community Foundation.
- Approve the transfer of the trusts identified in Part One of Appendix A [three dormant Education trust funds] to Leeds Community Foundation to an endowment fund within the new City of Leeds Fund under Section 74 of the Charities Act.
- Declare that the trusts identified in Part Two of Appendix A should be freed from any restrictions applying to the expenditure of capital.
- Approve the transfer of the trusts identified in Part Two of Appendix A [13 dormant trust funds] to Leeds Community Foundation to a flow-through fund within the new City of Leeds Fund under Section 75 of the Charities Act 1993.
- Agree in principle to the transfer of the Joseph Emmott trust fund to Leeds Community Foundation to an endowment fund within the City of Leeds Fund with power to formally approve the transfer under a Scheme, once sanctioned by the Charity Commission, delegated to the Assistant Chief Executive (Corporate Governance).
- Stipulate that ring-fencing arrangements apply to the funds of the Holbeck Mechanics and Joseph Emmott trust funds within the new Fund.
- Agree in principle that up to two Leeds City Council representatives be appointed to the Grants Panel of the new Fund. Approval of the specific nominees would be made at a later date following final approval of the proposals by the Charity Commission.

- Agree to officers continuing to review the trusts under control of the Council with a view to transferring any further dormant/obsolete/inactive trusts to the new Fund in due course.