
Report To:	The Inverclyde Council	Date:	4 December 2014
Report By:	The Head of Legal and Property Services	Report No:	LP/085/14
Contact Officer:	Gerard Malone	Contact No:	01475 712 710
Subject:	The Renfrewshire Educational Trust		

1.0 PURPOSE

- 1.1 The purpose of this report is to advise the Council of a re-organisation of the Renfrewshire Educational Trust (the Trust) and to formalise the appointment of 2 Elected Members of the Council as Trustees of the Trust.

2.0 SUMMARY

- 2.1 The Inverclyde Council has Elected Member representation on the board of trustees of the Trust.
- 2.2 The Trust has approved a proposal for a scheme of reorganisation of the Trust, namely the Renfrewshire Educational Trust Scheme 2014 (the New Scheme), included at Appendix I to this report, which scheme has been approved by the Office of the Scottish Charity Regulator (OSCR) and formally adopted by the Trust.
- 2.3 The New Scheme provides that the Council may appoint 2 Trustees (out of a total of 10). Prior to the adoption of the New Scheme the Council appointed 3 Trustees (out of a total of 21).
- 2.4 The Council has been invited by the Trust to nominate 2 Elected Members as Trustees

3.0 RECOMMENDATIONS

- 3.1 It is recommended that the Council notes the terms of the New Scheme.
- 3.2 It is recommended that the Council appoints two of its Elected Members as Trustees of the Trust.

Gerard Malone
Head of Legal and Property Services

4.0 BACKGROUND

- 4.1 The Trust holds certain legacies, endowments and bequests under the name of the Renfrewshire Educational Trust Scheme 1936. The terms of the Trust have historically been subject to a number of variations.
- 4.2 The Trust decided at its meeting of the 27th November 2013 that the New Scheme should be submitted to OSCR as the Trust's proposals to modernise the terms of the Trust for their approval.
- 4.3 The New Scheme was so submitted and OSCR approval of the same was provided on 31st July 2014.
- 4.4 Following OSCR approval, the terms of the New Scheme will require to be formally adopted by the Trust, however as the application for approval from OSCR was with the Trust's approval, it is anticipated this will simply be a procedural formality.
- 4.5 The Council has been advised by the Trust of the approval of the New Scheme and has been invited to nominate two of its Elected Members as Trustees under the New Scheme.
- 4.6 The Council has also been advised that the final meeting of the current Trust and the first meeting of the new Trust will occur on the same date, as yet to be confirmed, in February. At these meetings the intention being that:
- the outgoing Trustees formally approve the New Scheme and be absolved of their responsibilities; and
 - that and the new Trustees will take up office.
- This will ensure continuity of the Trust from the Old Scheme to the New Scheme.
- 4.7 The Council presently appoints 3 of its Elected Members as Trustees under the existing scheme. At present the Trustees are Councillors Brennan, Nelson and Shepherd. Under the New Scheme the number of Trustees appointed by the Council will reduce to 2.
- 4.8 For the Council to continue to have representation on the Trust following the adoption of the New Scheme, it is now necessary that the Council appoint 2 of its Elected Members to serve as Trustees.
- 4.9 In terms of the existing scheme the Trust has 21 trustees from various bodies, including 3 appointed by the Council, 3 appointed by East Renfrewshire Council and 4 appointed by Renfrewshire Council.
- 4.10 Under the New Scheme the number of Trustees has been reduced to 10, appointed as follows:
- 2 Trustees appointed by the Council from its Elected Members ;
 - 2 Trustees appointed by Renfrewshire Council from its Elected Members ;
 - 2 Trustees appointed by East Renfrewshire Council from its Elected Members ;
 - 1 Trustee appointed by the Church of Scotland (Greenock and Paisley Presbytery);
 - 1 Trustee appointed by a religious or faith group other than the Church of Scotland in the Trust Area;
 - 1 Trustee appointed by the University of the West of Scotland; and
 - 1 Trustee appointed by the Trustees of the Peter Brough Bequest Funds.
- 4.11 The Trust Purposes of the Trust are stated in the New Scheme as follows:
- "The charitable purposes of the trust are to invest in the education and development of financially disadvantaged children and young people living in the Trust Area and that attend educational establishments or institutions."

5.0 PROPOSALS

- 5.1 It is recommended that the Council appoints two of its Elected Members as Trustees of the Trust in terms of the New Scheme.

6.0 IMPLICATIONS

Finance

- 6.1 None.

Financial Implications:

One off Costs

Cost Centre	Budget Heading	Budget Years	Proposed Spend this Report	Virement From	Other Comments
N/A					

Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect from	Annual Net Impact	Virement From (If Applicable)	Other Comments
N/A					

Legal

- 6.2 In terms of the New Scheme, the number of Trustees of the Trust the Council can appoint to reduce from 3 to 2. To continue Council representation on the Trust following adoption of the New Scheme, it is necessary that the Council appoint two Elected Members to serve as Trustees.

Human Resources

- 6.3 None.

Equalities

- 6.4 None.

Repopulation

- 6.5 None.

7.0 CONSULTATIONS

- 7.1 None.

8.0 LIST OF BACKGROUND PAPERS

- 8.1 None.

Renfrewshire Educational Trust Scheme 2014

WHEREAS

(ONE) The Renfrewshire Educational Trust (“the Trust”) holds certain endowments, legacies and bequests under the name of the Renfrewshire Educational Trust Scheme, 1936 as amended by the (1) Renfrewshire Educational Trust Scheme, 1961; (2) Renfrewshire Educational Trust (Amendment No.1) Scheme 1965; (3) Renfrewshire Educational Trust (Amendment No.2) Scheme 1974; (4) The Educational Endowments (Strathclyde Region) Transfer Scheme Order 1996; and (5) the Minutes of the meetings of the Trust homologating the decisions to accept other funds, donations, bequests and legacies (“the Amended Scheme”);

(TWO) the provisions of the Charity and Trustee Investment (Scotland) Act 2005 (“the 2005 Act”) allow variation of a charity’s constitution; and

(THREE) the Trust having proposed to vary the Amended Scheme in terms of a reorganisation scheme proposed under Section 39 of the 2005 Act and approved by the Office of the Scottish Charity Regulator (“OSCR”) by letter dated (insert date) 2014 do hereby provide as follows:-

As it is expedient that a new Scheme (“the Scheme”) is set forth which takes into account the changed economic, legal, social, technological and educational environment and gives effect to the reorganisation scheme approved by OSCR, the Trust shall with effect from (insert date) hold the Scheme in accordance with the following provisions, which provisions replace, in their entirety, the provisions of the Amended Scheme:-

1. Trust Purposes

The charitable purposes of the Trust are to invest in the education and development of financially disadvantaged children and young people living in the Trust Area and that attend educational establishments or institutions.

2. Composition of the Governing Body

The Governing Body shall consist of ten persons, which are to be known as Trustees, that is to say:-

- (a) Two persons to be appointed by Renfrewshire Council or its successors, being elected members of that Council;
- (b) Two persons to be appointed by East Renfrewshire Council or its successors, being elected members of that Council;
- (c) Two persons to be appointed by Inverclyde Council or its successors, being elected members of that Council;
- (d) One person to be appointed by the Church of Scotland (Greenock and Paisley Presbytery) or its successor;
- (e) One person to be appointed from a faith or religious organisation other than the Church of Scotland within the Trust Area;
- (f) One person to be appointed from the University of West of Scotland or its successor being the main University located in the Trust Area; and
- (g) One person to be appointed by the Trustees of the Peter Brough Bequest Fund.

3. **Powers**

The Trustees shall have all powers competent or which may become competent to Trustees in terms of the Law of Scotland. Without prejudice to the foregoing generality the Trustees shall have power to do any or all of the following:-

- (a) To expend the Trust Property for the Trust Purposes. The expenses of administering the Trust and any tax payable in relation to the Trust shall be met in priority to all other payments and transfers of assets out of the Trust Property.
- (b) To carry on any activities, enter into contracts and incur expenditure which, in their opinion is in furtherance of any of the Trust Purposes.
- (c) To take such steps as may be deemed appropriate for the purpose of raising funds, including advertising, the costs of which will be paid from the Trust Property.
- (d) To invite donations or sponsorships in furtherance of the Trust Purposes.
- (e) To accept grants, sponsorships, donations and legacies of all kinds with conditions compliant with the Trust Purposes only.

- (f) To invite contributions from the Local Authority or Appointing Body in respect of the costs of the administration of the Trust.
- (g) To recover any grants awarded under Sections 9, 10 and 11 of this Scheme.
- (h) To provide support to any other charity and to make donations for any charitable purpose falling within the Trust's Purposes.
- (i) To transfer any or all of the Trust Property to a charity with purposes which are similar (wholly or in part) to those of the Trust.
- (j) To form or establish any other charity with purposes which are similar (wholly or in part) to those of the Trust, and if considered appropriate, to transfer to any such charity (without any payment being required from the charity) the whole or any part of the Trust Property.
- (k) To purchase, lease, hire, or otherwise acquire, any property or rights.
- (l) To improve, manage, develop or maintain all or any part of the Trust Property.
- (m) To sell, let, loan, license or otherwise dispose of, all or any part of the Trust Property in furtherance of the Trust Purposes.
- (n) To borrow money, and to give security in support of any such borrowing by the Trust.
- (o) To invest any Trust Property in securities or investments in furtherance of the Trust Purposes.
- (p) To employ staff as are considered appropriate for the proper administration of the Trust or for the proper conduct of the Trust's activities, and to make reasonable provision for the payment of pension and, or benefits, of members of staff, ex-members of staff and their dependants.
- (q) To engage professional advisors as are considered appropriate from time to time, with payment to the professional advisors made from the Trust Property.
- (r) To effect insurance of all kinds (which may include trustees' indemnity insurance in terms of Section 68A of the 2005 Act).

- (s) To reimburse a Trustee out of the Trust Property, in relation to all expenses reasonably incurred by him in the administration of the Trust.
- (t) To have any part of the Trust Property registered in the name of a nominee and if required to pay reasonable fees to such nominee.
- (u) To raise court action, compromise or settle any arbitration or disputed claims by or against the Trust.
- (v) To wind up the Trust (subject to the provisions of the 2005 Act and Clause 12 or any amendment thereof or under any subsequent legislation).
- (w) To do anything which may be incidental or conducive to the furtherance of the Trust Purposes.

4. Trustee Meetings and appointment of Secretary and Treasurer

- (a) Subject to the provisions of the following paragraphs, the Trustees may regulate the proceedings of the Trust meetings as they think fit, (including the delegation of any powers under the Scheme to a sub-committee of Trustees).
- (b) The Chair of the Trustees at any meeting of the Trust, shall be an elected member from a Local Authority.
- (c) Each Trustee shall hold office until the next ordinary local government election or earlier if :-
 - (i) the Local Authority or Appointing Body revokes their appointment;
 - (ii) the Local Authority or Appointing Body no longer wishes to retain an interest in the Trust providing 14 days' prior written notice to the Trust;
 - (iii) the Trustee resigns his office by 14 days' prior written notice to the Trust; and
 - (iv) the Trustee resigns, or parts company for whatever reason with the Local Authority or Appointing Body and can no longer represent that Local Authority or Appointing Body.

- (d) The Trustees shall hold a meeting as soon as practicable after any ordinary local government election and in any event within 28 calendar days after that date (“the initial meeting”).
- (e) The Trustees shall hold an inaugural meeting as soon as practicable after the final date of execution of the Scheme and in any event within 28 calendar days after that date (“the inaugural meeting”).
- (f) The Trustees shall, at the inaugural meeting appoint a Secretary who shall be responsible for calling meetings of the Trustees when required, and who shall prepare and circulate minutes of all Trust meetings to the Trustees. The Secretary shall not be a Trustee. The appointment of the Secretary must be approved annually by the Trustees.
- (g) The Trustees shall, at the inaugural meeting appoint a Treasurer who shall carry out his functions in accordance with this Trust. The Treasurer shall not be a Trustee. The appointment of the Treasurer must be approved annually by the Trustees.
- (h) After the inaugural meeting and initial meeting, the Trustees shall meet not less than twice in each calendar year. The Secretary shall convene the meetings and any further meetings of the Trustees and shall give no less than five Working Days Written Notice of all meetings to the Trustees.
- (i) At all meetings of the Trust, four Trustees shall form a quorum. Decisions shall be taken on a show of hands by simple majority of those Trustees present. In the event of a tied vote, the Chair of the Trustees shall have a casting vote in addition to his ordinary vote. A written resolution signed by all the Trustees shall have the same authority and effect as a resolution and decision passed at a meeting of the Trustees in the manner aforesaid.

5. **Accounts**

- (a) The Trustees shall arrange for the Trust funds to be held in an interest bearing account under the administration of the Treasurer. The Treasurer shall ensure that proper accounting records are maintained, in accordance with all applicable statutory requirements.
- (b) The Trustees shall prepare annual accounts, complying with all relevant statutory, regulatory and accounting requirements. The annual accounts shall be presented at a Trust meeting to ensure statutory and regulatory compliance.

- (c) Those engaged in any audit or independent examination of the Trust's accounts shall be entitled to have access to all accounting records and other documents relating to the Trust.
- (d) For the purposes of the Trust, the accounting period shall be deemed to end on 31st March in each calendar year, or such other date as agreed by the Trustees.

6 Conduct of Trustees

The Trustees, shall, when exercising their functions as Trustees of the Trust, act in the interests of the Trust; and, in particular, must:-

- (a) seek, in good faith, to ensure that the Trust acts in a manner which is in accordance with the Trust Purposes;
- (b) act with the care and diligence which is reasonable to expect of a person who is managing the affairs of another person;
- (c) in circumstances giving rise to the possibility of a conflict of interest between the Trust and the Trustee and, or, any other party:-
 - (i) put the interests of the Trust before their own interests, and that of any other party, in taking decisions as a Trustee; and
 - (ii) when any other duty prevents the Trustee from doing so, disclose a conflicting interest to the Trust and refrain from further involvement with regard to the matter in question;
- (d) ensure that the Trust complies with the provisions of the 2005 Act; and
- (e) ensure that the Trust is for and continues to be, only for charitable purposes.

7. Appointment, Disqualification and Removal

Any Trustee shall be disqualified from acting as Trustee if he:-

- (a) becomes personally bankrupt or insolvent;
- (b) is suffering from a mental disorder as defined by Section 328 of the Mental Health (Care and Treatment) (Scotland) Act 2003;

- (c) is directly or indirectly personally interested in any contract with the Trust or contravenes the terms of clause 6 (c);
- (d) fails to attend more than two consecutive meetings of the Trust without seeking leave of absence;
- (e) is removed from office by the Trust or ceases to be a Trustee;
- (f) has his appointment within the relevant Local Authority or Appointing Body revoked as referred to in clause 4 (c);
- (g) contravenes any of the terms of the Scheme;
- (h) is otherwise disqualified from being a trustee under Section 69 of the 2005 Act.

If any Trustee ceases to be a Trustee by removal from the Trust, resignation, disqualification, ill-health, death or otherwise, the Local Authority or Appointing Body appointing the Trustee, shall be entitled to replace the Trustee, except where the Local Authority or Appointing Body no longer wishes to retain an interest in the Trust as referred to in clause 4 (c)(ii), by appointing a new person to be the Trustee, within 28 calendar days of intimation of the Trustee vacancy to the Trust, such appointment to be for the period remaining until the next ordinary government election or earlier as referred to in clause 4 (c).

8. **Application of Income**

- (a) The Trustees after paying the necessary expenses of management and administration of the Trust shall apply the free annual income of the Trust as follows:-
 - (i) they shall pay grants awarded under Section 9 of this Scheme;
 - (ii) they shall pay grants awarded under Section 10 of this Scheme; and
 - (iii) they shall pay grants awarded under Section 11 of this Scheme.

If the payments which the Trustees would wish to award under Sections 9, 10 and 11 of the Scheme exceed the balance of the free annual income, the Trustees may (1) exercise their discretion in determining which awards shall be made, and the

amount of such, or (2) not so exercising their discretion, the grants to be made in each section shall be reduced pro rata, or (3) agree to expend any Trust Property to make the awards.

- (b) An Annual Plan will be prepared by the Trustees and agreed at a Trustee Meeting. An Annual Plan may include expenditure of any Trust Property and can involve capital and interest.
- (c) Until the first Annual Plan under this Scheme is agreed at a Trustee Meeting, the Trustees may apply the balance of the free income by adopting the practice of giving effect to the Approved Plan under section 18 of the Amended Scheme, notwithstanding that the provisions of the Amended Scheme are replaced.
- (d) If, notwithstanding the terms of this clause, at the end of any accounting period there is an unexpended balance of the free income, the Trustees may carry the said balance or any part thereof forward to the next accounting period or consolidate it as capital rather than future expenditure.

9. **Grants for Eligible Persons to Participate in School Excursions**

The Trustees shall, at their sole discretion award grants to eligible persons (hereinafter defined) to participate in school excursions, following referral to the Trust by the Head Teachers of the schools within the Trust Area organising the excursions.

10. **Grants for Eligible Persons to Participate in Music, Art or Drama**

The Trustees shall, at their sole discretion award grants to eligible persons talented in music, art or drama to obtain tuition from a recognised regional, national or international development programme or project or similar event designed to nurture and improve their talent, following referral to the Trust by the Head Teachers of the schools within the Trust Area.

11. **Grants for Eligible Persons for an Educational Qualification**

The Trustees shall, at their sole discretion award grants for one academic year to eligible persons leaving secondary school for an educational qualification, following referral to the Trust by the Head Teachers of the schools within the Trust Area.

12. **Amendment of the Trust Deed and/or Winding Up**

If, in the opinion of the Trustees any change in circumstances or alteration in the law has made or is likely to make, execution of the Trust Purposes impossible or impracticable, or if in the opinion of the Trustees the administration of the Trust could be improved, or the Trust Purposes can be advanced in a more appropriate manner, the Trustees may:-

- (a) supplement or amend the provisions of this Trust Deed or any Deed supplementary to this Trust Deed; or
- (b) wind up the Trust and transfer the Trust Property (after settlement of all debts and liabilities) to some other charity or charities having similar purposes to those of the Trust.

For the avoidance of doubt, no alterations to the Trust Purposes should be inconsistent with the spirit of the Scheme and the Trust Property must always be applied in a manner which is consistent with the spirit of the Scheme.

13. **Definitions**

In this Trust Deed the following wordings shall have the definitions:-

“Annual Plan” means a budget of the maximum sums of the free annual income of the Trust to be expended in each calendar year;

“Appointing Body” means any organisation appointing a Trustee to the Trust referred to in clause 2, other than a Local Authority;

“Charity” means a body which is either a “Scottish Charity” within the meaning of Section 13 of the 2005 Act or “Charity” within the meaning of Section 96 of the Charities Act 1993;

“Charitable Purpose” means a charitable purpose under Section 7 of the 2005 Act which is also regarded as a charitable purpose in relation to the application of the Taxes Acts;

“Children and Young People” means any person in primary or secondary school education;

“East Renfrewshire Council” means East Renfrewshire Council constituted under the Local Government etc. (Scotland) Act and having its Principal Office at Eastwood Park, Rouken Glen Road, Giffnock;

“Educational Qualification” means that the applicant is intending to pursue a full-time course of study at any University, place of further education or institution of learning anywhere in the European Union at the time of the application and can provide suitable evidence that they are matriculated students for the academic year claimed in such University, place of further education or institution of learning;

“Eligible Person” means any children and young people who, in the opinion of the Trustees, meet both the “residence test” and “financial test” (both hereinafter defined);

“Financial Test” means for an applicant that he is entitled to, or is in receipt of free school meals, or such other financial requirement as deemed appropriate by the Trustees:

“Grant” means an award to be paid by the Trust to any eligible person, subject to any conditions decided by the Trustees from time to time and in accordance with the Scheme:

“Inverclyde Council” means Inverclyde Council constituted under the Local Government etc. (Scotland) Act 1994 and having its Principal Office at Municipal Buildings, Greenock;

“Local Authority” means one or any of (i) East Renfrewshire Council, (ii) Inverclyde Council and (iii) Renfrewshire Council, or their successors:

"Plan" means the plan annexed and executed as relative hereto;

“Renfrewshire Council” means Renfrewshire Council constituted under the Local Government etc. (Scotland) Act 1994 and having its Principal Office at Renfrewshire House, Cotton Street, Paisley;

“Residence Test” means for an applicant that their habitual and normal residence (excluding a temporary absence for business or holiday) in their main residence is within the Trust Area;

“Trust Area” means _____ and as shown outlined in () in the plan;

“Trust Deed” means this trust deed (including any supplementary or amendment effected in accordance with the provisions hereof);

“Trust Property” means such sums of money held by, or paid to the Trustees and such other funds and assets as may from time to time be received by the Trustees, and any assets in which any funds so received may from time to time be invested;

“Trust Purposes” means the purpose specified in Clause 1 hereof;

“Working Day” means any day other than a Saturday and Sunday (except a bank, public or other local Local Authority holiday); and

“Written Notice” means any communication in writing including electronic communication as defined in section 15 of the Electronic Communications Act 2000.

Any reference in this Trust Deed to singular includes plural and vice versa.

Any reference in this Trust Deed to masculine includes feminine and vice versa.

Any reference to a provision of any legislation shall include any statutory modification or re-enactment of that provision in force from time to time.

14. **Law of Scotland**

This Trust shall be administered in Scotland and shall be governed, construed and take effect in accordance with the Laws of Scotland.

We the Trustees consent to the registration hereof for preservation: **IN WITNESS WHEREOF**