

ANGUS COUNCIL

RESOURCES AND CENTRAL SERVICES COMMITTEE – 20 OCTOBER 2005

ADMINISTRATION OF CHARITABLE TRUSTS

REPORT BY THE DIRECTOR OF LAW AND ADMINISTRATION AND
THE ACTING DIRECTOR OF FINANCE**ABSTRACT**

This Report considers the application by a firm of solicitors who administer charitable trusts which benefit the residents of Montrose, to have the administration of the trusts taken over by the Council.

1. RECOMMENDATIONS

It is recommended that the Committee:-

- (i) agree that the Council take over the administration of 19 small trusts which are currently administered by Messrs Scott Alexander, Solicitors, Montrose; and
- (ii) authorise the Director of Law and Administration and Acting Director of Finance to take the necessary steps to assume the administration of these trusts.

2. BACKGROUND

Messrs Scott Alexander, Solicitors, Montrose currently administer 24 small trusts all of which benefit the people of Montrose. In 19 of these, the original trustees were the Provost, Magistrates and Councillors of the Royal Burgh of Montrose along with one or other of the local Ministers. For these purposes the Montrose Councillors are regarded as the successors to the Provost, Magistrates and Councillors of the Burgh of Montrose. The current partners of the firm are the trustees of the five other trusts. The firm has asked the Council to take over the administration of the 24 trusts, the total annual income of which is in the region of £1,700. No administration fee is currently charged for most of the work involved as the individual trusts are so small, and the total annual charge levied is approximately £290. The reason why the firm currently carries out this work seems to be historical as it "inherited" the work from a predecessor of the present firm. It is understood that no administration has been carried out by the firm since 31 October 2004.

Procedural advice has been obtained from the Office of the Scottish Charities Regulator in this regard. It has been advised that there are no difficulties concerning the change in administration of the 19 trusts where the Montrose Councillors are Trustees. As far as the other 5 Trusts are concerned it has been advised that no action be taken until the new Regulations (referred to below) on re-organisation and amalgamation of small trusts are in place.

A Best Value Management Review of the 175 charitable trusts administered by the Council was carried out in 2004 and the report was completed in December 2004. One of the options which was considered was the outsourcing of the administration of these trusts but it was concluded that it was not realistic at this stage, due to likely costs. There are provisions in the Charities and Trustees Investments (Scotland) Act 2005 to streamline the process by which small charitable trusts may be amalgamated. The procedures to be followed will be detailed in Regulations currently being prepared by the Scottish Executive, and it is hoped that in the future the Council will be able to amalgamate a large number of these smaller trusts with similar purposes, therefore making administration simpler.

3. FINANCIAL IMPLICATIONS

As the Council currently administers a number of trusts, the work involved in these trusts can be absorbed. The costs incurred by the Council in relation to administering the current charitable trusts are apportioned on the basis of the aggregate balance of the capital and revenue accounts of each trust. On the same basis the estimated administrative cost chargeable to the 19 new trust would be £325 per annum compared to the £290 currently charged.

4. HUMAN RIGHTS IMPLICATIONS

It is considered that by approving the recommendation in this report, the Council would not be acting in any way incompatible with Human Rights legislation.

5. CONCLUSION

As Messrs Scott Alexander currently carry out the administration of 19 trusts of which Montrose Councillors are the trustees, effectively at a loss, it would seem appropriate for the Council to agree to take over the administration of these trusts. While this will add to the large number of small charitable trusts already being administered by the Council, it is hoped that the provisions to simplify the amalgamation of small trusts contained in the Charities and Trustees Investments (Scotland) Act 2005 will allow the administration to be streamlined in the near future.

Once these provisions are in place, the Council could consider the request to take over the other 5 trusts, at which time a further report would be presented to Committee.

6. CONSULTATION

The Chief Executive has been consulted during the preparation of this Report.

CATHERINE A COULL
Director of Law and Administration

COLIN McMAHON
Acting Director of Finance

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information), were relied on to any material extent in preparing this report.