

Report to:	TRUSTS AND CHARITIES COMMITTEE	<i>Exempt information paragraph number – if private report:</i>
Report of: Date of Decision:	Strategic Director – Finance and Legal Services 20 July 2016	
SUBJECT:	BIRMINGHAM MUNICIPAL CHARITY – AWARD OF GRANT : BILLESLEY COMMON ACTION PLAN (VALLEY RIVERSIDE PROJECT)	
Key Decision: No	Relevant Forward Plan Ref:	
If not in the Forward Plan: (please "X" box)	Chief Executive approved <input type="checkbox"/> O&S Chairman approved <input type="checkbox"/>	
Relevant Cabinet Member(s) or Relevant Executive Member for Local Services:	N/A	
Relevant O&S Chairman:	N/A	
Wards affected:	ALL	

1. Purpose of report:
<p>1.1 On the recommendation of the charity's Grants Panel, the Committee's approval is sought to award grant of £1,000 to Billesley Common Action Plan from the unrestricted funds of the Birmingham Municipal Charity ("BMC").</p> <p>1.2 This matter was not included in the Forward Plan because the governance of Charitable Trusts does not give rise to any "key" decisions.</p>

2. Decision(s) recommended:
<p>2.1 To award a grant from the "BMC" to the charitable organisation set out in Appendix 3.</p> <p>2.2 To instruct officers in Finance and Legal Services to take all necessary steps to facilitate the award of any grants to any successful applicant, and Report back to a future Committee meeting, once the grant application project has been completed.</p>

Lead Contact Officer(s):	Sanjeev Bhopal, Senior Solicitor Legal & Democratic Services, Mark Szurminski, Senior Business Analyst Economy Directorate.
Telephone No: E-mail address:	0121 675 4673 Sanjeev.Bhopal@birmingham.gov.uk 0121 675 0482 mark.szurminski@birmingham.gov.uk

3.	Consultation
	Consultation should include those that have an interest in the decisions recommended
3.1	<p><u>Internal</u></p> <p>The Chairman of the Committee was consulted on the preparation of this Report. Additionally, a Grants Panel, consisting of the Councillor Ansar Ali Khan, Councillor John Alden, Sanjeev Bhopal and Mark Szurminski have reviewed the application submitted and assessed whether it met the terms of funding for the “BMC”. The Mechanics of Funding document is attached at Appendix 2.</p>
3.2	<p><u>External</u></p> <p>N/A</p>
4.	Compliance Issues:
4.1	<p><u>Are the recommended decisions consistent with the Council’s policies, plans and strategies?</u></p> <p>The objects/purposes of the Council’s charitable trusts, all have a commonality, namely for the benefit of the citizens of Birmingham. This is consistent with the Council's Policies, Plans and Strategies which are focused on “fair, democratic and prosperous Birmingham.”</p>
4.2	<p><u>Financial Implications</u> (Will decisions be carried out within existing finance and Resources?)</p> <p>Please refer to paragraph 5.6 below (Charity Finances).</p>
4.3	<p><u>Legal Implications</u></p> <p>Management and governance arrangements for Charitable Trusts are set out in the constitution under which they were established. Charity Trustees must also comply with Charities Act 2011, Trustee Act 2000, other relevant legislation and guidance issued by the Charity Commission. The assets of a charity must be used in accordance with charitable law, failing which this will give rise to a breach of trust. Legal sanction can follow from either the beneficiaries of the charitable trust and/or Charity Commission. Decisions made by the charity must be expedient in the interests of the charity at all times.</p>
4.4	<u>Public Sector Equality Duty (see separate guidance note)</u>

None. The statutory functions discharged by the Council as Trustee are subject to a separate and distinct statutory regime underpinned (principally) by the Charities Act 2011, Trustee Act 2000 and relevant Charity Commission guidance. These are non-executive functions and are therefore not subject to the Equalities Act 2010 provisions.

5. Relevant background/chronology of key events:

- 5.1 Trusts and Charities Committee recommended in November 2010 to Full Council, sitting as Corporate Trustee to consolidate a number of small and dormant trusts into the newly established "BMC".
- 5.2 Full Council approved the consolidation of the small and dormant trusts into the "BMC" in January 2011.
- 5.3 Following its creation, officers registered the "BMC" with the Charity Commission ("CC").

Aims and Objectives of the Charity

- 5.4 The Trustees are referred to the guidance contained in the Charity Commission's general guidance on public benefit when reviewing the aim and objectives of the charity and in planning any future activities (S17 Charities Act 2011). The objects and purposes of the Charity are to fund general charitable activity, for the benefit, and on behalf of, the citizens of Birmingham. For a purpose to be charitable it must be one which falls within the definition of S3(1) Charities Act and is for "public benefit" as set out within S4 Charities Act 2011.

Trustee Powers

- 5.5 The charity's constitution is set out within the executed Trust Deed dated the 9th June 2012 (See Appendix 1). At paragraph 2.3 the Trustees are permitted to use both the income and capital from the Charity's finances to promote the objects and purposes of the charity. Paragraph 3.10 specifically provides the power to "to make grants and loans of money and give guarantees." Awarding grants in this manner would therefore be within the charity's constitution.

Charity Finances

- 5.6 In the last set of accounts for BMC for the period up to 31 March 2016, the balance of the unrestricted funds carried forward was £20,274,. The endowment fund for the same period was £345,191, providing a combined income of £365,465. Following interest received and deducting grants awarded this financial year, the balance on the Trusts unrestricted funds stands at £20,274. If the application of £1,000 is successful it will be met from the charity's unrestricted balances. At present the charity is not committed to any further expenditure from its unrestricted balances for this financial year.

Applications received

- 5.7 The Committee are asked to consider and determine the Application for funding for a sum up to **£1,000**. Full details of each application are set out within Appendix 3 to this Report.

6. Evaluation of alternative option(s):

- 6.1 If the Committee determine not to award any grants, the unrestricted balances remain unaffected and will accrue in the usual way, subject to the comments at paragraph 4.6 above. Although the charity was only constituted in 2012, the Committee is obliged to ensure that the charity is administered for the purposes for which it was established.

Both regulatory and reputational harm to the Council as Trustee could arise if the Trust does not undertake sufficient charitable activity or provide public benefit in accordance with its Constitution. Against this, is the legal duty of prudence which can be summarised as follows:

“You must act responsibly, reasonably and honestly. This is sometimes called the duty of prudence. Prudence is about exercising sound judgement. You and your co-trustees must:

- make sure the charity’s assets are only used to support or carry out its purposes
- avoid exposing the charity’s assets, beneficiaries or reputation to undue risk
- not over-commit the charity
- take special care when investing or borrowing
- comply with any restrictions on spending funds or selling land

You and your co-trustees should put appropriate procedures and safeguards in place and take reasonable steps to ensure that these are followed. Otherwise you risk making the charity vulnerable to fraud or theft, or other kinds of abuse, and being in breach of your duty.”

7. Reasons for Decision(s):

- 7.1 To approve the awarding of the grant to the organisation set out in Appendix 3.

Signatures

Date

Chairman of the Trusts & Charities Committee

Strategic Director of Finance & Legal Services

List of Background Documents used to compile this Report:

None

List of Appendices accompanying this Report (if any):

1. Appendix 1 – Trust Deed.
2. Appendix 2 – **Mechanics of Funding**.
3. Appendix 3 – Application Form.

