

Report to:	TRUST AND CHARITIES COMMITTEE	<i>Exempt information paragraph number – if private report:</i>
Report of:	Director of Finance	
Date of Decision:	12 th November 2015	
SUBJECT:	SOLE CORPORATE TRUSTS - GRANTS	
Key Decision: Yes / No	Relevant Forward Plan Ref: No	
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):	N/A	
Relevant O&S Chairman:	N/A	
Wards affected:	All	

1. Purpose of report:

- 1.1 For Committee to consider various officer recommendations which are designed to enhance and widen the existing basis upon which charitable grants are awarded.

2. Decision(s) recommended:

- 2.1 Committee notes the Report and authorises officers to start the process of revising the existing arrangements for grant awards as set within this Report.
- 2.1 That the Directors of Legal Services and Democratic Services and Director of Finance, be authorised to make all investigations and applications required and negotiate, seal, execute and complete all legal documentation to give effect to the above recommendations.

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3. Consultation

Consultation should include those that have an interest in the decisions recommended

3.1 Internal

The Chairman of the Committee has been consulted in the preparation of this report as have officers who support the Committee, from Legal Services, Director of Finance and BPS.

3.2 External

The revisions intended are expected to widen the Grants process and increase the sums the Council as Trustee can award. On that basis, no external consultation with the beneficiaries of the relevant charities is deemed necessary at this point, subject to the views of the Members of the Committee.

4. **Compliance Issues:**

4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?

Notwithstanding the legal separation of functions, duties, and responsibilities as between Birmingham City Council and the Council in its capacity as Sole Corporate Trustee, 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."

4.2 Financial Implications (Will decisions be carried out within existing finance and Resources?)

These cannot be commented on in any meaningful way at present, until officers have undertaken an evaluation of each of the proposals set out below, within a short term, medium term and long term context.

4.3 Legal Implications

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. The Committee has empowered officers within the Council to discharge certain functions on its behalf as Council as Trustee.

4.4 Public Sector Equality Duty (see separate guidance note)

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	The Council acts as Sole Trustee for a number of charitable and non-charitable trusts and has delegated the management of these trusts to the Trusts and Charities Committee. Charitable trusts are governed by charity law and are regulated by the Charity Commission.
5.2	Committee will be aware that within Key Tasks 1 & 5 of the Committee Business Plan 2015-17, officers were instructed to undertake a review of Trust Capital Assets and the method of disbursing of Grants with a view to achieving various outcomes. If the recommendations within this Report are accepted by Committee officers will be able to advance these matters within the short, medium and long term.
5.3	Of the eight Sole Corporate trusts that fall under the remit of this Committee, only three currently award grants - Harriet Louisa Loxton ("HLL"), Elford Estate ("EE") and Birmingham Municipal Charity ("BMC").
5.4	On review of current charitable activity within these Trusts, it is acknowledged that more charitable activity could be taking place within the eight Sole Corporate Trusts. This Report sets out recommendations to increase charitable activity in accordance with charitable objectives/purposes under which the Trusts' were established.

5.5 Set out below are a number of Recommendations for the Committee to consider and approve, which are designed to achieve the above:

Recommendations

Short Term

- To seek agreement with People Directorate to use the administrative resources of “HLL” Trust to administer grants for “EE” and “BMC”. The cost of the support will be quantified and met from the two Trusts on the same basis that professional support services are currently charged to various Trusts by the Council.
- Review “BMC” Mechanics of Funding to increase the level of grants awarded to applicants; use of endowment and the level of charitable donations that can be transferred to “BMC” unrestricted funds.
- Once the infrastructure is in place, to raise awareness of grant funding available and provide details of grants process. This information may be disseminated in a number ways: 1) District and Ward Committee Meetings; 2) Full Council Meetings –through the T&C Annual Report; 3) T&C Committee Website Page & Newsletter; 4) EMT Away Days

Medium Term

- Review existing grants processes of “HLL” and “EE”. On the latter, exploring the possibility of support for administering the disbursement of grants being undertaken by the officer supporting the “HLL”.
- To explore the possibility of procuring the services of either an independent or external fund raiser to generate income/charitable donations to the principle grant awarding charities or other charities as appropriate dependent on financial need,

Long Term

- Review all Sole Corporate Charitable Trusts to establish if the objects / purposes can be amended to award grants.
- To gain approval from the Charity Commission, where necessary, to transfer trusts permanent endowment to unrestricted funds to enable trusts to increase activity and meet their charitable objectives.
- Seek approval to establish if receipts generated from disposals at trust parks can be consolidated and used for the benefit of all trust parks and gardens
- All three actions points may require formal approval by the Charity Commission but officers will Report back to Committee on what is required at the relevant time.

6.	Evaluation of alternative option(s):						
6.1	<p>To continue with the existing arrangements could result in both regulatory and reputational harm to the Council as Trustee, if the Council as Trustee does not undertake sufficient charitable activity or provide public benefit. Against this, is the legal duty of prudence which can be summarised as follows:</p> <p>“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:</p> <ul style="list-style-type: none"> •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 <p>....trustees should put appropriate procedures and safeguards in place and take reasonable steps to ensure that these are followed. Otherwise [they] risk making the charity vulnerable to fraud or theft, or other kinds of abuse, and being in breach of your duty.”</p>						
7.	Reasons for Decision(s):						
7.1	For Committee to approve the above course of action.						
<table style="width: 100%; border: none;"> <tr> <td style="width: 60%; border: none;">Signatures</td> <td style="width: 40%; border: none; text-align: right;"><u>Date</u></td> </tr> <tr> <td style="border: none;">Director of Finance</td> <td style="border: none; text-align: right;">.....</td> </tr> <tr> <td style="border: none;">Chairman</td> <td style="border: none; text-align: right;">.....</td> </tr> </table>		Signatures	<u>Date</u>	Director of Finance	Chairman
Signatures	<u>Date</u>						
Director of Finance						
Chairman						

List of Background Documents used to compile this Report:
Trusts and Charities Committee Business Plan 2015-17

List of Appendices accompanying this Report (if any):
None