



**ACT2 (ABERDEENSHIRE CHARITIES TRUST)**

**THURSDAY, 19 NOVEMBER, 2015, at 12.00 P.M.  
(OR AT THE CONCLUSION OF THE FULL COUNCIL MEETING, WHICHEVER IS  
THE LATER)**

Your attendance is requested at a meeting of the ACT2 (ABERDEENSHIRE CHARITIES TRUST) to be held in the COUNCIL CHAMBER, WOODHILL HOUSE, ABERDEEN, on THURSDAY, 19 NOVEMBER, 2015, at 12:00 P.M. (OR AT THE CONCLUSION OF THE FULL COUNCIL MEETING, WHICHEVER IS THE LATER)

A handwritten signature in black ink, appearing to read 'Alastair Nicol', with a long horizontal flourish extending to the right.

5 November, 2015

Director of Business Services

**Contact Person:-**

**Alastair Nicol**

**Tel:- 01224 665109**

**Email:- [alastair.nicol@aberdeenshire.gov.uk](mailto:alastair.nicol@aberdeenshire.gov.uk)**

## **B U S I N E S S**

1. Declaration of Members' Interests.
2. Resolution - Public Sector Equality Duty

Consider, and if so decided, adopt the following resolution:-

- (1) to have due regard to the need to:-
    - (a) eliminate discrimination, harassment and victimisation;
    - (b) advance equality of opportunity between those who share a protected characteristic and persons who do not share it; and
    - (c) foster good relations between those who share a protected characteristic and persons who do not share it.
  - (2) where an Equality Impact Assessment is provided, to consider its contents and take those into account when reaching a decision.
3. First Annual Meeting of ACT2 (Aberdeenshire Charities Trust) - Report by Head of Legal and Governance.

## **PUBLIC SECTOR EQUALITY DUTY – GUIDANCE FOR MEMBERS**

### **What is the duty?**

In making decisions on the attached reports, Members are reminded of their legal duty under section 149 of the Equality Act 2010 to have due regard to the need to:-

- (i) eliminate discrimination, harassment and victimisation;
- (ii) advance equality of opportunity between those who share a protected characteristic and persons who do not share it; and
- (iii) foster good relations between those who share a protected characteristic and persons who do not share it.

The “protected characteristics” under the legislation are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; and (in relation to point (i) above only) marriage and civil partnership.

### **How can Members discharge the duty?**

To ‘have due regard’ means that in making decisions, Members must consciously consider the need to do the three things set out above. This requires a conscious approach and state of mind. The duty must influence the final decision.

However, it is not a duty to achieve a particular result (e.g. to eliminate unlawful racial discrimination or to promote good relations between persons of different racial groups). It is a duty to have due regard to the need to achieve these goals.

How much regard is ‘due’ will depend upon the circumstances and in particular on the relevance of the needs to the decision in question. The greater the relevance and potential impact that a decision may have on people with protected characteristics, the higher the regard required by the duty.

### **What does this mean for Committee/Full Council decisions?**

Members are directed to the section in reports headed ‘Equalities, Staffing and Financial Implications’. This will indicate whether or not an Equality Impact Assessment (EIA) has been carried out as part of the development of the proposals and, if so, what the outcome of that assessment is.

An EIA will be appended to a report where it is likely that the action recommended in the report could have a differential impact (either positive or negative) upon people from different protected groups. The report author will have assessed whether or not an EIA is required. If one is not required, the report author will explain why that is.

Where an EIA is provided, Members should consider its contents and take those into account when reaching their decision. Members should also be satisfied that the assessment is sufficiently robust and that they have enough of an understanding of the issues to be able to discharge their legal duty satisfactorily.

For more detailed guidance please refer to the following link:-

[http://www.equalityhumanrights.com/uploaded\\_files/EqualityAct/psed\\_technical\\_guidance\\_scotl\\_and.doc](http://www.equalityhumanrights.com/uploaded_files/EqualityAct/psed_technical_guidance_scotl_and.doc)



## REPORT TO ACT2 (ABERDEENSHIRE CHARITIES TRUST) - 19 NOVEMBER 2015

### FIRST ANNUAL MEETING OF ACT2 (ABERDEENSHIRE CHARITIES TRUST)

#### 1 Recommendations

The Trustees are recommended to:

Consider the Agenda included as Appendix 1 to this report and in doing so,

- 1.1 Note Items 1, 2 and 3;
- 1.2 Authorise officers to arrange trustee and indemnity insurance (Item 4);
- 1.3 Appoint a Secretary and Treasurer to the Trust (Item 5);
- 1.4 Request advice on investment for trust funds (Item 6);
- 1.5 Approve the continuing delegation to Infrastructure Services Committee of the administration of the charitable Care and Repair Fund (Item 7);
- 1.6 Approve the delegation to Area Committees of Aberdeenshire Council of the routine administration of the Trust (Item 8);
- 1.7 Instruct officers to prepare a management plan for the Trustees (Item 9); and
- 1.8 Instruct officers to call the next annual meeting in September 2016 or when the first year's audited accounts are available (Item 10).

#### 2 Background / Discussion

- 2.1 At their meeting on 24<sup>th</sup> September 2015 Aberdeenshire Council (the Council) decided at Item 12 to instruct officers to call the first meeting of the ACT2 (Aberdeenshire Charities Trust) (The Trust). The notice of meeting and agenda is attached as appendix 1. The following notes are intended to assist the meeting.
- 2.2 Item 1 of the Agenda and 1.1 above.  
**Notice calling the meeting and Chairman's Opening Remarks.**  
In accordance with usual practice the Provost will act as Chairperson. He or the acting Secretary may make opening remarks and will request a sederunt to be recorded. In terms of the constitution of the Trust, the Council's Standing Orders will apply to this meeting.
- 2.3 Item 2 of the Agenda and 1.1 above.  
**ACT2 Trustees and OSCR Guidance.**  
The Trustees are all those members of Aberdeenshire Council who have signed an OSCR Trustee Declaration form. Anyone who has not signed this form is requested to do so or to declare whether he wishes to resign office and absent himself from this meeting. At the time of writing one member has not signed this form.

2.3.1 The trust deed was registered with OSCR on 8th April 2015 and was circulated to trustees along with an OSCR leaflet on being a charity trustee. There is new draft charity guidance for Trustees available on the OSCR website. Trustees are referred to the OSCR website <http://www.oscr.org.uk/charities/guidance/draft-charity-trustee-guidance> to familiarise themselves with the guidance.

2.4 Item 3 of the Agenda and 1.1 above.

**Registration with HMRC.**

Online registration of the Trust is now underway which will allow the Council to recover gift aid and other taxes should the occasion arise.

2.5 Item 4 of the Agenda and 1.2 above.

**Liability of trustees and indemnity policy.**

In terms of the ACT2 Constitution and the Charities and Trustee Investment (Scotland) Act 2005 section 68A, Trustees have power to arrange Trustee and Officers Indemnity Insurance. One Council member has asked about this. This is optional but may give a degree of comfort to Trustees. A recommendation has been made at 1.2 above for this to proceed. The Head of Finance has indicated that the cost which is anticipated to be in the region of £2,000-3,000 would be met by the Council.

2.5.1 Alternatively Trustees may opt to defer this to the next Annual Meeting when the Trust will have financial reports available. These reports will facilitate the completion of the proposal form. At present it may be more relevant that Trustees ensure individual compliance with OSCR guidance.

2.6 Item 5 of the Agenda and 1.3 above.

**Appoint secretary and treasurer.**

It is proposed to appoint Karen Wiles Head of Legal and Governance as Secretary and Alan Wood Head of Finance as Treasurer. Trustees may note that Deloitte will audit the first year's accounts.

2.7 Item 6 of the Agenda and 1.4 above.

**Advice on investment.**

Trustees are recommended to obtain advice on investment of charity funds by the Trusts (Scotland) Act 1921 section 4A. In terms of the statute this is not compulsory but it is recommended by statute.

2.8 Item 7 of the Agenda and item 1.5 above.

**Care and Repair charitable fund**

2.8.1 Following the insourcing of the Care and Repair project from Castlehill Housing Association (CHA) on 1st July 2015, the funds which had been held within a separate charity known as 'Aberdeenshire Care and Repair Group' SC021487 (ACRG) fell to be re-allocated. Under the terms of the constitution the ACRG charity trustees determined to wind up the existing charity and transfer the funds to a specially designated fund within ACT 2 trust. In this way the funds retain their charitable status. CHA will transfer the funds to the control of the ACT2 Trustees, and the Treasurer will issue a receipt.

2.8.2 CHA have asked for a letter of undertaking to be supplied by Council in which the Council undertakes to protect the fund for charitable purposes within the ACT2 Trust. This has been supplied.

2.8.3 This fund will be designated for the purpose of providing a hardship fund to supplement the Care and Repair Project. Trustees are recommended at 1.5 above to approve the delegation to Infrastructure Services Committee of the administration of the Care and Repair fund on behalf of the trustees. This is in line with the previous administrative arrangements for the ACRG.

2.9 Item 8 of the Agenda and 1.6 above.

**Management of ward-allocated funds by area committees.**

On 22nd January 2015 Council agreed that the Trust funds are to be allocated to the wards of origin where appropriate. It is recommended at 1.6 that routine administration of the Trust will continue at Area Committee level.

2.10 Item 9 of the Agenda and 1.7 above.

**Management plan**

In terms of the trust constitution clause 10.1 the Trustees at this meeting 'will instruct the preparation of a management plan for the future performance by the Trustees of their functions under this Trust' (*sic*). This will address one of the recommendations at Appendix 4 of the 2013/14 external audit report on management of trusts. This is recommended at 1.7.

2.11 item 10 of the Agenda and 1.8 above.

**Date of next meeting.**

It is recommended that the next Annual meeting should be scheduled to coincide with the Council meeting of September 2016 (or when the first year's audited accounts are available).

2.12 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and supports the recommendations.

### **3 Equalities, Staffing and Financial Implications**

3.1 An equality impact assessment has not been carried out as part of the development of the proposals set out above as a statutory exemption applies.

3.2 Staffing and Financial implications will require to be addressed.

**KAREN WILES**  
**Head of Legal and Governance**

Report prepared by Catriona Walker, Solicitor, (Governance)  
Date 27<sup>th</sup> October 2015

NOTICE AND AGENDA OF  
FIRST ANNUAL GENERAL MEETING OF ACT2 (ABERDEENSHIRE CHARITIES  
TRUST) SC045539

THURSDAY 19th NOVEMBER 2015 AT 12.00 P.M. (OR TO FOLLOW COUNCIL  
MEETING)

AT COUNCIL CHAMBER, WOODHILL HOUSE, ABERDEEN

Chair: Provost

Present: ACT2 Trustees  
Head of Legal & Governance  
Head of Finance

Apologies for absence and Sederunt:

1. CHAIRMAN'S INTRODUCTORY REMARKS
2. ACT2 TRUSTEES AND OSCAR GUIDANCE
3. REGISTRATION WITH HMRC
4. LIABILITY OF TRUSTEES AND INDEMNITY POLICY
5. APPOINT SECRETARY AND TREASURER
6. ADVICE ON INVESTMENT
7. CARE AND REPAIR CHARITABLE FUND
  - A) NOTE
  - B) ISSUE RECEIPT
  - C) DELEGATION TO SWH COMMITTEE
8. MANAGEMENT OF WARD-ALLOCATED FUNDS BY AREA COMMITTEES
9. MANAGEMENT PLAN
10. DATE OF NEXT MEETING.