

REPORT TO ABERDEENSHIRE CHARITIES TRUST (ACT2) – 18 NOVEMBER 2021

REVISALS TO CHARITIES MANAGEMENT PLAN

1 Reason for Report / Summary

- 1.1 The report seeks Trustees' approval of a revised Charities Management Plan, required as a result of funds being donated for Council Ward 9 for purposes established under the ACT2 Trust Deed.

2 Recommendations

The Trustees are recommended to:

- 2.1 **Approve the terms of the revised Charities Management Plan attached as Appendix 1 to this report.**

3 Purpose and Decision-Making Route

- 3.1 The ACT2 Management Plan was approved on 9th March 2017.
- 3.2 In terms of this Management Plan the Trustees are to receive an annual report which details both the Trust's financial position as well as a note of the applications received within the past financial year. The annual report is the subject of a separate report being considered at this meeting.
- 3.3 The Management Plan has not been reviewed since 2017. A donation made to ACT2 for specific funding has necessitated revisal to the Plan.

4 Discussion

- 4.1 An anonymous donation was received, totaling £8,122.23, to be used in Ward 9 for the following purpose: "*The advancement of the arts, heritage, culture or science*".
- 4.2 This does not require an amendment to the Trust Deed as the purpose for which the donation has been made is a purpose set out within the existing Trust Deed. It does require an amendment to the Charities Management Plan. Details of this new Specific Fund has been included in red in the revised Plan attached as **Appendix 1** to this report.
- 4.3 Officers have used this opportunity to review the terms of the Management Plan in its entirety. The Management Plan has been accessibility checked and it now also includes a copy of the ACT2 Trust Deed as Appendix 1 to the Plan, given that all Trustees should have a copy and it has been sometime since all Trustees were issued with a copy. Further, the Management Plan makes several references to the Trust Deed, so it made sense to include the Deed as part of the document.
- 4.4 It is important that officers and Trustees continue to promote ACT 2 whenever possible to ensure that a good level of applications is maintained, especially within areas who have a low uptake as access to these funds may be of great benefit to those in need and the

communities we serve. As part of this, Officers will be reviewing the transparency of the information for members of the Public on the Council's website, and application forms and procedures will also be reviewed.

- 4.4 It is the intention of officers to further report to Trustees, following the review of the website, forms and procedures, should further changes to the Management Plan then be required.


Ritchie Johnson
Director of Business Services

Report prepared by Fiona M Stewart, Senior Solicitor (Governance)
Date: 22nd October 2021

List of Appendices:

Appendix 1 ACT2 – Revised Charities Management Plan

APPENDIX 1



ACT 2
(Aberdeenshire Charities Trust)
Management Plan
SC045539

Registered Office

Aberdeenshire Council,
Woodhill House,
Westburn Road
Aberdeen
AB16 5GB

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Background to ACT2 (Aberdeenshire Charities Trust)

History

Aberdeenshire Council had been responsible for administering several individual charitable trusts which are now amalgamated into the Aberdeenshire Charities Trust (ACT2). Some trusts dated back to the 17th and 18th centuries, while the large majority were from the 19th and 20th centuries. The purposes of the charitable trusts were varied, and this had resulted in the beneficiaries for each of the charitable trusts and funds being distributed among diverse social groups and across a wide geographical area within Aberdeenshire.

However, over time, changes to our social and economic conditions meant that the administration of these funds become problematic due to several factors.

- Some of these funds had fallen into a state of disuse while some trusts no longer served any purpose due to the introduction of the health and social care system.
- The value of many of the individual funds had fallen to a point where they could not bear the cost of administration.
- Some of the funds were depleted to the stage that they could no longer support the purposes for which they were created.
- Many of the trusts were restricted so that any income gained from investing the capital trust fund only could be distributed however due to inflation and low interest rates the value of the capital had fallen to a point which could not produce more than a minimal income.
- Further pressure in respect of more stringent accounting regulations put in place by the introduction of the Office of the Scottish Regulator in 2005, as well as accounting regulations of local government legislation, had greatly increased the financial burden on individual charities, to present accounts for external auditing.

Reorganisation

ACT2 was therefore created to hold and administer these funds and assets for purposes that were considered more effective for those who needed assistance within specific areas of Aberdeenshire.

The ability to reorganise these individual charities into a single trust was made possible by the implementation of **the Charities and Trustee Investment (Scotland) Act 2005**. Section 39(1)(a) and (b) provide for the approval of a reorganisation scheme where:

- There have been changes in the social and economic conditions since the charity was set up; or,
- To enable the resources of the charity to be applied to better effect the charitable purposes consistently with the spirit of its constitution; or,
- To enable the charity to be administered more effectively.

The creation of ACT2 allowed for the transfer of assets relating to 95 individual trusts which are now administered in accordance with its constitution (Appendix 1). This constitution establishes the way

these trusts can be administered and the purposes for which these trusts are intended. These purposes are:

- a) The prevention or relief of poverty
- b) Improving education
- c) Improving health
- d) The improvement of citizenship or community development.
- e) The development of the arts, heritage, culture, or science.
- f) The development of public participation in sport.
- g) The provision of recreational facilities, or the organization of recreational activities, with the object of improving the conditions of life for the persons for whom the facilities or activities are primarily intended.
- h) The development of environmental protection or improvement.
- i) The relief of those in need by reason of age, ill health disability, financial hardship, or other disadvantage.

These purposes have been selected as those being most relevant to the present charities' purposes from section 7 of the 2005 Act. Should circumstances change, this can be reflected within the Trust itself by adding any additional purposes with the agreement of the Office of the Scottish Charity Regulator (OSCR).

ACT2 – Organised by Council Ward

The Charitable Trusts have now been reorganised according to Ward or Trust Area and subdivided according to various purposes outlined within the constitution and in keeping with its original purpose. This means that each ward within Aberdeenshire will have designated funds to be used for that **ward** specifically and **in accordance with the purposes** of the constitution.

Not all purposes detailed above are applicable to each ward due to how the original Trusts, prior to amalgamation, were set up. Appendix 1 sets out which purposes are applicable to each Trust. Application forms have been designed per Council Ward so that applicants can be very clear on what they are entitled to apply for. To ensure active management of the charity in accordance with statutory requirements and best practice, all elected Councillors of Aberdeenshire Council have been appointed as Trustees. In addition, two ex officio members have been appointed to carry out the role of Secretary and Treasurer. The Trustees have approved the appointment of Karen Wiles, Head of Legal and People as Secretary and Mary Beattie, Head of Finance, as Treasurer.

The Role and Duties of Elected Councillors as Trustees

Charitable Trustees are responsible for controlling the strategy and management of ACT2 within the context of the charitable purposes and the terms laid out by the Deed of Trust. The role of the Trustee is vital to ensuring that the charity operates, effectively, and can account for its activities and outcomes both to the public and to OSCR, the Scottish charities regulatory body.

All elected councillors acting in the capacity of a Trustee have legal duties and responsibilities under the Charities and Investment (Scotland) Act 2005. These duties are divided into general duties found in section 66 of the 2005 Act, which establishes a broad framework that all Trustees must work within, and specific duties that are detailed in the 2005 Act. Both the general and specific duties apply equally to all Trustees, and Councillors, in their capacity as Trustees, should work together to ensure that these duties are met. The following section will provide a detailed explanation of what these duties are, what the law requires you to do and how these duties can be met.

Duty to Act in the Interests of the Charity

Firstly, the charitable Trustee must **act in the interests of the charity**. This means that the interests of the charity must be put before the interests of the Trustee and those of any other person or organisation. Where conflict arises in relation to your own personal interests and those of the charity, the Trustee must declare this interest and where appropriate refrain from taking part in certain decisions in accordance with the [Conflict of Interest Policy](#).

Duty to Act in the Interest of the Charity - Good Practice

The information provided under these sections **are not a legal requirement** but provide guidance to enhance practice and procedures contributing towards productivity and active engagement.

Trustees should ensure that:

- An up-to-date register containing where all the Trustees work (if applicable) and any other organisations they are involved is kept.
- The Charity has a conflict-of-interest policy.

Duty to Ensure that the Charity Operates in a Manner Consistent with Charity Purposes

In addition to acting in the interests of the charity, Trustees must ensure that they **carry out their duties in a manner consistent with the charity's purposes**. It is therefore important the Trustee understands what the purposes of the charity are – these are defined within ACT2's Deed of Trust. All activities carried out by the charity must fall within the objectives, aims and purposes stated in the governing documents. It is therefore important that Trustees are familiar with the terms of any governing documents relating to the charity.

Duty to Ensure that the Charity Operates in a Manner Consistent with Charity Purposes - Good Practice

- Every charity Trustee has the most recent copy of the charity's **governing document** (constitution)
- Every charity Trustee gets an induction into the charity and their role when they start

Duty to Act with Care and Diligence

Related to this is the duty to **act with care and diligence**. This simply means that charitable Trustees are expected to take care of the charity's affairs in the same manner as you would expect someone to manage the affairs of another person.

By acting with care and diligence, charitable Trustees are ensuring that the charity is being run properly, responsibly, and lawfully. This often involves exercising reasonable business sense in relation to a range of transactions: for example, concluding contracts, finalising funding agreements, and protecting the charity's assets. In these circumstances, it would be reasonable for the charitable Trustees to take independent professional advice or seek support.

Duty to Act with Care and Diligence - Good Practice

As Charity Trustees you should:

- Ensure that the governing document of ACT2 is updated regularly.
- Ensure that the management plan reflects any changes that take place in the administration of the ACT2.
- Review the performance of the charity and where necessary take steps to improve it.
- Review the training needs of the Charity's Trustees each year.
- Keep up to date with any changes that take place in Charity Law that might affect the administration of ACT2.
- Report any notifiable events (something serious that has happened or is happening to the Charity) to OSCR.

Duty to Manage Conflicts of Interests

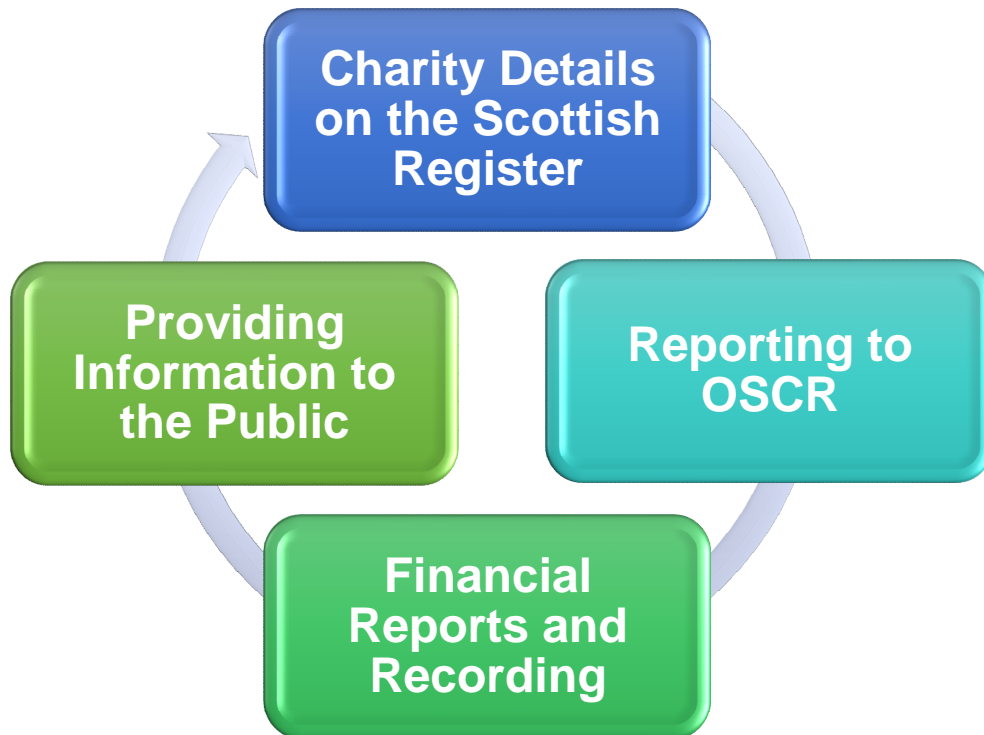
Trustees should avoid circumstances in which there is a conflict of interest between the charity and their own personal circumstances or the interests of a person or organisation responsible for their appointment. Trustees should also be aware of circumstances where there is a conflict of interest between two different organisations to which they may be affiliated. For example, a Trustee may be a member of two bodies which are applying for funding from the same organisation.

In any of these circumstances, the Trustee should make the conflict of interest known to the other charitable Trustees by declaring an interest and must not take part in any discussions or decisions on the matter in hand.

Specific Duties for all Trustees

Legislation also imposes on charitable Trustees, the duty **to ensure the charity complies with provisions of charity law and the requirements of other relevant legislation**. Consideration should not only be given to the specific requirements detailed below but also to issues that relate to health and safety, company law, data protection and employment law. This can be complex, so it is important that appropriate advice and support is sought to ensure that all duties and regulations are complied with.

The Charities and Investment (Scotland) Act 2005 establishes specific legal requirements that must be met. These specific duties are illustrated below.



2.1 Charity details on the Scottish Register

All details relating to ACT2 must be provided to OSCR, the Scottish statutory body responsible for the regulation of all charities within Scotland, for the purposes of updating the Scottish Charity Register. This information should include the name of the charity, the principal office of the name and address of one of the charity Trustees as well as the charity's purposes. All changes that are agreed by the Trustees must be made known to the principal contact for the charity.

2.2 Reporting to OSCR

Where the Trustees wish to make any changes, including changes to the purposes of the Trust or the Trust area these changes must be documented in a supplemental Deed of Trust and approved by a majority of the Trustees. Any changes made must continue to be consistent with the Trust purposes detailed in the constitution. In some circumstances, the Trustees are legally required to obtain the consent of OSCR first before any changes are made. Consent from OSCR must be sought at least 6 weeks or 42 days before these changes are made. Consent is required where the Trustees wish to:

- Change the name of the charity.
- Wind up or dissolve the charity.
- Amend the object or purpose of the charity.
- Amalgamate the charity with another body.

- Apply to the court to change purpose, amalgamate or wind-up.
- Changing the charity's legal form or structure-Charities can take on a number of different legal forms. This legal form is the structure which then becomes a charity. For example, Community Benefit Society, Trusts, Educational endowments, Scottish Charitable Incorporated Organisation, companies etc.

Where consent is given by OSCR and the change has been implemented, written confirmation of this change must be provided.

Other changes, such as changes to the governing constitution of this Trust, or any other changes not already outlined, do not require prior consent. However, these changes must be intimated to OSCR within 3 months of those changes being made.

2.3 Financial Records and Reporting

In line with the constitution, the Trustees are responsible for keeping proper accounting records. These records should include the income, capital and expenditure held in the Trust, any amount that is invested by the Trustees and any amount received by the Trust. The Trustees must ensure that a statement of accounts including a report on its activities is produced at the end of the financial year which runs from 1st April until 31st March each year. These accounts must be audited or examined externally and a copy of the accounts together with the annual return sent to OSCR. A copy of these accounting records must be kept for 6 years.

The management of the financial affairs of the Trust requires each Trustee to act with the care and diligence that is reasonable to expect of a person who is managing the affairs of another person. A level of responsibility is therefore placed on the Trustees to act with a higher level of care in managing the affairs of the Trust than they would when dealing with their own finances and affairs. It is the responsibility of the Trustees to ensure that the charity's resources are protected and that the assets of the charity are not placed at risk. This can be carried out by ensuring that there are proper financial controls in place which help to identify and manage the risks of theft or fraud, loss, and conflicts of interest.

The responsibility for the financial records is not limited to the treasurer solely but includes all the charity's Trustees. As a charity Trustee you must ensure that you have a basic understanding of the finances of ACT2, to quickly identify if there are any problems, as well as ensuring that, at each Area Committee meeting of the Trust, the Trustees are aware of the financial situation of that particular Trust area.

2.4 Fundraising

The Trustees are responsible for taking control of how their charity raises funds. ACT2's governing document provides the vehicle for the Trustees to consider generating additional funds through entering into contracts such as sale or lease of any property and to invest the fund in securities or investments.

2.5 Providing Information to the Public

The Trustees have the legal duty to ensure that the charity's name, charity number, governing documents and audited accounts are available on the Aberdeenshire Council website. Where copies of these documents are required, the Trustees must ensure that a copy of these documents is given, provided that the request is a reasonable one.

Whether a request is unreasonable or not will depend on the circumstances of the request. It is the request itself that must be unreasonable and not the reasons for the request or the identity of the requester. OSCR provides further guidance and examples relating to unreasonable requests which can be referred to and advice on this matter can also be sought.

2.6 Remuneration

Under the Deed of Trust, Trustees are not entitled to be remunerated for their services as a Trustee. The Trust will reimburse any expenses that are incurred when acting in the capacity of a Trustee. By choosing to adopt a more prudent approach to the financial management of the Trust, the purpose for which ACT2 has been established can be fulfilled for the benefit of Aberdeenshire.

2.7 Trustee Indemnity Insurance

The Trustees of a Charity, together with its officers, have individual, personal duties and responsibilities for the management and administration of the Trust. This brings with it the potential for many liabilities. To protect the Trustees as they carry out the management and administration of the Trust, it is highly recommended that Trustee Indemnity Insurance be acquired. This will protect the Trustee and the charity against liability arising from errors or omissions that may be made in the management and administration of the organisation. The Trustee Indemnity Insurance cover will be on a 'claims made' basis which means it covers claims made against the Trust during the period of insurance. A range of limits of indemnity are available in any one period of insurance, however it is recommended that the Trustees seek a higher sum of insurance, to cover the total sum of monies contained within the Trust itself.

2.8 Publication of the Charitable Trust

All charities registered in Scotland must publicise the fact that they are a charity. The Trustees must ensure that the details of the charity, specifically, the charity's name together with the charity's registration number are incorporated in certain external documents in accordance with section 4 of *The Charities References in Documents (Scotland) Regulations 2007* and *The Charities References in Documents (Scotland) Amendment Regulations 2008*. These documents include:

- a. business letters and e-mails.
- b. advertisements, notices, and official publications.
- c. any document which solicits money or other property for the benefit of the charity.
- d. promissory notes, endorsements and orders for money or goods.
- e. bills rendered.
- f. invoices, receipts, and letters of credit.
- g. statements of account prepared.
- h. educational or campaign documentation.

- i. conveyances which provide for the creation, transfer, variation, or extinction of an interest in land.
- j. contractual documentation.
- k. Bills of exchange, other than cheques.

It is important that the people you encounter, the public, funders, contractors, and other organisations, know and can verify that ACT2 is a genuine charity. It will instil confidence in those who wish to support the charity by making them aware that this charity is regulated.

Management of ACT2

Aberdeenshire is currently divided into 6 administrative areas, with each area possessing an Area Committee which is responsible for the delivery of local services. The Deed of Trust, specifically section 7.8, empowers the Trustees to create committees that can carry out functions within a specific remit determined by the Trustees. Each committee will report to the Trustees at least once a year and, in all things, defer to the authority and responsibility of the Trustees.

The Trust has established six Committees based on the Council's Six Area Committees. The rules of meetings relating to quorum and the way in which decisions are made shall be governed by Aberdeenshire Council's Standing Orders, in accordance with section 10.3 of the Deed of Trust. Each committee will be chaired by a relevant Area Committee Chair, whom failing, an Area Committee Vice-Chair will be nominated by all the Trustees at the Annual General Meeting.

The membership of each committee will comprise of Trustees from each of the six administrative areas within Aberdeenshire. It is agreed by the Trustees that applications to ACT2 can be dealt with during scheduled meetings of Area Committees. Each Area Committee meeting of the Trust shall convene **as and when required**.

Each Area Committee shall be responsible for the administration of the Trust within a specific Trust area, particularly those Council wards within their area, and shall have the power to:

- Invite and accept donations.
- Invite and determine any applications made by potential beneficiaries.
- Incur expenditure.
- Enter into arrangements and contracts which includes the sale or land or lease of property etc.
- Appoint skilled and experienced persons to carry out services in administering the trust.
- Invest in securities or investments.
- Decide whether funds will be drawn from the capital funds of the Trust or from any income made through investments.
- Do anything else that serves in executing the Trust in accordance with Trust purposes.

[Who can apply?](#)

[Aberdeenshire Wide Funding](#)

War Wounded Personnel

All members of the local community residing in Aberdeenshire are welcome to apply for funding that has been set aside solely for the purpose of assisting war wounded personnel. This fund seeks to provide relief to war wounded personnel in need by reason of age, ill-health, disability, financial hardship, or other disadvantage as well as preventing and relieving poverty.

Care and Repair Services

This provides support for needy residents in Aberdeenshire aimed at enabling and supporting residents to live independently at home.

Allocated Funding by Council Ward

In addition to the Aberdeenshire-wide funding, various wards within Aberdeenshire have been specifically allocated funding. These funds can only be accessed by individuals residing in these ward areas or who can demonstrate a reasonable connection to that area. These funds must be used for reasons that are in keeping with the Trust purposes. Further information relating to which ward areas are applicable and what purposes apply can be found [here](#). Companies, associations and organisations can also apply; however, they must comply with the criteria of the Trust.

To ensure that the application is fully considered, the applicant must satisfy one of the following criteria:

The applicant must be:

- A resident within Aberdeenshire, or
- An individual who does not presently live in the Trust area but who can demonstrate that they have a reasonable connection to that area, or,
- A company, association or other organisation who provide facilities and services or other assistance which are in keeping with the Trust purposes (detailed on page 2 of this document) to the residents or groups of that Trust area or specific part of that Trust area. There is no requirement for the company, association, or organisation to be a registered charity.

Application forms can either be obtained from the Aberdeenshire Council website or from the appropriate Area Manager upon written request. This form includes information on any additional documentation which may require to be submitted with the form, such as accounts, quotes for work etc.

What happens once the application has been submitted?

Application Process

1. Any **applications** made must be directed to the appropriate **Area Manager** in the relevant Trust area to which the application relates. For example, if an individual resides in Huntly, any application made for Trust funding must be submitted to the local council office in Marr for the attention of the Area Manager.

2. Once received the application will be **assessed** by officers from both Legal and Finance to decide whether the applicant is eligible, whether the reason for the application is compliant with the Trust purposes within the Trust area, together with what funds if any are available to be awarded.
3. The Area Manager will then write to the applicant to acknowledge receipt of the application and to inform the applicant as to whether the application is eligible for consideration and if not, why not. Where the application is considered not to be eligible, local Ward Members will be informed that an application was received, rejected and the reasons for this.
4. If the application is eligible, a report to the relevant Area Committee sitting as the Trust, will be prepared by the Area Manager with input from Legal and Finance, detailing the request and making any appropriate recommendations.
5. A meeting of the Trust will then be called, and notification of this meeting will be provided to the relevant Trustees.
6. The applicant will also be invited to attend the meeting. However, due to the nature of the meeting, that is, a meeting that contains information relating to a particular applicant/recipient for financial assistance, these meetings are exempt and will not be open to the public. This approach is in keeping with the provisions of Aberdeenshire Council's Standing Orders that apply setting out how meetings are conducted and how decisions are made. Where an application received relates to a community project that has a strong community interest, the Trustees are encouraged to consult with the local community prior to consideration of the application.
7. The application, together with any supporting documentation, will be considered at the next charitable Trust area meeting.
8. Once a decision has been reached, the Area Manager will notify the applicant within four weeks of the Area Committee meeting regarding the outcome of their application.
9. Where the application has been unsuccessful, the letter will detail the reasons why the application was unsuccessful.
10. If the application has been successful, details of how and when payment will be issued will be stated.

It is anticipated that the whole process from the submission of an application to a decision being made by the Trust on an eligible application will take **approximately 3 months**. Due to the time it takes to assess an application made, the Trust should not be relied upon to meet any unexpected shortfalls that are time sensitive.

Where appropriate, the Trustees may request that, where an application has been successful, the beneficiaries provide a brief report, within an agreed timeframe, which explains how the money has been used, and how the purposes set out in the application are being achieved.

A successful applicant **can reapply no less than 12 months** after the initial application is determined.

[Application Packs](#)

Application Packs have been created for each ward which details what individuals and organisations can apply for in that area.

This will provide clarity for Trustees as well as members of the public regarding:

- a) whether any funding in their area is available.
- b) what charitable purposes are applicable specifically to that area.
- c) the maximum amount of funding that can be applied for.

Appeals Process

As each application will be thoroughly assessed on its merits not only by the Legal and Finance departments and Area Managers but also determined by the Trustees, the Trust's decision is final and cannot be appealed.

Appendix 1

TERMS OF CURRENT TRUST DEED

DEED OF TRUST

For

ACT2 (ABERDEENSHIRE CHARITIES TRUST)

SCO

WE, THE ABERDEENSHIRE COUNCIL constituted under the Local Government (Scotland) Act 1994 (the "1994 Act") and having our Principal Offices at Woodhill House, Westburn Road, Aberdeen AB16 5GB (the "Council") CONSIDERING that (ONE) we presently hold charitable funds which were gifted to the Council or its predecessors for the benefit of residents of the present local government area of Aberdeenshire (or parts thereof), and for particular purposes, that these funds are held as individual funds or within a composite charity whose constitution and purposes should be codified, and that the purposes of many of these funds are restricted or no longer applicable due to economic, legal and social changes in circumstances since the funds were originally granted and (TWO) we have resolved to re-organise these funds in terms of an application proposed under chapter 5 of the Charities and Trustee Investment (Scotland) Act 2005 (the "2005 Act") THEREFORE in order to progress this scheme we have resolved to and DO HEREBY CREATE a charitable trust so that we may hold and administer these and other funds and assets more efficiently and for purposes which we consider will now be more effective in providing public benefit or assistance to intended beneficiaries, subject to the following terms and conditions:

1. 'Charity' and 'charitable' have the meaning ascribed to them by the 2005 Act which is also regarded as charitable in relation to the Taxes Acts applicable to charities;
2. The trust will be known as ACT2 (Aberdeenshire Charities Trust) (the "Trust").
 - 2.1 The trust area is the present local government area of Aberdeenshire as shown delineated on the map attached and signed as relative hereto (the "Trust Area").
 - 2.2 We the Council having regard to s16 (2) of the 1994 Act and in exercise of powers vested in us do hereby nominate and appoint as trustees *ex officio* all the elected members of the Council, who are also eligible in terms of the 2005 Act to act as charity trustees, together with their successors in office as elected members of the Council or such successor Council as may have responsibility for the Trust Area (the "Trustees"). The Trustees may act collectively as a corporate body in name of the Council where appropriate to do so.
 - 2.3 We convey the sum of one pound Sterling (£1) to the Trustees as an initial trust fund (the "Trust Fund").

THE TRUST PURPOSES

- 3 The Trustees shall hold the Trust Fund and such other sums of money, investments and other property as may in future be added, transferred, conveyed, accumulated or donated thereto for any one or more of the following purposes (the "Trust Purposes"):
- 3.1 The prevention or relief of poverty;
 - 3.2 The advancement of education;
 - 3.3 The advancement of health;
 - 3.4 The advancement of citizenship or community development;
 - 3.5 The advancement of the arts, heritage, culture or science;
 - 3.6 The advancement of public participation in sport;
 - 3.7 The provision of recreational facilities, or the organisation of recreational activities, with the object of improving the conditions of life for the persons for whom the facilities or activities are primarily intended;
 - 3.8 The advancement of environmental protection or improvement;
 - 3.9 The relief of those in need by reason of age, ill-health, disability, financial hardship or other disadvantage.

BENEFICIARIES

- 4 The Trustees may arrange to make awards where an application is made which meets the criteria of one or more of the trust purposes by or on behalf of:
- 4.1 Individual residents of Aberdeenshire or specified parts thereof;
 - 4.2 Individuals who though not presently resident in the Trust Area (or specified part thereof) have demonstrated a reasonable connection with that Area to the satisfaction of the Trustees;
 - 4.3 Groups, companies, associations or other organisations whether or not registered charities operating in the Trust Area or specified part thereof who provide facilities, services or other assistance in accordance with the Trust Purposes to residents or groups of the Trust Area.

LIABILITY OF CHARITY TRUSTEES

- 5 The Trustees will be entitled to all the immunities of gratuitous trustees in Scotland. They will have no liability to pay any sums to help to meet the debts (or other liabilities) of the Trust if it is wound up; accordingly, if the Trust is unable to meet its debts or liabilities, the Trustees will not be held responsible.
- 6 The Trustees have certain legal duties under the 2005 Act; and clause 5 does not exclude (or limit) any personal liabilities they might incur if they are in breach of those duties or in breach of other legal obligations or duties that apply to them personally.

GENERAL POWERS

- 7 The Trustees will have all powers competent or which may become competent to gratuitous trustees in terms of the Trust (Scotland) Act 1921 as amended or superseded (the "1921 Act"). Without prejudice to the foregoing generality the Trustees will have power to do any or all of the following:
 - 7.1 To invite and accept donations in furtherance of the Trust Purposes;
 - 7.2 To invite and determine applications for grants or awards by potential beneficiaries;
 - 7.3 To incur expenditure by the Trust which, in their opinion, is in furtherance of the Trust Purposes;
 - 7.4 To enter into arrangements and contracts which, in their opinion, are in furtherance of the Trust Purposes, including sale or lease of property;
 - 7.5 To appoint solicitors, accountants, factors, stockbrokers or other persons considered appropriately skilled and experienced in the Trustees' judgment and discretion whether from their own number or otherwise to carry out services in administering the Trust including the duties of the offices of Secretary and Treasurer, and to pay them the usual professional fees or other suitable remuneration for services rendered, subject to section 67 and 68 of the 2005 Act governing terms and conditions. If such offices of Secretary and Treasurer are supplied by employees of the Council their services to the Trust will be deemed to be part of their duties of employment with no additional payment;

- 7.6 To invest the Trust Fund in such securities or investments as may be approved subject to the Trustees taking advice in accordance with clause 14 below.
- 7.7 To allocate the Trust Fund between capital and income and to make payments from capital as well as from income when they consider it reasonable to do so;
- 7.8 To appoint a committee or committees subject to such remit as the Trustees may decide. Any such committee shall report its deliberations to the Trustees not less than once a year, and shall in all cases defer to the authority and responsibility of the majority of Trustees *in plenum*;
- 7.9 To resign office but not so that the number of Trustees will fall below three as a minimum;
- 7.10 To arrange to purchase trustee and officer personal liability insurance in terms of s 68A of the 2005 Act or its equivalent;
- 7.11 To do such other things as are expedient for the execution of the Trust and consistent with the Trust Purposes.

POWER TO AMEND and WIND UP

- 8 The Trustees will have power to vary or modify any provisions, including a variation or modification of the Trust Purposes and Trust Area by entering into a Supplementary Deed of Trust or resolution, subject to any variation or modification being consistent with the spirit of the Trust Purposes detailed herein and being approved by a majority of all Trustees and subject also to the consent of or intimation to the Office of the Scottish Charity Regulator (OSCR) in terms of the 2005 Act so as to ensure that no variation will cause the Trust to cease to be recognised as a Scottish Charity.
- 9 If at any time it appears to the Trustees that it is expedient to bring the Trust and the Trust Fund to an end it will be competent for them to wind up the Trust by resolution passed by a majority of all trustees whether present and voting at a meeting or by signing a written resolution. In the event of monies remaining in the Trust Fund at the date of such winding up, the Trustees shall at their discretion, but after payment of all outstanding debts or obligations incumbent on the Trust or the Trust Fund, remit such monies to such other registered charitable body, or

bodies, having as their principal objects similar Trust Purposes and operating within the same or similar Trust Area.

MEETINGS

- 10 The Trustees shall hold an initial meeting as soon as practicable after the date on which charitable status to the Trust is awarded by OSCR. The Trustees shall at the said initial meeting *inter alia*:
 - 10.1 Instruct the preparation of a management plan for the future performance by the Trustees of their functions under these presents;
 - 10.2 After the said initial meeting the Trust will meet not less than once in each year. The Secretary may convene further meetings of the Trust as and when required and will give not less than fourteen clear days written notice of all meetings to the Trustees;
 - 10.3 Unless otherwise stated, at all meetings of the Trust or its committee(s), matters relating to quorum and decision making will be as set out in the Council's Standing Orders as they relate to the Council.

DUTIES OF TRUSTEES

- 11 Each Trustee must, in exercising his/her functions as a Trustee, act in the interests of the Trust and, in particular, must:-
 - 11.1 Seek, in good faith, to ensure that the Trust acts in a manner which is in accordance with the Trust Purposes;
 - 11.2 In circumstances which give rise to the possibility of a conflict of interest between the Trust and any other party (including the Council as a local authority), put the interests of the Trust before that of the other party in taking decisions as a Trustee or, where any other duty prevents him/her from doing so, disclose the conflicting interest to the Trust and refrain from participating in any discussions or decisions involving the other Trustees with regard to the matter in question;

- 11.3 Resign and notify the Secretary in the event of voluntary resignation, becoming bankrupt or insolvent or entering into a trust deed for creditors, becoming incapable for medical reasons of fulfilling his or her duties for a period of six months or more, as may be certified by a medical practitioner, or for any other reason ceasing to be eligible to be a charity trustee in terms of sections 69 and 70 of the 2005 Act;
- 11.4 Ensure that the Trust complies with any direction, requirement, notice or duty imposed on it by the 2005 Act;
- 11.5 Act with the standard of care and diligence that it is reasonable to expect of a person who is managing the affairs of another person.

ACCOUNTS AND FINANCE

- 12 The Trustees shall cause full accounts to be kept of income, capital and expenditure of all sums vested in, received by and expended by them in terms of this Trust in such form and manner as OSCR may prescribe. Such accounts shall be kept from 1st April in one year to 31st March in the following year and an abstract of same shall be circulated to every Trustee.
- 13 The said accounts shall be externally audited or externally examined in such manner as OSCR may prescribe.
- 14 The Trustees shall obtain proper investment advice within the meaning of the 1921 Act in relation to the investment of the Trust Fund.

PROHIBITIONS

- 15 No part of the property of the Trust may be paid or transferred to any of the Trustees except where this is in direct furtherance of the Trust Purposes.
- 16 In no circumstances is any part of the Trust Fund to be held or applied for any purpose which is not a charitable purpose.

GOVERNING LAW

17 The Trust hereby created shall be subject to the law and jurisdiction of Scotland:

IN WITNESS WHEREOF this trust deed comprising this and the preceding six pages together with the map annexed is signed and witnessed as follows:

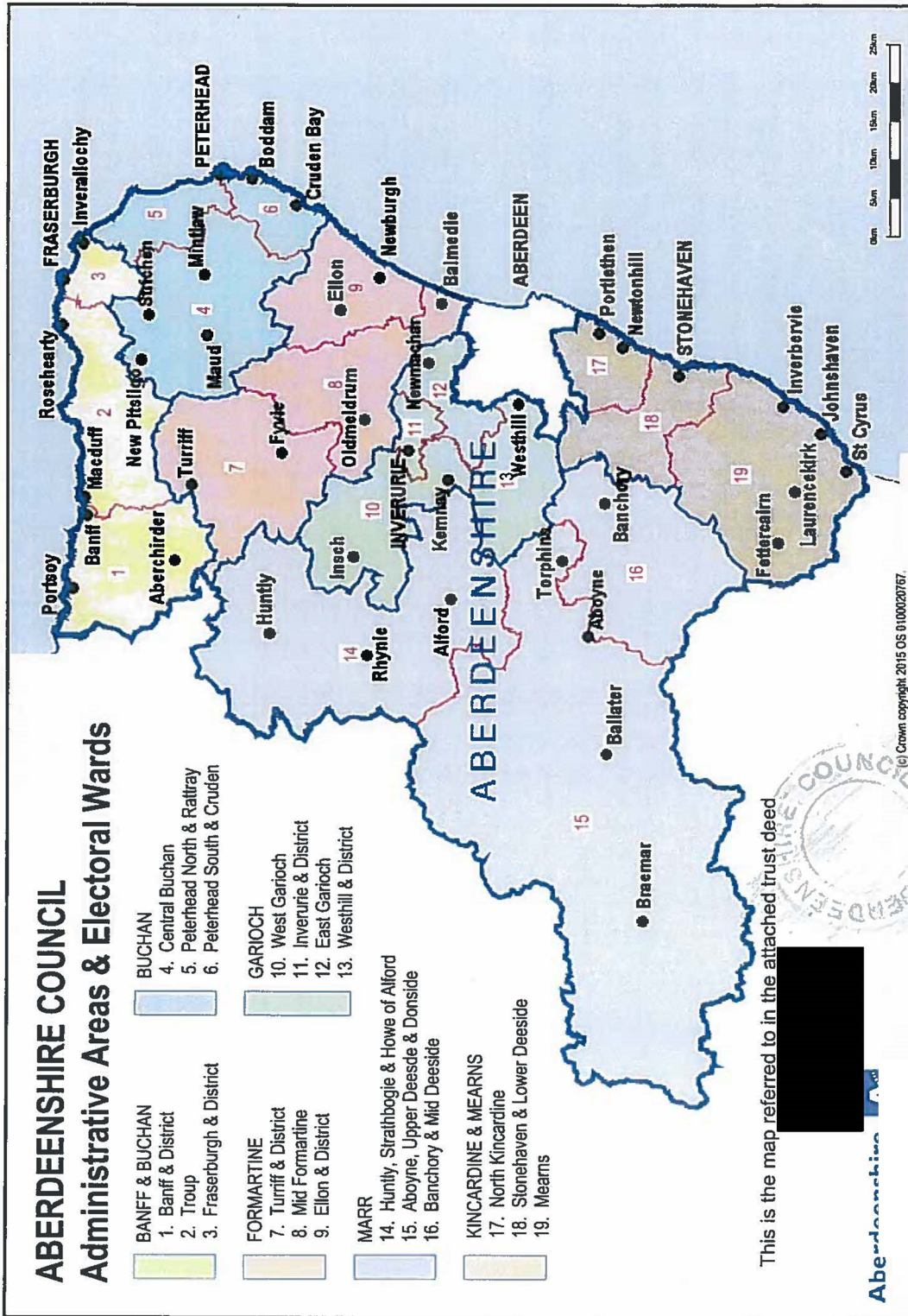
Subscribed for and on behalf of the said **THE ABERDEENSHIRE COUNCIL** by its Authorised Signatory and Proper Officer and sealed with the Council's Common Seal as follows:-

Authorised Signatory and Proper Officer

Full Name

Date of Signature

Place of Signature





BEING A CHARITY IN SCOTLAND – FOR ALL CHARITY TRUSTEES

Your organisation is now a Scottish charity and is entered in the Scottish Charity Register by The Scottish Charity Regulator (OSCR).

You should check your entry at our website www.oscr.org.uk and ensure you let us know of any changes, including if you change your email address.

You can now update some of your charity's details on the Register yourself using our OSCR Online service, which is quick and easy to use. Go to www.oscr.org.uk to find out more. We will send you your charity's registration details for OSCR Online soon.

Being a charity gives your organisation a privileged place in society and carries legal responsibilities. OSCR has compiled a list of key responsibilities that your charity trustees and managers should read carefully. If you require further information, please visit our [website](#).

1. Being a charity trustee means you are responsible, along with your fellow charity trustees, for running your charity properly. It is important that all charity trustees understand fully what their role means. All charity trustees should read our publication, '[Guidance for charity trustees :acting with care and diligence](#)', which you can download from our website. If you and your fellow charity trustees decide to take on new charity trustees you should have an induction policy in place to ensure that they are aware of their role.
2. It is important that you keep in touch with us to ensure you receive any important communications. It is a legal requirement that you let us know if your principal contact changes.
3. You have a duty to let people know you are a charity and give them certain information. For instance, you must show your charity number on your literature, job advertisements, and on your website. For more information, see '[Publicising your Charitable Status](#)' on our website. You must supply a copy of your accounts and your constitution to anyone who asks for them.
4. You must keep accurate accounting records, including receipts and invoices, and retain these for six years. We will send you an Annual Return form and ask you to confirm certain information every year. This should be completed and

Charities you can trust and that provide public benefit
The Scottish Charity Regulator, Quadrant House, 9 Riverside Drive, Dundee DD1 4NY



Telephone:
01382 220446



Fax:
01382 220314



Email:
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submitted, along with your compliant annual accounts and trustees' annual report. We will send you your first Annual Return, and this should be submitted to us within nine months of your financial year end. If you have an email address your Annual return form will be sent to you electronically. For more information please see our guidance '[Annual Monitoring and Accounting](#)' on our website.

5. You must seek OSCR's consent before making certain changes to your charity, for example changing its name or purposes, or dissolving it. Some other changes must be notified to OSCR once they have been made. Please see the section on '[Making changes to your charity](#)' on our website.
6. You may be eligible for some tax relief but you must apply for this to HM Revenue & Customs. OSCR does not deal with tax matters. Find out more at <https://www.gov.uk/> or by phoning 0845 02 02 03.
7. You may be eligible for some water and sewerage rates relief under the Water and Sewerage Charge Exemption Scheme. Find out more at <http://www.scotland.gov.uk/Topics/Business-Industry/waterindustryscot/watercharges>
8. As the regulator, we have a legal obligation to monitor your charity and to investigate any complaints received about it. Charities may be asked to take part in our programme of individual reviews of charitable status, where we check whether registered charities are continuing to meet the charity test. If we ask you for information, you must supply it.
9. Your charitable assets must be used for solely charitable purposes even if you dissolve the charity. If you choose to remove your charity from the Scottish Charity Register its charitable assets will still be monitored by OSCR.
10. OSCR's website www.oscr.org.uk contains further information and guidance on charity law and regulation.
11. OSCR cannot give you specific advice on how to run your organisation but there are umbrella groups and many other organisations that are able to give you a wide range of support. See the '[Links](#)' section on our website. You can also sign up to receive our newsletter, OSCR Reporter, which will keep you up to date with new developments. Subscription is free of charge [here](#).

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Specific Funding - Ward Areas	Applicable purposes under ACT2
Banff and Buchan Area	
Ward 1 – Banff & District	<ul style="list-style-type: none"> Relief of those in need by reason of age, ill-health, disability, financial hardship or other disadvantage and the prevention or relief of poverty.
Ward 2-Troup	<ul style="list-style-type: none"> The advancement of public participation in sport. Relief of those in need by reason of age, ill-health, disability, financial hardship or other disadvantage and the prevention or relief of poverty
Ward 3-Fraserburgh and District	<ul style="list-style-type: none"> The prevention or relief of poverty The advancement of education Developing education The advancement of health improving healthcare The advancement of citizenship or community development. The advancement of the arts, heritage, culture, or science. Promoting the arts, heritage, culture, or science The advancement of public participation in sport. Improving public participation in sport The provision of recreational facilities, or the organization of recreational activities, with the object of improving the conditions of life for the persons for whom the facilities or activities are primarily intended. The promotion of religious or racial harmony, the advancement of environmental protection or improvement. The relief of those in need by reason of age, ill-health, disability, financial hardship or other disadvantage.
Ward 4-Central Buchan	<ul style="list-style-type: none"> Relief of those in need by reason of age, ill-health, disability, financial hardship or other disadvantage and the prevention or relief of poverty.
Ward 5-Peterhead North and Rattray	<ul style="list-style-type: none"> Relief of poverty of those in need by reason of age, ill-health, disability, financial hardship or other disadvantage.
Ward 6 – Peterhead South and Cruden	NO FUNDS AVAILABLE
Formartine Area	
Ward 7-Turiff and District	<ul style="list-style-type: none"> The relief of those in need by reason of age, ill health, disability, financial hardship, or other disadvantage or to relief of poverty.
Ward 8-Mid-Formartine	<ul style="list-style-type: none"> The prevention or relief of poverty; the advancement of education. The advancement of health, the advancement of citizenship or community development.

Specific Funding - Ward Areas	Applicable purposes under ACT2
	<ul style="list-style-type: none"> • The advancement of the arts, heritage, culture, or science; the provision of recreational facilities, • The organization of recreational activities, with the object of improving the conditions of life for the persons for whom the facilities or activities are primarily intended. • The promotion of religious or racial harmony, the advancement of environmental protection or improvement. • The relief of those in need by reason of age, ill-health, disability, financial hardship or other disadvantage.
Ward 9- Ellon & District	<ul style="list-style-type: none"> • The advancement of the arts, heritage, culture, or science.
Garioch Area	
Ward 10 – West Garioch	No FUNDS AVAILABLE
Ward 11-Inverurie and District	<ul style="list-style-type: none"> • Relief of those in need by reason of age, ill health, disability, financial hardship, or other disadvantage or to relief of poverty.
Ward 12-East Garioch	<ul style="list-style-type: none"> • Relief of those in need by reason of age, ill-health, disability, financial hardship, or other disadvantage • The prevention or relief of poverty.
Ward 13 -Westhill and District	No FUNDS AVAILABLE
Marr Area	
Ward 14-Huntly, Strathbogie and Howe of Alford	<ul style="list-style-type: none"> • The prevention or relief of poverty. • The advancement of education. • The advancement of health, • The advancement of citizenship or community development.; • The advancement of the arts, heritage, culture, or science. • The provision of recreational facilities, or the organization of recreational activities, with the object of improving the conditions of life for the persons for whom the facilities or activities are primarily intended. • The promotion of religious or racial harmony, • The advancement of environmental protection or improvement. • The relief of those in need by reason of age, ill-health, disability, financial hardship or other disadvantage.
Ward 15-Aboyne, Upper Deeside and Donside	<ul style="list-style-type: none"> • The relief of those in need by reason of age, ill-health, disability, financial hardship, or other disadvantage.
Ward 16-Banchory and Mid-Deeside	<ul style="list-style-type: none"> • The advancement of the arts, heritage, culture, or science. • The relief of those in need by reason of age, ill-health, disability, financial hardship, or other disadvantage.
Kincardine and Mearns Area	

Specific Funding - Ward Areas	Applicable purposes under ACT2
Ward 17-North Kincardine	<ul style="list-style-type: none"> • The prevention or relief of poverty • The advancement of education Developing education • The advancement of health improving healthcare • The advancement of citizenship or community development. • The advancement of the arts, heritage, culture, or science. Promoting the arts, heritage, culture, or science • The advancement of public participation in sport. Improving public participation in sport • The provision of recreational facilities, or the organization of recreational activities, with the object of improving the conditions of life for the persons for whom the facilities or activities are primarily intended. • The promotion of religious or racial harmony, the advancement of environmental protection or improvement. • The relief of those in need by reason of age, ill-health, disability, financial hardship or other disadvantage.
Ward 18-Stonehaven and Lower Deeside	<ul style="list-style-type: none"> • The relief of those in need by reason of age, ill-health, disability, financial hardship, or other disadvantage.
Ward 19- Mearns	<ul style="list-style-type: none"> • The relief of those in need by reason of age, ill-health, disability, financial hardship, or other disadvantage.
Aberdeenshire Area	<p>Specifically designated for war-wounded service personnel Relief of those in need by reason of age, ill-health, disability, financial hardship or other disadvantage and the prevention or relief of poverty). The whole of the Aberdeenshire area is to be included. Aberdeen City is excluded.</p> <p>Care and Repair Service Support for needy residents of care and repair service. The whole of the Aberdeenshire area is to be included. Aberdeen City is excluded.</p>

Appendix 2

Conflict of Interest Policy

As a Trustee of ACT2 you are responsible for putting the interests of the charity before your own interests or those of any other person or organisation, which includes those responsible for your appointment. If a situation arises where this cannot be carried out, there may be a conflict of interest.

What is a conflict of interest?

A conflict of interest is any situation where there is a potential for a charity Trustee's personal or business interests, or the interests of someone that you are connected with, to differ from the interests of the charity. In this situation, it may be particularly difficult to make an impartial decision.

There are two main types of conflict of interest that can exist:

1. **Appointment conflict** which refers to a conflict of interest that arises between a charity Trustee and the organisation that appointed them.

For example, a contractual relationship between a charity and Aberdeenshire Council, a Councillor who is also a Trustee of that charity is placed in a position of conflict between a duty to the charity and your position as a Councillor, whenever the Trustees discuss matters relating to that contractual relationship. Both the charity and Aberdeenshire Council have an interest in securing the terms most favourable to themselves.

2. **Personal conflict** which refers to a conflict between your duties as a Trustee and your own personal or business interests.

For example, holding a position as a director in an organisation or a member of a committee and so possessing both a non-financial as well as a financial interest in that organisation, which then applies for funding from Aberdeenshire Charitable Trusts.

In both these situations, the charity Trustee duties require you to act in the interests of the charity.

It is important that the Trustee takes all appropriate steps to manage conflicts of interests, even where there only appears to be a conflict of interest. The Trustee must always act in the best interest of the charity.

The information detailed below provides a step-by-step process that must be applied when conflicts of interests arise.

What steps are to be taken if a conflict of interest arises?

Step 1: Identifying the Conflict of Interest

Trustees should refer to section 11.2 of the Deed of Trust for ACT2 in conjunction with this policy to identify any conflicts of interests. Where it is still unclear whether a conflict of interest exists, please seek appropriate advice. Any conflicts of interest identified by a Trustee must be recorded in writing and submitted to the Head of Legal and People.

The Trust accepts that all the Trustees have registered their interests as councillors in accordance with the Councillors Code of Conduct. The Trust will therefore use this register of interests for the Trust. However, if a change has occurred, or, if further additions need to be made in your capacity as a Trustee, a new form should be completed and submitted to the Head of Legal and People.

All Trustees are responsible for ensuring that a review of their interests is carried out on a regular basis.

Step 2: Manage the Conflict of Interest

In circumstances which give rise to the possibility of a conflict of interest between the Trust and another party, the interests of the Trust **must** be before that of the other party in taking decisions as a Trustee. It must be clear to all involved, as well as to the wider community, that the decision taken was not in any way influenced by the possibility of this conflict of interest. Ensure that any decision is accurately documented and demonstrates a reasoned understanding of why that decision was made.

Where there is a conflict of interest and the Trustee is unable to put the interests of the charity first, they must **declare** this interest and **refrain** from participating in any discussion or decisions involving the other Trustee about the matter in question.

Step 3: Record

All conflict must be disclosed

The Trustees must ensure that there is a record of what the conflict was, when it was identified and declared, what was discussed and decided, if the Trustee withdrew from the decision and how the remaining Trustees made a decision in the best interests of the charity.

What should you do if another charity Trustee has a conflict of interest?

All charity Trustees have the legal duty to protect the interests of the charity. This responsibility is not solely restricted to a single individual but should be approached

collectively to ensure a breach of charity duties does not occur and, if it does occur, that it is corrected and not repeated. If you are aware of another Trustee who is conflicted, and it is not declared, it is your duty to make this conflict known.

If there is a serious or persistent breach of duty by an individual, the charity Trustee should be removed. If the charity Trustees fail to do so, this could be considered as mismanagement or misconduct in the administration of the charity Trustee. OSCR as the Scottish Charities regulator is required to identify and investigate any apparent misconduct and where appropriate take protective action. OSCR has the power to act against Trustees, where appropriate.

Appendix 3

Register of Charitable Trustees Interests Notice of Registerable Interests

Councillor	
Ward	
Category	Please provide details of the interest and whether it applies to yourself, or where appropriate, connected persons.
Current employment and any previous employment in which you continue to have a financial interest.	
Appointments (voluntary or otherwise) e.g. Trusteeships, directorships, committees, boards etc.	
Membership of any professional bodies, special interest groups or mutual support organisations.	
Investments in unlisted companies, partnerships and other forms of business, major shareholdings and beneficial interests.	
Gifts and hospitality	

To the best of my knowledge, the above information is complete and correct. I undertake to update as necessary the information provided, and to review the accuracy of the information on an annual basis. I give my consent for it to be used for the purposes described in the conflicts of interest policy and for no other purpose.

Signed:

Position:

Date: