
Report To:	Education & Lifelong Learning Committee	Date:	11 May 2010
Report By:	Corporate Director Education & Communities	Report No:	EDUC/32/10/AH
Contact Officer:	Albert Henderson	Contact No:	01475 712761
Subject:	Deed of Trust – Endowment for Talented Children & Young People		

1.0 PURPOSE

- 1.1 The purpose of this report is to give Committee an update on the use of the endowment for talented children and young people in Inverclyde and to request that future applications for grants be capped at a maximum of 50% of the amount applied for.

2.0 SUMMARY

- 2.1 On 9 September 2008 the Education & Lifelong Learning Committee agreed to the establishment of the endowment fund for talented young people in Inverclyde.
- 2.2 It was agreed that the sum of £150,000 would be set aside to fund this endowment. It was agreed that the endowment be mainly used in the areas of arts, music and sport. The Trust has proved to have been extremely successful in the promotion of talented young people with the most recent example being the Inverclyde Schools Concert Band's gold award in Birmingham.
- 2.3 A deed of trust was established to help administer this fund and three trustees were nominated to oversee the disbursement of the fund. The trustees consist of two Corporate Directors and the Chief Financial Officer.
- 2.4 The grant was to be used for supporting individuals or groups who were involved in national or international events or competitions. The grant can be used for purposes such as the purchase of equipment, training costs or relevant travelling expenses and is restricted to youngsters who are school aged. Applications must use the appropriate application form and have their request verified. The current balance of the fund is £69,513.23 and appendix 1 outlines how the funding has been disbursed since the creation of the grant. Committee will note that £5,000 has been awarded to Inverclyde Sports Council to be allocated by them to talented young sports people in Inverclyde.
- 2.5 Since the grant is finite and is not replenished on an annual basis it is proposed that Committee agree that future applications for funding should be capped at a maximum of 50% of the application. The purpose of this request is to ensure that funding will be distributed across as many individuals and groups as possible. If Committee approves the 50% capping on applications then the general conditions of the grant will be amended accordingly.
- 2.6 As the Trust has proven to be extremely successful in promoting talented youngsters across Inverclyde it is proposed to explore other sources of funding in the future to try and maintain this support. Areas such as working with parent groups, proceeds from fund raising events, such as the Provost's Ball and the Pride of Inverclyde raffle, and private sponsorship.

3.0 RECOMMENDATIONS

3.1 It is recommended that:

- (a) Elected Members note the use of the endowment fund to date and the total remaining.
- (b) Elected Members agree that future applications for funding be capped at a maximum of 50% of the amount applied for.

Albert Henderson
Corporate Director Education & Communities

4.0 BACKGROUND

- 4.1 The Council decided that there would be a sum of £150,000 set aside for an endowment to be created for talented children and young people. It was anticipated that this would mostly be in the areas of arts, creativity, including music, and sports.
- 4.2 There will be a group of three trustees who will administer the disbursement of funds, two Corporate Directors and the Chief Finance Officer. The grant will be used for supporting individuals or groups who are involved in national or international events or competitions.
- 4.3 The grant may be used for the purpose of equipment or for training or for travel. There is a form of application for grants which, in the case of school children, would be signed by the headteacher.

5.0 IMPLICATIONS

5.1 Financial Implications

N/A

5.2 Legal Implications

N/A

5.3 Human Resources Implications

N/A

5.4 Equalities Implications

The grant is available to all talented youngsters across Inverclyde.

6.0 BACKGROUND PAPERS

6.1 Deed of Trust

Endowment to Talented Children & Young People

Awards Made

Purpose		Value £	Value	Approved
Total Grant			150,000	
World Junior Choir Championships – Austria		59,649		February 2009
National Choir Championships – Liverpool		7,181		February 2009
National Championship – Cardiff		15,144		February 2009
Training Weekend – Castle Toward		600		February 2009
Training Weekend – Castle Toward		600		February 2009
Training & Competition Costs – Athletics		1,000		February 2009
Training Costs – Athletics		250		April 2009
Training Costs – Athletics		250		April 2009
Training Costs – Athletics		250		April 2009
Training Costs – Athletics		250		April 2009
National Festival – Birmingham		3,280	88,454	Feb 2010 (allocation - £5,455)
Sub-Total			61,546	
Income to Fund	Internal resources interest for 08/09	3822		
	Internal resources interest for 09/10	195		
	Travel Insurance Pay Out	3950	7,967	
Total Remaining			69,513	
<i>Annual Allocation – Sport Award – Sports Council</i>		<i>5,000</i>		<i>Allocated – not yet spent</i>

DEED OF TRUST
by
THE INVERCLYDE COUNCIL
re
ENDOWMENT FOR TALENTED CHILDREN AND YOUNG PEOPLE

WHEREAS

The Inverclyde Council has resolved to establish an educational endowment for the benefit of exceptionally talented children and young people in the fields of the arts, culture and sport for the purpose of the advancement of education, in exercise of their powers under Section 85 of the Local Government (Scotland) Act 1973 and under all other enabling powers in that behalf, pursuant to the Education (Scotland) Act 1980.

AND WHEREAS

- (A) Without prejudice as to the definitions in the headings hereto, throughout these presents the following terms and expressions shall have the meaning respectively set against them unless the text or context requires otherwise:

“Arts, Culture and Sport” shall include expressive, imaginative and creative skills and activities including, without prejudice to the generality, acting, drama, theatre, dance, music, art, drawing, painting, sculpture, poetry, prose and literature and all sports.

“Children and Young People” shall mean a child or young person who is a permanent resident of Inverclyde and who attends a school of secondary education which is either (a) managed by the Inverclyde Council or (b) approved by the Inverclyde Council as a suitable school for the child or young person to attend to develop his exceptional talent.

“Corporate Director of Regeneration” shall mean the Corporate Director of Regeneration & Resources of the Inverclyde Council.

“Director of Education” shall mean the Corporate Director of Education & Social Care of the Inverclyde Council.

“Chief Financial Officer” shall mean the Chief Financial Officer of the Inverclyde Council.

"Inverclyde" shall mean the local authority area of Inverclyde.

"Inverclyde Council" shall mean the Inverclyde Council, constituted in terms of the Local Government Etc. (Scotland) Act 1994 and having its Headquarters at Municipal Buildings, Clyde Square, Greenock, PA15 1LY as Education Authority for Inverclyde and shall include all successor authorities to the said Inverclyde Council as Education Authority responsible for Inverclyde.

"Endowment", "Educational Endowment" and "Educational Purposes" respectively shall have the meanings assigned to them by the Education (Scotland) Act 1980.

"Endowment Fund" means and shall comprise (but without limitation) such property, heritable or moveable, real or personal, cash, investment monies and other assets as shall from time to time be received or held by the trustees and the assets from time to time representing same together with the income thereof and with such other property, sums or securities of whatsoever nature which may from time to time hereinafter be paid, transferred or made over to the trustees for the purposes of furthering the objects of the trust.

"The Endowment for Talented Children and Young People" means the educational Endowment established hereunder in the form of a public trust for the purposes of fulfilling the objects and purposes as hereinafter defined.

"exceptional talent in the fields of the Arts, Culture and Sport " means a child or young person assessed as such by the trustees in the broad exercise of their discretion having regard to the individual circumstances of the child or young person and to the degree of talent and commitment shown.

"objects/purposes of the trust" means the objects and purposes set down in clauses 3 and 6 hereof.

"the Schedule" means the Schedule annexed and subscribed as relative hereto.

"the trustees *ex officio*" means trustees appointed pursuant to the provisions of paragraphs 4.1.1 below, and "trustee *ex officio*" shall be construed accordingly.

“the Trust” means the Endowment for Talented Children and Young People.

“trustees” means trustees from time to time of the trust.

- (B) Words importing the singular shall include the plural and vice versa; references to persons shall include individuals, firms and corporations; words importing the masculine or neuter gender include all genders.
- (C) The headings are inserted for convenience only and shall not affect the construction of this deed.
- (D) “clause” means a clause of this deed and “sub-clause” shall be construed accordingly.
- (E) The *ejusdem generis* rule shall not apply and accordingly the interpretation of general words shall not be restricted by being preceded by words indicating a particular class of acts, matters or things or by being followed by particular examples.

1. APPLICABLE LAW

These presents shall be governed in all respects by, and construed in accordance with, the law of Scotland; And the parties hereto consent to registration hereof for preservation and execution.

2. ESTABLISHMENT OF THE ENDOWMENT FOR TALENTED CHILDREN AND YOUNG PEOPLE

By these presents the Inverclyde Council hereby constitutes and declares the establishment of the Endowment for Talented Children and Young People with effect from First April Two thousand and Eight notwithstanding the date or dates hereof and further declares and acknowledges the trustees to be the original trustees of the Trust for the purpose of furthering the objects of the Trust.

3. OBJECTS of the Endowment for Talented Children and Young People

The objects are to advance the education of Children and Young People who show exceptional talent in the fields of the Arts, Culture and Sport by the provision of

financial and other assistance and support which includes using the funds for Educational Purposes.

4. TRUSTEES

4.1 Identity and Appointment

4.1.1 The trustees shall comprise of the following:

4.1.1.1 The Chief Financial Officer, ex officio, and his successors in office as Chief Financial Officer;

4.1.1.2 The Corporate Director of Education & Social Care, ex officio and his successors in office as Director of Education; and

4.1.1.3 The Corporate Director of Regeneration & Resources, ex officio, and his successors in office as Director of Regeneration & Resources.

4.1.1.4 Such other persons as shall be nominated or assumed in accordance with sub-clause 4.1.3 hereof

4.1.2 The persons to be the trustees hereunder as at the commencement of this trust shall be:

4.1.2.1 Alan Puckrin in his capacity as Chief Financial Officer.

4.1.2.2 Ian Fraser in his capacity as Corporate Director Education & Social Care, or

4.1.2.3 Aubrey Fawcett in his capacity as Corporate Director Regeneration & Resources.

All of the said persons appointed as trustees under this sub-clause acknowledge their acceptance of their appointment as trustees hereunder by their respective subscriptions hereto.

4.1.3 The trustees shall be entitled to assume or co-opt new or additional trustees subject to sub-clauses 4.2 and 4.7 hereof.

4.2 NUMBER

4.2.1 There shall be at all times not less than three trustees and, in the event of the number of trustees falling at any time to one, the remaining trustee shall not be entitled to exercise any of the functions or powers of trustees except those of assuming new trustees.

4.3 MEETINGS AND QUORUM

Any trustee may call a meeting of the trustees.

The quorum necessary for the transaction of all business of the trustees shall be three of the trustees for the time being present in person. The Chairman of the Trustees shall be the Corporate Director Education & Social Care. In the event that the Chairman is not in attendance at any meeting(s) of the trustees, those trustees present in person at such meeting shall appoint one of their own number to preside at such meeting.

4.4 VOTING

All business brought before a meeting of the trustees shall be decided by a majority of the votes of the trustees present and voting thereon and in the case of an equality of votes, the Chairman of the meeting shall have a second or casting vote.

4.5 WRITTEN RESOLUTION

A resolution in writing signed by a majority of the trustees for the time being, but of which due notice shall have been given to all of the trustees individually shall be as effectual as if it had been passed at a meeting of the trustees and may consist of one or more documents in similar form each signed by one or more of the trustees. In that event the quorum shall be the majority of the trustees unless despite reasonable endeavours one or more of the trustees are uncontactable, in which event the quorum shall be the majority of the trustees who are contactable and the circumstances shall be duly noted by resolution. A posted or faxed copy of such documents shall be valid for such purposes.

4.6 REGULATIONS

The trustees shall have power to make such regulations as they shall think fit for carrying out any of the purposes of the Trust and to vary or rescind any such regulations.

4.7 ASSUMPTION OF NEW TRUSTEES

Subject to the terms of sub-clause 4.1 and 4.2 the provisions of section 3 of the Trusts (Scotland) 1921 shall apply.

4.8 RESIGNATION

4.8.1 In addition to his statutory powers of resignation, a trustee may resign his appointment as trustee by signing and serving on the trustees one month's notice in writing to that effect, which notice shall be delivered to the trustees at the postal address of Head of Legal Services, Inverclyde Council Headquarters, Municipal Buildings, Clyde Square, Greenock, PA15 1LY. A trustee shall be deemed to have resigned and to have served notice in writing as aforesaid in the event that an *ex officio* trustee ceases to hold the relevant office. In the event that there are no trustees, the Director of Education shall have power to co-opt as trustee any other senior employee of the Inverclyde Council whom the Director of Education believes would be a proper and appropriate person to be so co-opted in the circumstances;

4.8.2 In the event that an *ex officio* appointee shall decline to be a trustee, or shall resign as trustee pursuant to the provisions of the immediately preceding sub-clause 4.8.1, while continuing after the effective date of such resignation in the relevant office, the remaining trustee(s) which, failing the Director of Education, shall have power to co-opt as trustee any other senior employee of the Inverclyde Council whom the trustees or the Director of Education believe would be a proper and appropriate person to be so co-opted in the circumstances (and in exercising such power the trustee(s) or the Director of Education shall take due account of the nature of the office held by such trustee declining to serve, or resigning as aforesaid).

4.9 SECRETARY

The Head of Legal and Administration will nominate a person to act as secretary to the Trust. That person will be expected to attend meetings of the trustees and keep proper minutes of all proceedings. The Secretary will also keep proper records and documents in relation to all other matters connected with the administration and management of the Trust.

4.10 REMUNERATION

The trustees will not receive any remuneration by the Trust for carrying out his/her duties.

5. NAME

The trust hereby constituted shall be known as the “Endowment for Talented Children and Young People”.

6. ENDOWMENT PURPOSES

The trustees shall hold and apply the Endowment Fund in trust for the objects of the Trust and for no other purpose.

7. RULES

7.1 Without prejudice to the provisions of sub-clause 4.6 hereof regarding the establishment of Regulations, the Endowment Fund shall be held and applied by the trustees in accordance with the following rules:

7.1.1 the capital of the Endowment Fund subject to sub-clause 7.1.2 below, shall be retained and invested by the trustees in accordance with the powers herein specified;

7.1.2 the trustees may apply the income and/or capital of the trust fund for the trust purposes as they may from time to time decide;

7.1.3 in the event of the trustees being unable other than for a reason of a temporary or transient nature to fulfil the trust purposes, they shall have power to wind up the trust in accordance with clause 12 hereof;

7.1.4 in any question as to the powers of the trustees or as to whether any course of action is within the said powers, or is in furtherance of the trust objectives, the Head of Legal and Administration Services shall be the final arbiter;

7.1.5 the Endowment Fund shall be held in the name of the Inverclyde Council and in trust for the Trust;

7.1.6 there shall be delegated to the Chief Financial Officer the powers exercisable by the trustees under Clauses 19 of the Schedule;

7.1.7 the trustees shall be obliged to obtain the advice and agreement of the Chief Financial Officer prior to the exercise of all other powers contained in the Schedule and prior to the exercise of all trustees' implied financial powers including the general powers of trustees contained in Section 4 of the Trusts (Scotland) Act 1921;

7.1.8 In the exercise of their functions the trustees shall consider the personal circumstances of the child or young person and alternative financial or other support arrangements, the degree of talent shown and the needs of and the commitment shown by the child or young person in the fields of the arts, culture and/or sport.

8. ENDOWMENT FUND

The Inverclyde Council hereby assigns, transfers and makes over to themselves in trust for the Trust the sum of ONE POUND (£1.00) STERLING which shall form part of the Endowment Fund.

9. POWERS OF TRUSTEES

The trustees in the administration and execution of the trust shall have all powers, privileges and immunities of gratuitous trustees acting under the law of Scotland and without prejudice to the foregoing generality and the terms of Clause 7.1, the trustees shall have the powers set out in the Schedule.

10. TRUSTEES IMMUNITIES

10.1 The trustees shall be entitled to all the immunities of gratuitous trustees in Scotland. Without prejudice to the foregoing generality they shall not be liable for:

10.1.1 any loss or damage which may be occasioned by the failure or depreciation in value of any assets or property in which the trust funds are invested or which they may acquire from any person;

10.1.2 the consequences of any decision of theirs which they bona fide believe to be for the benefit of the trust fund; and

10.1.3 any action, errors, omissions or neglect of diligence, nor for the insufficiency of securities, insolvency of debtors or depreciation in the value of purchases, nor *singuli in solidum* nor for the intromissions of each other or their factor, but each for his or her actual intromissions only.

10.2 The trustees shall not be bound or required to interfere in the management or conduct of the business of any company wherever resident or incorporated in which the trust shall be interested (notwithstanding the trust may hold the whole or a

majority of the share capital carrying control of the company) so long as there shall be no notice of any act of dishonesty or misappropriation of monies on the part of the directors having the management of such company and the trustees shall be at liberty to leave the conduct of its business including the payment or non-payment of dividends wholly to such directors and no person(s) other than the trustees shall be entitled to require the distribution of any dividends by any company wherever incorporated or resident in which the trustees may be interested or require the trustees to exercise any powers they may have of compelling such distribution.

11. AMALGAMATION

The trustees shall be entitled but only with the agreement of the Chief Financial Officer to absorb into the trust fund any other trust fund or body having objects similar or related to the objects of the Trust.

12. WINDING UP

The trust fund may be wound up by a resolution of the trustees to that effect and with the agreement of the Chief Financial Officer if the trustees are at any time of the opinion that the objects of the Trust can no longer be achieved by the continuance of the trust fund or can more usefully be achieved in some other manner or that the assets of the trust fund can be otherwise used with greater advantage to achieve the objects of the Trust. If the trust fund shall be wound up the trustees shall have power to transfer the trust fund to the Inverclyde Council to be used exclusively for purposes in accordance with the objects/purposes of the Trust or to any other trust, institution or body which in the opinion of the trustees shall have objects, *inter alia*, similar to those which the Trust seeks to promote within the Inverclyde area.

13. VARIATION OF TRUST PURPOSES, ETC.

The trustees at any time shall with the consent of the Chief Financial Officer, be

entitled to execute a supplementary deed of trust for the purpose of varying or modifying the trust purposes, powers and provisions herein contained:

IN WITNESS WHEREOF these presents consisting of this and the Nine preceding pages together with the Schedule annexed are executed as follows:

SCHEDULE**POWERS OF TRUSTEES**

14. From time to time, in their absolute discretion to pay or apply the income of the Endowment Fund in the furtherance of the objects of the Trust and the trustees shall accumulate any income not so applied along with the capital of the Endowment Fund and if the trustees in their absolute discretion so think fit, may pay or apply any part(s) or the whole of the capital of the Endowment fund in any manner in which they may pay or apply the income thereof.
15. To acquire, whether by gift, purchase, lease or otherwise, land or buildings and manage and adapt such land or buildings for the purposes of the Endowment Fund, with full power to the trustees to maintain, improve, equip and furnish such property in such manner as they consider appropriate.
16. To apply for and to receive and accept for any of the Endowment purposes any grants, donations, transfers, covenants, bequests or gifts from whatsoever source(s) and on whatever conditions the trustees consider appropriate.
17. To retain, accept, purchase or sell any property, investments or assets, heritable and moveable, real and personal of any and every description wheresoever situated throughout the world (whether producing income or not, or whether authorised by the Trustee Investments Act or not) transferred to them or which may subsequently be transferred to them from time to time.
18. To accept, effect and maintain any policies of insurance or assurance whatsoever which the trustees in their sole discretion consider to be for the benefit of the Trust whether on the life of any person or otherwise.
19. To open or otherwise deal with bank accounts, to delegate the power of investment management, to set up and maintain accounting records, the preparation of financial statements (and for that purpose the accounting reference date of the trust shall be determined by the Chief Financial Officer) and to procure an audit of such records and statement; and for these purposes to appoint agents, accountants, factors, solicitors, stockbrokers, or other professional and specialist advisers to manage the Trust and to take and execute investment decisions and carry out administrative acts within the policy thereon determined by the trustees and to pay to such person so

appointed (whether of their own number or not) the usual professional remuneration and commission PROVIDED ALWAYS that the powers in this Clause shall be exercised for and on behalf of the trustees by the Chief Financial Officer.

20. To lend money on such terms as to interest, repayment or otherwise as they think fit and whether upon security or not as the trustees in their discretion shall deem prudent; to borrow money on such terms as they may think fit and apply monies so borrowed in accordance with their powers.
21. To let any heritable property on any lease on such terms and conditions and for such period as they think fit and carry on any business, alone or in partnership, and expand and invest the capital in improving, developing or adding to such business and the income in maintaining it.
22. Grant proxies in favour of any of their number or any other person to attend, act and vote for them at meetings of any company, corporation, trust or undertaking or in any bankruptcy or winding up proceedings in which the trustees may be interested or any class meeting of shareholders, stockholders or debenture holders of any company, corporation trust, undertaking or of creditors in such bankruptcy or winding up.
23. Exercise in relation to any company or corporation in which shares or securities are held by the trustees, all powers competent to them, including power to promote or concur in any reconstruction or amalgamation, with power to any of their number to continue or to be appointed as a director or officer of any such company or corporation.
24. To promote or concur in the formation, reconstruction or amalgamation of any company with limited liability including, without prejudice to that generality, any company formed to take over any business, company or concern carried on by the trustees or in which they may be interested and to subscribe for and hold debentures, stocks, shares or other obligations of such new company or to accept the debentures, stocks, shares or other obligations of such reconstructed or amalgamated company in lieu of or in substitution for the debentures, stock, shares or other obligations held by the trustees prior to such reconstruction or amalgamation and to contribute to the expenses of such formation, reconstruction or amalgamation.
25. To remove from their position as trustee any trustee who has been in serious or persistent breach of their respective duties under the Trust.

26. Subject always to the terms of Clause 7.1.4 hereof, to determine as they shall consider just, all questions and matters of doubt arising in connection with the interpretation of these presents or the administration of the Trust so that every determination, whether made upon a question actually raised or implied in connection with actings and proceedings of the trustees, so far as the law may permit shall be conclusive.
27. To take such steps as may be deemed appropriate for the purpose of raising funds.
28. To do anything which may be incidental or conducive to the furtherance of any of the objects or purposes of the Trust.