

CYNGOR SIR POWYS COUNTY COUNCIL.

**Portfolio Holder Delegated Decision Report
by
County Councillor Dai Davies
Portfolio Holder for Finance
&
County Councillor Avril York
Portfolio Holder for Regeneration and Planning**

REPORT AUTHOR: Treasury Manager

SUBJECT: Welsh Church Acts

REPORT FOR: Decision

1. Introduction:

- 1.1 The purpose of this report is to highlight issues in respect of the governance and processes surrounding grant administration of the Welsh Church Acts Trust Fund, for which the Authority is the statutory trustee, and to propose a satisfactory change going forward in order to address these issues and ensure proper governance and value for money.

2. Background:

- 2.1 The Welsh Church Act Trust was established from the proceeds and assets of the dis-establishment to the Church in Wales via an Act of Parliament in 1914. The assets were distributed evenly amongst the former County Councils in Wales and were further divided between the Welsh Unitary Authorities with their establishment in 1996.
- 2.2 With effect from 1996 Powys County Council was trustee of various trust funds including the Welsh Church Acts. In July 2008, a report to Board by the Portfolio Holders for Finance and Legal Services in conjunction with the Chief Finance Officer and Chief Legal Officer highlighted the following:-

“It has been apparent for a number of years that the Council has been struggling to fulfil its responsibilities as Trustee. It is also the case that the cost of administering these charities has, in large measure, simply fallen on the County Council and not been borne (as should have happened) by the individual charities. The only charge that has been made to the trust funds is for the year end accounting work and submission of Charity Commission returns. In 2006/07, this charge amounted to £24,125 or 0.4% of the total trust value. Few charges have been made to the trust funds over the years for the cost of handling applications, legal advice, property advice etc. The availability of the award of grants from these Trusts is generally poorly advertised and there are inconsistencies in award criteria. Constitutionally, there has not been

an adequate differentiation between the role of Councillors as County Councillors and as Trustees. The normal practice being to simply deal with charity trust matters as an item on an ordinary committee agenda as though it were just another item of Council business, which of course it is not. The business of these charity trusts should be dealt with at a separate Trustees meeting.”

As a result of this 2008 report Board agreed that, in principle, the trusteeship of certain trusts be transferred to a trustee body external to the County Council and that the relevant Portfolio holders bring a further report to Board with final proposals on how this could be achieved.

- 2.3 This further report was submitted to Board on 24th February 2009 whereby it was agreed that certain Trust Funds be transferred to the Community Foundation in Wales (CFiW) and other relevant Trustees and, in respect of the Welsh Church Fund, it was agreed, in principle, to outsource the management to the CFiW subject to the satisfactory outcome of discussions on the administration of grants.
- 2.4 Following discussions, which included the Portfolio Holder for Economic and Regeneration, it was agreed that the CFiW would manage the investments of the Welsh Church Acts and award of the education grants (which were previously being managed within Finance). Regeneration would continue to administer the community based grants. An email dated 2nd July 2009 is available confirming this but a formal Board minute does not appear to be in place.
- 2.5 Following this agreement, arrangements were put in place to hand over the investments and cash holdings to CFiW in September 2009.

3. Post September 2009:

3.1 Grant Awards:

As part of the handover arrangements it was necessary for the Council to retain the amount of cash needed to pay out any grants already awarded pre September 2009 but not paid at that date. When preparing the 2009/10 accounts it became apparent that a higher amount had been paid out of the Fund than the amount that had been communicated to Finance for retention and, as such, the Fund went into an overdrawn cash position. This meant that the amount available for grant award in 2010/11 had to be reduced by the overdrawn amount.

The position for further years is as below:-

	Amount available for grant award £'000	Total awarded £'000
2010/11	20	28
2011/12	3	17
2012/13	Nil	Nil
2013/14	Nil	Nil

The grant awards over and above the available allocations were subsequently met from the Powys Enablement Fund. However, there is no written confirmation available that this was agreed by the Portfolio Holder.

3.2 Audit position:

3.2.1 The Fund has to be audited each year by the Wales Audit Office (WAO) and the audit letter produced by them has to be filed online with the Charity Commission. At the present time the letter for 2010/11 and 2011/12 financial years has not been received as the audits have only recently been satisfactorily concluded. The audit of the accounts for 2012/13 and 2013/14 financial years are still underway.

Discussions in respect of the 2010/11 and 2011/12 financial years took place with WAO on several occasions and Finance was able to provide information as requested by WAO. It has been agreed that, in lieu of any written confirmation that the grants awarded from the Welsh Church Fund could be met from the Powys Enablement Fund, the Welsh Church Fund owes the Powys Enablement fund circa £25k. This figure is based on the table above plus some differences between amounts awarded and subsequent amounts paid. This payment will be made in the current financial year 2014/15. As a result of this, the Welsh Church Fund accounts have had to be re-stated for 2010/11, 2011/12, 2012/13 and 2013/14 and an updated Charity Commission return will need to be submitted for 2010/11 and 2011/12 alongside the yet to be submitted returns for 2012/13 and 2013/14.

3.2.2 A September 2013 internal audit of the Welsh Church Fund grant administration function resulted in an opinion of Limited Assurance i.e. significant evidence was found that some key controls and applications do not exist and there is some risk that the service objectives will not be achieved.

3.3 Grant Awards Governance:

3.3.1 The award of grants has, for several years, been delegated to the Portfolio Holder. However, as the Trust Fund money does not belong to the Council, it merely acts as the statutory Trustee, this is not appropriate. The subject of proper governance was referred to in the original report to Board in 2008 as referred to in 2.2 above.

3.3.2 In the 2009 Board report the proposal from CFIW in respect of the grant administration was to agree awards via a Local Grants Panel with a suggested membership as follows:-

1 x representative of PAVO

3 x County Councillors, one from each shire

2 x CFIW Trustees (one of whom would chair the meetings).

A Grants Panel which includes 3 County Councillors is already in place in respect of the other Trust Funds handed over to CFIW in 2009.

3.4 Investments:

- 3.4.1 In line with the Council's original direction that the CFiW would be responsible for managing the investments in perpetuity, the CFiW has invested the capital sums accordingly. The CFiW has also, as originally directed, sought to repair the capital base of the Fund and members will see from the table below that this is being achieved.

The capital position is as follows:-

	Investments at 31 st March £	Income generated from investments £
2010/11	1,813,540	52,028
2011/12	1,799,459	54,514
2012/13	1,971,846	76,285
2013/14 (provisional pre audit)	2,107,219	84,168

The CFiW has met annually with the Council's s151 officer to discuss the Trust Funds they took over in 2009 plus the management of the Welsh Church investments. The latest meeting took place in February. Members were subsequently sent a copy of the CFiW's latest report in respect of the Powys Funds that transferred in 2009. This report provided comfort that this Powys Fund is being properly managed and governed by CFiW.

4. Going Forward:

- 4.1 As per 3.4.1 above, it is not possible at this time to withdraw the investments hence this aspect of the Fund management will remain with CFiW.
- 4.2 As mentioned previously, whilst the Trusteeship of the Welsh Church Acts Fund is a statutory duty of the Council, the day-to-day administration of the Fund is not. Current administration by the Council is not the most cost effective solution for the Fund neither does it provide best value for money. Ensuring that proper governance is in place going forward will require further staff and member resources that, in the current climate, the Council is not in a position to provide. The cost of doing so would also add further costs to the Fund.
- 4.3 The CFiW has indicated that they remain available to carry out the grant administration of the Welsh Church Fund if required and, further to the original 2009 quoted fee of 10%, they would probably be able to offer a lower rate of 7-8%. For members' information, based on the 2013/14 figures, this would result in the following minimum savings to the Fund which would provide better value for money whilst achieving proper governance in the process:-

	In house £	CFiW (based on 2013/14) £	Saving £
Grant administration	12,560	6,733	5,827
Finance dept recharge	2,500	250	2,250
Total	15,060	6,983	8,077

- 4.4 As previously agreed with CFiW, the Council would continue to administer and collect the rental income in respect of the land holdings as this is linked to County Farms. This income would be forwarded to CFiW annually.

Proposal

It is proposed that the administration of grants in respect of the Welsh Church Acts Fund is transferred to the CFiW at the earliest opportunity.

Powys Change Plan

N/A

Options Considered/Available

1. The administration of the grants is transferred to the CFiW at the earliest opportunity.
2. The administration of the grants is retained in-house but with proper governance, proper processes and increased resources in place.

Preferred Choice and Reasons

The preferred choice is to transfer the administration of grants in respect of the Welsh Church Acts Fund to the CFiW at the earliest opportunity, as this will achieve savings whilst ensuring proper governance and value for money is achieved.

Sustainability and Environmental Issues/Equalities/Crime and Disorder./Welsh Language/Other Policies etc

N/A

Children and Young People's Impact Statement - Safeguarding and Wellbeing

N/A

Local Member(s)

N/A

Other Front Line Services

N/A

Support Services (Legal, Finance, HR, ICT, BPU)

Legal: The recommendation can be supported from a legal point of view.

Local Service Board/Partnerships/Stakeholders etc

N/A

Communications

N/A

Statutory Officers

Chief Finance Officer's comment:
"I support the recommendation."

The Solicitor to the Council (Monitoring Officer) has made the following comment:

"I note the legal comment and have nothing to add to the report."

Members' Interests

The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If either of the Portfolio holders has an interest, they should declare it, complete the relevant notification form and refer to Cabinet for a decision.

Future Status of the Report

Recommendation:	Reason for Recommendation:
That the administration of grants in respect of the Welsh Church Acts Fund is transferred to the CFiW at the earliest opportunity.	Cost savings are realised whilst ensuring proper governance and value for money is achieved.

Relevant Policy (ies):			
Within Policy:		Within Budget:	Y
Relevant Local Member(s):			
Person(s) To Implement Decision:	Mrs Ann Owen – Treasury Manager		
Date By When Decision To Be Implemented:	As soon as practicable		

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