



**CABINET SITTING AS TRUSTEE OF THE NINE MILE SCHOLARSHIP  
FUND AND THE JOHN EDWARDS MEMORIAL FUND  
16<sup>TH</sup> JANUARY 2018**

**SUBJECT: NINE MILE SCHOLARSHIP FUND AND THE JOHN EDWARDS  
MEMORIAL FUND CHARITIES**

**REPORT BY: CORPORATE DIRECTOR FOR EDUCATION AND CORPORATE  
SERVICES**

---

**1. PURPOSE OF REPORT**

- 1.1 To seek a resolution to amend the rules of the Nine Mile Scholarship Fund and the John Edwards Memorial Fund (“the Charities”).

**2. SUMMARY**

- 2.1 Following the closure of the former Oakdale and Pontllanfraith Comprehensive Schools, the objects of the Charities can no longer be applied for their original purposes. The Council by its Cabinet sitting as a corporate trustee is required to pass a resolution altering the objects of the Charities so that the charitable funds may in the future be applied for the benefit of pupils attending the newly opened Islwyn High School, which has replaced the former Oakdale and Pontllanfraith Comprehensive Schools.

**3. LINKS TO STRATEGY**

- 3.1 To act as Trustee for the Charities and, in that capacity, to consider all matters in connection with the objectives of those trusts.

**4. THE REPORT**

- 4.1 The John Edwards Memorial Prize Fund was set up in accordance with the wishes of Mrs J Edwards, the widow of the former headmaster of Oakdale Comprehensive School. A sum of £200 was received from Mrs Edwards on the basis that the interest received be utilised in the award of a prize to present annually to a pupil or pupils of Oakdale Comprehensive who have made good academic progress and shown themselves worthy of merit. The current balance of the fund is £1,176.
- 4.2 In 1966 the Monmouthshire Education Committee received a sum of £500 from the Nine Mile Point Lodge of the National Union of Mineworkers for the express purpose of setting up the Nine Mile Point Scholarship. Initially intended for the pupils of Ynysddu County Secondary School it was passed on to Pontllanfraith Comprehensive School as a result of education re-organisation by a decision of the Gwent County Council made in December 1975. In accordance with the wishes of the Nine Mile Point Lodge the income of the Scholarship Fund

was to be utilised for the purchase of books or equipment for those who proceed to further education or who enter into professional or industrial training. The current balance of the Fund is £1,279.

- 4.3 Often, due to the passage of time, charitable objects can fail because their original purpose no longer exists. The John Edwards Memorial Prize Fund and Nine Mile Point Scholarship charities presently exist for the benefit of pupils attending Oakdale and Pontllanfraith Comprehensive Schools, which were closed on 24<sup>th</sup> July 2017. It is the duty of the Council as Trustee to seek to change the governing documents of its Trusts to ensure the continuing effectiveness of those charities.
- 4.4 The objects contained in the governing documents of the Charities will therefore need to be changed to ensure the Charities can continue to operate. Where this is necessary, it is a principle of charitable law that any new charitable objects are as similar as possible to the original purposes of the Charities. Since the new Islwyn High School has been established as a replacement secondary school for those pupils who would have attended either Oakdale or Pontllanfraith schools, it is proposed that the objects of the Charities be amended to apply to Islwyn High School.
- 4.5 How charity trustees achieve changes to their objects depends upon the nature of the change, the size and structure of the charity, the governing document of the charity or the availability of statutory powers. Both the John Edwards Memorial Prize Fund and Nine Mile Point Scholarship are unincorporated charities with incomes of less than £10,000 and do not hold within their assets any 'designated land'. The Charities' objects may therefore be changed if the governing document contains a power of amendment for such purposes. In those circumstances, charity trustees may make a resolution bringing the change to its objects, which comes into effect immediately on the passing of the resolution.
- 4.6 In the event that an unincorporated charity with income of £10,000 or less does not have power to change its purpose in its governing document, charity trustees may then rely upon the statutory power contained in Sections 275 - 280 of the Charities Act 2011. If the statutory power to amend a charity's purpose is relied upon instead, notice of the making of the resolution must be given to the Charity Commission and the resolution does not take effect until a period of 6 months has expired, unless the commission has within that period objected to the resolution.
- 4.7 Following an examination of the Charities' governing documents it would seem that both Charities have wide powers to alter their rules to update the charitable purposes without reliance upon the statutory powers contained in the Charities Act 2011. When making any change to the Charities' Rules, the Trustees must consider whether the original donors' intentions for the charity will be met.

## **5. WELL-BEING OF FUTURE GENERATIONS**

- 5.1 The Council is a corporate Trustee for the Charities and any decision arising from this report is made in its capacity as a Trustee not as a local authority. Charity Trustees must act in the best interests of the charity in meeting its charitable objectives.

## **6. EQUALITIES IMPLICATIONS**

- 6.1 There are no equalities implications arising from this report.

## **7. FINANCIAL IMPLICATIONS**

- 7.1 Without making a formal resolution to amend the Charities' objects, the Council will be unable to award future funds in accordance with the original donors' wishes.

## **8. PERSONNEL IMPLICATIONS**

8.1 There are no personal implications arising out of this report.

## **9. CONSULTATIONS**

9.1 There are no consultation responses that have not been reflected in this report.

## **10. RECOMMENDATIONS**

10.1 To resolve that the rules of the John Edwards Memorial Prize Fund be amended as follows: -

10.1.1 That the Prize Fund continues to be administered by the Council's Cabinet sitting as corporate trustee.

10.1.2 That the income of this charity be utilised in the award of a prize to a pupil or pupils of Islwyn High School that reside in the catchment area of the former Oakdale Comprehensive School who have shown good academic progress and worthy of merit.

10.1.3 The award of a prize or prizes shall be made by the Chief Education Officer upon the recommendation of the Headteacher.

10.2 To resolve that the rules of the Nine Mile Point Lodge Scholarship be amended as follows: -

10.2.1 That the Scholarship continues to be administered by the Council's Cabinet sitting as corporate trustee.

10.2.2 The income of the Scholarship Fund be utilised annually for the purchase of books or equipment for the pupils of Islwyn High School who reside in the villages of Ynysddu and Cwmfelinfach.

10.2.3 The award of the scholarship or scholarships will be made in September each year by the Chief Education Officer upon the recommendation of the Headteacher.

## **11. REASONS FOR THE RECOMMENDATIONS**

11.1 To ensure that the Charities continue to operate effectively and are applied to the new Islwyn High School.

## **12. STATUTORY POWER**

12.1 Powers to amend the Charities objects are contained in the Trust Documents without recourse to the statutory powers contained in the Charities Act 2011. This power is exercised via the Council's Cabinet sitting as a corporate trustee.

Author: Stephen Harris, Interim Head of Business Improvement Services  
Tel: 01443 863022  
E-mail: [harrisr@caerphilly.gov.uk](mailto:harrisr@caerphilly.gov.uk)

Consultees: Cllr Philippa Marsden, Cabinet Member for Education and Achievement  
Richard Edmunds, Corporate Director for Education and Corporate Services  
Keri Cole, Chief Education Officer  
Nicole Scammell, Head of Corporate Finance and S151 Officer  
Robert Tranter, Head of Legal Services and Monitoring Officer

Richard Crane, Senior Solicitor  
Stephen Beale, Financial Development Officer, Corporate Services