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**Date: 12th September 2024**

To Whom It May Concern,

A multi-locational meeting of the **Cabinet as Trustees for Various Education Trust Funds** will be held in Penallta House and via Microsoft Teams on **Wednesday, 18th September, 2024 at 2.00 pm** (or immediately following the meeting of Cabinet) to consider the matters contained in the following agenda. Members of the Public or Press may attend in person or at Penallta House or may view the meeting live via the following link: <https://civico.net/caerphilly>. You are welcome to use Welsh at the meeting, a minimum notice period of 3 working days is required should you wish to do so. A simultaneous translation will be provided on request.

This meeting will be live streamed and a recording made available to view via the Council's website, except for discussions involving confidential or exempt items. Therefore the images/audio of those individuals present and/or speaking at Cabinet will be publicly available to all via the recording on the Council website at [www.caerphilly.gov.uk](http://www.caerphilly.gov.uk)

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Chrissy', enclosed within a large, loopy oval shape.

**Christina Harrhy**  
CHIEF EXECUTIVE

## A G E N D A

Pages

- 1 To receive apologies for absence.

A greener place Man gwyrddach



2 Declarations of Interest.

Members and Officers are reminded of their personal responsibility to declare any personal and/or prejudicial interest(s) in respect of any item of business on this agenda in accordance with the Local Government Act 2000, the Council's Constitution and the Code of Conduct for both Councillors and Officers.

To receive and consider the following report(s) on which executive decisions are required: -

3 Closure of Education Trust Funds held by Caerphilly County Borough Council as Trustee.

1 - 6

**Circulation:**

Councillors C. Andrews, S. Cook, E. Forehead, N. George, P. Leonard, C. Morgan, S. Morgan, J. Pritchard and E. Stenner

And Appropriate Officers

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## **CABINET AS TRUSTEES OF VARIOUS EDUCATION TRUST FUNDS – 18<sup>TH</sup> SEPTEMBER 2024**

**SUBJECT: CLOSURE OF EDUCATION TRUST FUNDS HELD BY  
CAERPHILLY COUNTY BOROUGH COUNCIL AS TRUSTEE**

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

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### **1. PURPOSE OF REPORT**

- 1.1 To seek a resolution for the closure of the Education trust funds held by Caerphilly County Borough Council as trustee as listed in Appendix 1.

### **2. SUMMARY**

- 2.1 Following a review of the Education trust funds held as trustee by the local authority a number have been identified as belonging to schools that have closed or are inactive due to the small funds involved and as such are deemed not fit for purpose. It is therefore recommended that these should be wound up and any balances transferred to a beneficiary school under Section 281 of the Charities Act 2011.

### **3. RECOMMENDATIONS**

- 3.1 It is recommended that Cabinet approves the trust funds listed in Appendix 1 are wound up and the balances are transferred to the beneficiary schools shown in Appendix 1 under Section 281 of the Charities Act 2011.

### **4. REASONS FOR THE RECOMMENDATIONS**

- 4.1 Following a review of the Education trust funds held as trustee by the local authority a number have been identified as no longer fit for purpose and are unable to fulfil the original aims of the trust fund. The recommendation to wind up these trust funds and transfer any balance to a beneficiary school will reduce the administration burden on the local authority and enable the funds

to be spent in accordance with the objectives of the trusts by the beneficiary school.

## **5. THE REPORT**

- 5.1.1 Caerphilly County Borough Council acts as trustee for the Education trust funds, in this capacity, it must consider all matters in connection with the objectives of these trusts. A charity's objects are a statement of its purposes, they must be exclusively charitable. Often, due to the passage of time, charitable objects can fail because their original purpose no longer exists.
- 5.1.2 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.
- 5.1.3 How charity trustees achieve changes to their objects depends upon the nature of the change, the structure of the charity, the size and the governing document of the charity or availability of statutory powers.
- 5.1.4 Following an examination of the charities governing documents, it would seem that all 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 donor's intentions for the charity will be met.
- 5.1.5 A review of the Education trust funds held as trustee by the local authority has identified that a number of trusts relate to schools that are now closed or have a fund balance so small it can not be used for any beneficial use. It is therefore recommended that these are wound up and any balances transferred to a beneficiary school under Section 281 of the Charities Act 2011.
- 5.1.6 All the trust funds recommended to be wound up have balances of less than £10K 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.
- 5.1.7 Appendix 1 provides details of the Education trust funds that are recommended to be wound up, including the balance of funds that would transfer to a beneficiary school (balances reflected as at 31st March 2024). The table below provides a summary of the balances that would transfer to beneficiary schools.

Table 1 – Summary of Balances to Transfer to Beneficiary Schools.

<b>Beneficiary School</b>	<b>Balance to Transfer</b>
Bedwas Comprehensive	£3,348.95
Cwm Aber Infants	£177.68
Heolddu Comprehensive	£5,495.15
Islwyn High	£2,712.07
Lewis Girls Comprehensive	£100.69
Risca Comprehensive	£9,746.74
St Cenydd Comprehensive	£2,684.26
St Martins Comprehensive	£8,594.56
To be determined	£155.04
<b>Total</b>	<b>£33,015.14</b>

5.1.8 Where funds comprise permanent endowment and the income is below £1K (or the value of the capital is below £25K) the trustee (being the Council) can pass a resolution under s281 of the Charities Act 2011 (amended by Charities Act 2022) to release this restriction and spend the funds. The Commission's consent is not needed to do this but, in all cases the trustees must:

- be satisfied that the purposes of the charity could be carried out more effectively if they use some or all of the charity's permanent endowment as well as its income, rather than income on its own; and
- Formally pass a resolution that the permanent endowment restrictions should be removed from all or part of the fund concerned.

5.1.9 Once any restrictions have been removed, the Council, as trustee can gift the funds in furtherance of each charity's objects. They can then take appropriate steps to wind the charities up, including ensuring the necessary legal documents are entered into with the retrospective schools to ensure the funds that are gifted to them are spent in accordance with the objectives of the trusts.

## 5.2 Conclusion

The Education trust funds have been reviewed and a number have been identified as no longer fit for purpose and unable to fulfil the original aims of the trust fund. The recommendation to wind up these trust funds and transfer any balance to a beneficiary school will reduce the administration burden on the local authority and enable the funds to be spent in accordance with the objectives of the trusts.

## **6. ASSUMPTIONS**

6.1 None.

## **7. SUMMARY OF INTEGRATED IMPACT ASSESSMENT**

7.1 No Integrated Impact Assessment is required for this report.

## **8. FINANCIAL IMPLICATIONS**

8.1 There are no direct financial implications for Caerphilly County Borough Council from this report. If Cabinet approve the recommendations the Council as trustee will pass a resolution under S281 of the Charities Act 2011 (amended by Charities Act 2022) to release the restriction. Once these restrictions are removed the Council as trustee can gift the funds which total £33K to the beneficiary schools in furtherance of each charity's objects. The charities can then be wound up. This will reduce the administration burden on the local authority and enable the funds to be spent in accordance with the objectives of the trusts by the beneficiary school.

## **9. PERSONNEL IMPLICATIONS**

9.1 There are no personal implications arising from this report.

## **10. CONSULTATIONS**

10.1 The views of all consultees set out below have been added to the content of the report.

## **11. STATUTORY POWER**

11.1 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.

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Dave Street, Deputy Chief Executive (E-mail:

streed@caerphilly.gov.uk)  
Richard Edmunds, Corporate Director for Education and Corporate Services (Email: edmunre@caerphilly.gov.uk)  
Mark S. Williams, Corporate Director Economy and Environment  
Cllr Eluned Stenner, Cabinet Member for Finance and Performance (Email: stenne@caerphilly.gov.uk)  
Andrew Southcombe, Finance Manager, Corporate Finance (Email: southak@caerphilly.gov.uk)  
Robert Tranter, Head of Legal Services and Monitoring Officer (Email: trantrj@caerphilly.gov.uk)  
Cllr Carol Andrews, Cabinet Member for Education and Communities (andrec@caerphilly.gov.uk)

Appendices:

Appendix 1 Education Trust Funds Identified for Closure

## Appendix 1 - Education Trust Funds Identified for Closure

Education Trust Fund	Original School	Beneficiary School Identified	Balance as at 31/3/2024
Aldworth's Foundation at Bedwas	Bedwas Comp	Bedwas Comp	£3,348.95
M E Margam Bequest	Cwm Aber Infants	Cwm Aber Infants	£177.68
Ian Morris Memorial Prize	Bedwellty Comp	Heolddu Comp	£1,181.27
Mrs Margaret Anne Hughes' Bequest	Heolddu Comp	Heolddu Comp	£354.57
Heolddu Comp School Trust	Heolddu Comp	Heolddu Comp	£3,959.31
Nine Mile Point Lodge Scholarship (In Connexion with Ynysddu County Secondary School)	Islwyn High	Islwyn High	£1,412.46
John Edwards Memorial Award	Islwyn High	Islwyn High	£1,299.61
The Gertrude M Richards Hengoed Memorial Prize	Lewis Girls Comp	Lewis Girls Comp	£100.69
Pontymister Steelworkers Trust Fund	Risca Comp	Risca Comp	£8,936.36
Risca (Islwyn) U.D.O.	Risca Comp	Risca Comp	£810.38
O.M Baillieux Prize	St Cenydd Comp	St Cenydd Comp	£117.90
The Bernice Evans Prize	St Cenydd Comp	St Cenydd Comp	£132.29
Charities Administered in Connection with St Cenydd Comp School	St Cenydd Comp	St Cenydd Comp	£1,933.01
Mrs G Marenghi Memorial Award	St Cenydd Comp	St Cenydd Comp	£322.58
The Sid Melia Memorial Prize	St Cenydd Comp	St Cenydd Comp	£178.48
Parc-Y-Lan Music Prize	St Ilans Comp	St Martins Comp	£268.87
The Nora Savage Prize	St Ilans Comp	St Martins Comp	£461.25
Charities Administered I C W Caerphilly County Grammer School for Girls	St Ilans Comp	St Martins Comp	£1,956.34
Gertrude Thomas Nursing Prize	St Ilans Comp	St Martins Comp	£235.00
Prize Funds in Connection with St Martins	St Martins Comp	St Martins Comp	£3,049.35
Major Ivor Herbert Banks Pugh	St Martins Comp	St Martins Comp	£133.65
Rees Memorial Prize	St Martins Comp	St Martins Comp	£2,490.11
J Morgan - English Prize	TBD	TBD	£155.04
<b>Total</b>			<b>£33,015.14</b>