

FALKIRK COUNCIL

Subject: STIRLINGSHIRE EDUCATIONAL TRUST
Meeting: FALKIRK COUNCIL
Date: 7 MARCH 2007
Author: ACTING DIRECTOR OF LAW & ADMINISTRATION

1. INTRODUCTION

- 1.1 This report seeks the approval of Council for a change to the Trust Scheme for the Stirlingshire Educational Trust. The Council has been invited to give its approval to the proposed change by the Stirlingshire Educational Trust in advance of an application to be made by them to the Court of Session.

2. BACKGROUND

- 2.1 Stirlingshire Educational Trust (SET) is established under the Stirlingshire Educational Trust Scheme 1957. SET is an amalgamation of the educational endowments specified in the Scheme. In terms of the Scheme, these amalgamated endowments are to be applied for specified purposes, including the award of scholarships, bursaries and grants to qualifying candidates, all in accordance with the provisions of the Scheme.
- 2.2 SET is managed by a governing body appointed in accordance with the provisions of the Scheme. This Council, along with Stirling and East Dunbartonshire Councils, is an appointing body.
- 2.3 The circumstances giving rise to the proposed change to the Trust Scheme derive from SET's relationship with another trust, the Patrons of Cowane's Hospital (Cowane's). Cowane's is a charitable trust established in 1637 by the bequest of John Cowane, a merchant in Stirling. Cowane's is managed by the Patrons of the Hospital who are the 22 councillors of Stirling Council, together with the Minister of the Church of the Holy Rude in Stirling. The trust schemes for both Cowane's and the SET require that one half of the free income of Cowane's is paid to the SET.
- 2.4 There has been a dispute over a number of years between SET and Cowane's, together with Stirling Council, concerning land transactions between Cowane's and the predecessors of Stirling Council. As a resolution of this dispute, SET and Cowane's have agreed to separate the two bodies, *i.e.* Cowane's and SET, on the basis that a capital payment is made by Cowane's to SET in discharge of all future obligations.
- 2.5 To give effect to this agreement, it is necessary that amendments are made to both the trust schemes for Cowane's and SET. The solicitors acting for Cowane's and for SET propose that the first stage in this process would be an application to the Court of Session to amend the SET Scheme. The proposed amendment is attached as appendix 1. The effect of the amendment is to delete the section of the Trust Scheme relating to the obligation of Cowane's to pay one half of its free income to SET. A copy of the 1957 Trust Scheme is attached as appendix 2.

3. DISCUSSION

- 3.1 The approach made to the Council has come from the two trusts through the solicitors acting for Cowane's, with the agreement of SET. Those with primary responsibility for satisfying themselves as to the propriety and utility of the proposed amendment are the trustees of SET themselves. They have done so. The interest of the Council in the matter is more limited. It can be anticipated that the application to the Court of Session will require to be intimated on the Council as one of the appointing bodies to the SET. It is thought that the approach is made in advance of the application to the Court of Session in order to minimise procedure and expense in that application. In all the circumstances, it is considered reasonable that the Council should give approval to the proposed amendment to the SET scheme for its limited interest as an appointing body thereto. Members may wish to note that a similar approach has been made to Stirling Council which approved the proposed amendment at its meeting on 8 February 2007.

4. RECOMMENDATION

- 4.1 **The Council is asked to approve, for its interest as an appointing body to the governing body of Stirlingshire Educational Trust, the changes to the Stirlingshire Education Trust Scheme 1957 set out in Appendix 1 to this report.**

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Acting Director of Law & Adminsitration

Date: 23 February 2007

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LIST OF BACKGROUND PAPERS

1. Proposed Scheme for the administration of the funds of Cowane's Hospital

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 506073 and ask for Colin Moodie