To: All Members of the Heywood Township Delegated Sub Committee

Dear Councillor

HEYWOOD TOWNSHIP DELEGATED SUB COMMITTEE

You are requested to attend the meeting of the Heywood Township Delegated Sub Committee to be held in Phoenix Centre - Church Street, Heywood on Tuesday, 25th June 2013 commencing at 6.30 pm.

The agenda and supporting papers are attached.

If you require advice on any agenda item involving a possible Declaration of Interest which could affect your right to speak and/or vote, please contact staff in the Governance and Committee Services Team at least 24 hours in advance of the meeting.

Yours Faithfully

Linda Fisher
Deputy Chief Executive

Heywood Township Delegated Sub Committee Membership 2013/14
Councillor Jacqueline Beswick
Councillor Raymond Dutton
Councillor Susan Emmott
Councillor Colin Lambert
Councillor Alan McCarthy
Councillor Liam O'Rourke
Councillor Linda Robinson
Councillor Peter Rush
Councillor Carol Wardle
Apologies for Absence

1. Declarations of Interest

Members are requested to indicate at this stage any items on the agenda in which they intend to declare an interest. Members are reminded that, in accordance with the Localism Act 2011 and the Council's adopted Code of Conduct, they must declare the nature of any personal or discloseable pecuniary interest required of them and, in the case of any discloseable pecuniary interest, withdraw from the meeting during consideration of the item, unless permitted otherwise within the Code of Conduct.

2. Minutes 3 - 4

To consider the minutes of the meeting held on 19th February 2013.

3. Flood Resilience Community Pathfinder - Presentation

4. Township Funds 5 - 10

5. Heywood Charities Merger Proposals 11 - 23
HEYWOOD TOWNSHIP DELEGATED SUB COMMITTEE

MINUTES OF MEETING
Tuesday, 19 February 2013

PRESENT: Councillor Alan McCarthy (Chair); Councillors Beswick, Susan Emmott, O'Rourke, Robinson, Rush and Wardle

OFFICERS: P. Rowlinson (Service Director – Planning and Regulation Service), S. Hay, E. Holliday and A. Leonard (Corporate Services).

ALSO IN ATTENDANCE: 2 Members of the public.

APOLOGIES FOR ABSENCE: Councillor Dutton and Councillor Lambert

DECLARATIONS OF INTEREST
25 There were no declarations of interest.

MINUTES
26 DECIDED – that the Minutes of the meeting held on 13th November 2012 be approved as a correct record.

ADDITIONAL ITEMS OF BUSINESS
27 The Chair advised that he had agreed to the inclusion on the Agenda of additional items of business relating to the Heywood Township 2014 WW1 Centenary Commemorations and two applications for Township Funds – Community Safety Initiatives and Heywood Activities Partnership.

HEYWOOD TOWNSHIP 2014 WW1 CENTENARY COMMEMORATIONS ARRANGEMENTS
28 The Sub-Committee considered the report of the Service Director for Corporate Services which sought approval of the installation of a new veterans and forgotten wars memorial in Heywood Memorial Gardens and to agree funding in principle the funding of the new memorial should other funding not be available.

The recommendations were put forward to enable the Township to commemorate the centenary of WW1.

DECIDED – that (1) the New Veterans and Forgotten Wars Memorial be approved;
(2) That £15000 be committed to the development of the memorial;
(3) That the RMBC Armed Forces Representative be authorised to liaise with the Lancashire Veterans Association as Heywood’s Armed Forces Covenant Partner with regard to the design, siting and inscriptions relating to the memorial.

Eligible for call-in - yes

TOWNSHIP FUNDS
29 The Sub-Committee considered the report of the Service Director for Corporate Services which updated Members on revenue and capital expenditure, commitments and balances of Heywood Township Funds 2012/13, and enable Members to allocate funds to proposed schemes.

The Assistant Township Manager also reported on other matters relating to the Township Fund including the return of funds that had not been required by an
organisation last year and two applications that were not included within the submitted report from Community Safety and the Heywood Activities Partnership.

The recommendations were put forward as the Management of the Heywood Township Fund is delegated to the Heywood Township Delegated Sub-Committee. Heywood Township Funds are allocated to projects/schemes that benefit the Township’s community and environment, and realise the Township priorities. To enable the Committee to monitor and review the use of the Heywood Township Funds to ensure continued efficient and effective use of Township Funds.

**DECIDED** – that (1) the expenditure, commitments and balances for Heywood Township revenue and capital funds as outlined in appendix 1 and 2 of the submitted report be noted;
(2) the decisions made under delegated authority as outlined in appendix 3 of the submitted report be noted;
(3) it be noted that the Head of Townships has assessed proposed projects to be considered for funding against the criteria of the Heywood Township Fund, priorities of the Township Plan and any specific risks have been identified (information as detailed in Appendix 3 of the submitted report).
(4) the applications for Township Funds at outlined in appendix 3 of the submitted report and as outlined verbally by the Assistant Township manager be dealt with as follows:-
  a) Darnhill Festival Association – application declined;
  b) Cartweel Arts – Award of £1076.72 towards match funding together with £1000 paid by Surestart to a Viridor Funding Grant of £18,276 for a play area on Darnhill;
  c) Heywood & District Angling Society – Award of £644.95 towards the purchase of a projector and heater for a classroom;
  d) Dropped Kerb at Jackman Avenue/Newhouse Road – the remaining Hopwood Hall Ward funds of £1,050 be allocated and Highways be requested to complete the scheme for this amount;
  e) Community Safety – Award of £1750 towards the purchase of a CCTV enforcement camera;
  f) Heywood Activities Partnership – application declined;
  g) £1400 be allocated towards the traffic order for the 2012 Heywood 1940’s day.
(5) The Head of Townships, in consultation with the Chair and Vice Chair be given delegated authority to make decisions on any deferred projects.

**EXCLUSION OF PRESS AND PUBLIC**

30 **DECIDED** – That the public be excluded from the meeting during consideration of the following items of business since it is likely, that in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present there would be disclosure to them of exempt information, namely information relating to the business or financial affairs of any person (including the authority holding that information);

**SOUTH HEYWOOD DEVELOPMENT PROPOSALS**

31 The Sub-Committee considered the report of the Service Director – Planning and Regulation Service which outlined emerging proposals for South Heywood.

**DECIDED** – that the Sub-Committee supports the principle of the proposals and agrees the development of the scheme further through the planning process and through the disposal of Council owned land needed for the scheme.

Eligible for call-in - yes
1. PURPOSE OF REPORT

1.1 Members to be updated on revenue and capital expenditure, commitments and balances of Heywood Township Funds 2013/14, and enable Members to allocate funds to proposed projects.

2. RECOMMENDATIONS

2.1 Committee note the expenditure, commitments and balances for Heywood Township revenue and capital funds in Appendix 1 and 2.

2.2 Members note decisions made under delegated authority as detailed in Appendix 3.

2.3 Committee note the Townships and Governance Manager has assessed proposed projects to be considered for funding against the criteria of the Heywood Township Fund, priorities of the Township Plan and any specific risks have been identified (information detailed in Appendix 3).

2.4 Members consider and approve, defer or refuse the allocation of revenue funds to proposed projects listed in Appendix 3.

2.5 The Townships and Governance Manager, in consultation with the Chair and Vice Chair be given delegated authority to make decisions on any deferred projects.

2.6 Reasons for recommendation

Management of the Heywood Township Fund is delegated to the Heywood Township Committee.

Heywood Township Funds are allocated to projects/schemes that benefit the Township’s community and environment, and realise the Township priorities.

To enable Committee to monitor and review the use of the Heywood Township Funds to ensure continued efficient and effective use of Township Funds.
3. **HEYWOOD TOWNSHIP FUNDS**

3.1 Members are asked to note expenditure, commitments and balances of Heywood Township Funds 2013/14 in Appendix 1 and 2. Actual/committed spend for revenue funds is 29% and capital funds is 13%.

3.2 Delegated decisions will be reported for information to each Committee to ensure Members are aware of the projects that have been agreed within their Ward. Members are asked to note the decisions made under delegated arrangements since the last Committee in Appendix 3.

3.3 Projects have been identified for funding from Heywood Township Funds 2013/14. Members are asked to decide whether to approve, reject or defer the allocation of revenue funds to these proposed projects listed in Appendix 3.

3.4 To reduce the potential carry forward of funds during 2013/14, Members are asked to agree to the Townships and Governance Manager, in consultation with the Chair and Vice Chair, being given delegated authority to make decisions on any deferred projects.

3.5 **Alternatives considered**

In considering the report, Members will decide whether or not to approve the allocation of funds to projects/schemes as appropriate.

3.6 **Consultation proposed/undertaken**

Committee receives regular monitoring reports about the use of the funds. Any proposal for funding requires support from at least one Member. All proposals will continue to be consulted on as appropriate with Members, residents and other stakeholders.

4. **FINANCIAL IMPLICATIONS**

4.1 Committee will receive regular reports to enable Members to monitor the use of the Heywood Township Funds to ensure best use of available resources.

4.2 Township funds are monitored on a monthly basis and financial monitoring reports will be presented to future Committees on a regular basis.

5. **LEGAL IMPLICATIONS**

5.1 There are no legal implications arising from this report.

6. **PERSONNEL IMPLICATIONS**

6.1 There are no personnel implications arising from this report.

7. **CORPORATE AND TOWNSHIP PRIORITIES**

7.1 The purpose of the Township Funds is to enable Township Committees to meet their respective Township Plan priorities and deliver actions to meet those priorities. This report asks Members to consider how Township Funds 2013/14 are allocated in order to do this.

7.2 The Vision and Blueprint for Rochdale Council 2014/15 retains Township Committees and will devolve a range of services to Township direction, managed through annual Township Plans which are reviewed on a quarterly basis.
8. **RISK ASSESSMENT IMPLICATIONS**

8.1 Specific risk issues for Members to consider arising from this report will be identified for the proposed projects in Appendix 3.

9. **EQUALITIES IMPACTS**

9.1 **Workforce Equality Impacts Assessment**

There are no workforce equality issues arising from this report.

9.2 **Equality/Community Impact Assessments**

There are no significant equality/community issues arising from this report.

<table>
<thead>
<tr>
<th><strong>Background Papers</strong></th>
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</thead>
<tbody>
<tr>
<td><strong>Document</strong></td>
</tr>
<tr>
<td>Summary of Heywood Township Revenue Fund 2013/14</td>
</tr>
<tr>
<td>Summary of Heywood Township Capital Fund 2013/14</td>
</tr>
<tr>
<td>Delegated decisions for information &amp; proposed projects for allocation of funds</td>
</tr>
</tbody>
</table>
# HEYWOOD TOWNSHIP FUNDS REPORT 2013/14

## OVERALL SUMMARY - REVENUE 2013/14

<table>
<thead>
<tr>
<th></th>
<th>£</th>
<th>% Actual Spend</th>
<th>% Actual + Committed</th>
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</thead>
<tbody>
<tr>
<td>Budget b/f (2012/13)</td>
<td>68,450</td>
<td>1.34%</td>
<td>28.69%</td>
</tr>
<tr>
<td>Base Budget 2013/14</td>
<td>58,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Income from other sources 2013/14</td>
<td>-</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Budget Available 2013/14</td>
<td>126,450</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Budgets transferred to services/Actuals</td>
<td>1,697</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commitments</td>
<td>34,579</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Actual + Commitments</td>
<td>36,275</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Budget Remaining 2013/14</td>
<td>90,175</td>
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<td></td>
</tr>
</tbody>
</table>

Forecast Outturn 126,450
Potential under(over)suspend 2013/14 90,175

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## Grants/Contributions

<table>
<thead>
<tr>
<th>Grants/Contributions</th>
<th>Balance b/f 2012/13 £</th>
<th>Base Budget 2013/14 £</th>
<th>Income/Adjustments 2013/14 £</th>
<th>Revised Budget 2013/14 £</th>
<th>Actuals to Period £</th>
<th>Committed to Period £</th>
<th>Virements within Township Funds £</th>
<th>Virements to Services £</th>
<th>Total to Period £</th>
<th>Budget remaining 2013/14 £</th>
</tr>
</thead>
<tbody>
<tr>
<td>Projects Fund</td>
<td>57,208</td>
<td>42,000</td>
<td>-</td>
<td>99,208</td>
<td>1,697</td>
<td>32,262</td>
<td>-</td>
<td>-</td>
<td>33,959</td>
<td>65,249</td>
</tr>
<tr>
<td>Events Fund</td>
<td>5,852</td>
<td>8,000</td>
<td>-</td>
<td>13,852</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>13,852</td>
</tr>
<tr>
<td>North Ward Fund</td>
<td>1,286</td>
<td>3,000</td>
<td>-</td>
<td>4,286</td>
<td>1,267</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1,267</td>
</tr>
<tr>
<td>West Ward Fund</td>
<td>3,054</td>
<td>3,000</td>
<td>-</td>
<td>6,054</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>6,054</td>
</tr>
<tr>
<td>Hopwood Hall Ward</td>
<td>1,050</td>
<td>2,000</td>
<td>-</td>
<td>3,050</td>
<td>1,050</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1,050</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>68,450</strong></td>
<td><strong>58,000</strong></td>
<td>-</td>
<td><strong>126,450</strong></td>
<td><strong>1,697</strong></td>
<td><strong>34,579</strong></td>
<td>-</td>
<td>-</td>
<td><strong>36,275</strong></td>
<td><strong>90,175</strong></td>
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</tbody>
</table>

Available funds 2013/14 90,175
# Heywood Township Funds Report 2013/14

## Overall Summary - Capital 2013/14

<table>
<thead>
<tr>
<th>Description</th>
<th>£</th>
<th>% Actual Spend</th>
<th>% Actual Committed</th>
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</thead>
<tbody>
<tr>
<td>Budget b/f (2012/13)</td>
<td>72,071</td>
<td>0.00%</td>
<td>13.36%</td>
</tr>
<tr>
<td>Base Budget 2013/14</td>
<td>40,200</td>
<td></td>
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</tr>
<tr>
<td>Transfer from other funds/services 2013/14</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Budget Available 2013/14</td>
<td><strong>112,271</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Budgets transferred to other services/Actuals</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commitments</td>
<td>15,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Actual + Commitments</td>
<td>15,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Budget Remaining 2013/14</td>
<td><strong>97,271</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Forecast Outturn: **112,271**

Potential underspend 2013/14: **97,271**

## Capital Fund Schemes

<table>
<thead>
<tr>
<th>Capital Fund Schemes</th>
<th>Balance b/f 2012/13</th>
<th>Budget 2013/14</th>
<th>Actual to Period</th>
<th>Committed to Period</th>
<th>Total to Period</th>
<th>Budget remaining 2013/14</th>
<th>Forecast 2013/14</th>
<th>Difference</th>
</tr>
</thead>
<tbody>
<tr>
<td>HTC-01-12 Veterans and Forgotten Wars Memorial</td>
<td>-</td>
<td>15,000</td>
<td>-</td>
<td>15,000</td>
<td>15,000</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<tr>
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<tr>
<td>Total</td>
<td>-</td>
<td>15,000</td>
<td>-</td>
<td>15,000</td>
<td>15,000</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

Available funds 2013/14: **97,271**
Members note the delegated decisions made by the Head of Townships in consultation with the Chair and Vice Chair of Heywood Township since 19 February 2013.

<table>
<thead>
<tr>
<th>Ref No.</th>
<th>Name of Project</th>
<th>Project Description</th>
<th>Ward</th>
<th>Amount</th>
<th>Delegated Decision Date</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>HW/10/12</td>
<td>St Lukes Church Boiler House Security</td>
<td>Provide steel shutter to boiler house door and steps area to prevent unauthorised access</td>
<td>North</td>
<td>£334.00</td>
<td>12 February 2013</td>
<td>Approved</td>
</tr>
<tr>
<td>HW/11/12</td>
<td>Starkey St, Langton St Alley Gates</td>
<td>Provide alley gates to protect the rear of property numbers 1 to 27 Langton Street and 8 to 30 Starkey Street</td>
<td>North</td>
<td>£1,206.00</td>
<td>19 February 2013</td>
<td>Approved</td>
</tr>
<tr>
<td>HP/01/13</td>
<td>Flags</td>
<td>Purchase of 1 x Sewn Union Flag (2 yards), 2 x Sewn Heywood Flag (printed Crest). Erection of all recently purchased Town flags</td>
<td>Heywood Township</td>
<td>£562.00</td>
<td>16 May 2013</td>
<td>Approved</td>
</tr>
</tbody>
</table>

**Revenue Fund 2013/14 available for allocation = £90,175**

<table>
<thead>
<tr>
<th>Ref No.</th>
<th>Name of Project</th>
<th>Project Description</th>
<th>Ward</th>
<th>Fund Criteria &amp; Priorities Met</th>
<th>Request Originator</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>HP/18/12</td>
<td>Pilsworth Road Rising Bollard - CCTV</td>
<td>Installation of CCTV to monitor the newly installed rising bollard at Pilsworth Road</td>
<td>West</td>
<td>Heywood Township</td>
<td>This amount is already committed from 2012/13 funds</td>
<td></td>
</tr>
<tr>
<td>HP/19/12</td>
<td>Heywood In Bloom 2013</td>
<td>Contribution towards a permanent landmark feature £250 and publicity banners - 2 Large £180 &amp; 2 small £80</td>
<td>Heywood Townsip</td>
<td>Heywood in Bloom Steering Group</td>
<td>£500.00</td>
<td></td>
</tr>
<tr>
<td>HP/03/13</td>
<td>Heywood Active Dance &amp; Drama</td>
<td>Contribution towards ‘Heywood Festival of Dance’ &amp; ‘Musical in Two Weeks’ to bring together all sections of the community of all ages, backgrounds and ethnic origins in healthy living and social inclusion initiatives in Heywood.</td>
<td>Heywood Township</td>
<td>People Link4Life - Heywood Civic Centre</td>
<td>£3,800.00</td>
<td></td>
</tr>
<tr>
<td>HP/05/13</td>
<td>Saint Lukes Church Patio</td>
<td>Remove shrubbery, lay stone flagged patio to host events</td>
<td>North</td>
<td>John Carney</td>
<td>£2,500.00</td>
<td></td>
</tr>
<tr>
<td>HP/06/13</td>
<td>Community Payback</td>
<td>Provision of fifty days of 10 supervised offenders to conduct clean ups</td>
<td>Township</td>
<td>Heywood Township</td>
<td>£6,000.00</td>
<td></td>
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<tr>
<td>HP/07/13</td>
<td>The Monday Community Club</td>
<td>Bingo equipment</td>
<td>West</td>
<td>People</td>
<td>The Monday Community Club</td>
<td>£302.96</td>
</tr>
<tr>
<td>HP/08/13</td>
<td>Saint Margarets</td>
<td>School keep Clear and double yellow lines</td>
<td>West</td>
<td>People Greater Manchester Police</td>
<td>£4,000.00</td>
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<tr>
<td>HP/09/13</td>
<td>Conferencing System Electrical repair</td>
<td>Electrical repair</td>
<td>Township</td>
<td>People Heywood Township</td>
<td>£152.03</td>
<td></td>
</tr>
<tr>
<td>HP/10/13</td>
<td>Junction 19 Gateway</td>
<td>Upgrade lighting columns to take features at £300.00 per post</td>
<td>Hopwood Hall</td>
<td>Place</td>
<td>Heywood Township</td>
<td>£3,600.00</td>
</tr>
<tr>
<td>APPENDIX 3</td>
<td></td>
<td></td>
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</tbody>
</table>
## 1. PURPOSE OF REPORT

1.1 To enable the Sub-Committee to comment on the proposed merger of the Heywood Education Trust and the Heywood Relief in Need Trust.

## 2. RECOMMENDATIONS

2.1 The Heywood Township Delegated Sub-Committee comment on the merger proposals outlined within this report.

## 3. REPORT

3.1 The Annual Meeting of the Council held on 15th May 2013 was advised of a proposed merger of the Heywood Educational Trust and the Heywood Relief in Need Trust and of an suggested timeline for such considerations; a formal request for response had not been made at the time of the Annual Meeting of Council. The Council agreed to delegate a response to any consultation from the Trustee bodies to the Deputy Chief Executive in consultation with the Three Party Leaders. The formal proposal has since been received and at a meeting of the three Party Leaders held on 3rd June 2013 it was agreed to refer this matter for the views of the Heywood Township Delegated Sub-Committee.

3.2 To effect the ‘merger’, the Trustee bodies are proposing –

| a) | to close the Heywood Education Trust (HET) and transfer functions to the Heywood Relief in Need Trust (HRiN); |
| b) | to redraft the Deed/Governing Instrument of the HRiN Trust; |
| c) | to re-form the HRiN Trust as the Heywood Phoenix Trust. |

In undertaking this exercise, the Clerk to the Trusts has also taken the opportunity to update the proposed Deed/Governing Instrument of the merged Trust to reflect up to date key aspects of the model governance rule as advised by the Charity Commission.

3.3 Once the above processes are accepted it is proposed to close the HET and transfer the funds to the newly established Heywood Phoenix Trust (by then having the same purposes).
3.4 The Council is being consulted as the proposals impact on nominative appointments to the Trustee bodies. The Council holds nominative rights to the Trusts and so must be consulted on the proposal.

3.5 The proposed arrangement would maintain the core ‘relief in need’ and ‘educational’ purposes of the two constituent Trusts. Indeed, the Charity Commission would only be likely to agree to any changes to original charitable intentions where those intentions could not now be met. The educational purposes of the HET are inserted in the highlighted “INSERT (D)” sections of the proposal document (attached as Appendix 1). There is therefore considered to be no change to the overall charitable purposes.

3.6 Included in the proposals is a proposed revised Trustee body arrangement that looks to reflect the arrangements of the current Trustee bodies and also provide for longer term viability of the new Trust.

The current membership arrangements are:-

- Heywood Educational Trust: – 1 x ex-officio (Vicar of St Luke’s); 3 x (Council) Nominative positions; 3 x Co-optative Trustees
- Heywood Relief in Need – 1 x ex-officio (Mayor); 5 x (Council) Nominative Trustees; 2 x Co-optative Trustees;

The proposed membership arrangements are:-

- Heywood Phoenix Trust – 5 x (Council) Nominative positions; between 2 and 5 Co-optative Trustees.

3.6 Specific matters for consideration are –

(a) The removal of the Mayoral ex-officio position

The Mayor of the Rochdale Metropolitan Borough Council is an ex-officio member of the Heywood Relief in Need Trust. Subject to confirmation of the Charity Commission with regard to processes concerning the removal ex-officio positions, the proposed arrangements would see the ex-officio position of the Mayor removed (a similar proposal exists for the Vicar of St Luke’s with regard to the HET).

Members may wish to consider that the Mayor of the Borough is not necessarily a Heywood Councillor; and that the Trustees are proposing in the highlighted “REPLACE 12” “INSERT” section of the appendix that consideration is given to the “skills, knowledge and experience needed for the effective administration of the charity” when considering appointments to vacancies. In context, the Council would retain five nominative positions, these positions being appointed to (under delegated arrangements) by the Heywood Township Committee who could look to address any advice or suggestions made by the Trust on considering appointments.

(b) The increase in the potential number of Co-optative Trustees

It is proposed to increase the number of Co-optative Trustees (i.e. those Trustees appointed by the Trustee body itself) from the current two to a potential maximum of five. The increase recognises the 50/50 split in the present HET (to help with merger recognition); provides for additional Trustees from the pastoral care (churches) if they so wish to become involved; and would help safeguard against quoracy problems that have been faced recently by the Trusts.

Members may wish to consider that the proposed 50/50 split of Nominative to Co-optative Trustees is consistent with the current HET arrangement; and that the proposal does not reduce the number of (Council) nominative positions to the current
HRiN Trust into which functions are being consolidated prior to formalisation as the Heywood Phoenix Trusts.

3.7 Other than the overall acceptance of the proposed changes (as detailed in Appendix 1) the issues for consideration by the nominative body (the Council) are as follows:-

• the acceptance of the proposal to remove the ex-officio; and
• the acceptance of the increase in the potential number of Co-optative Trustees (those Trustees appointed by the Trust itself) from two (the present number) to five.

3.8 Members will be aware that the Council provided administrative and financial management support to these Trusts up to 2012. Following a Council decision of February 2011, the two Trustee bodies have now arranged for the undertaking of these functions and are further considering matters for the future delivery of the charitable purposes of the two current Trusts.

Alternatives considered – There were no alternatives considered.

Consultation proposed/undertaken – The views of the Sub-Committee are being sought to contribute to the Council response to the proposals.

4. FINANCIAL IMPLICATIONS

4.1 None.

5. LEGAL IMPLICATIONS

5.1 None.

6. PERSONNEL IMPLICATIONS

6.1 None.

7. RISK ASSESSMENT IMPLICATIONS

7.1 There are no specific risk issues for members to consider arising from this report.

8. EQUALITIES IMPACTS

8.1 Workforce Equality Impacts Assessment

There are no workforce equality issues arising from this report.

8.2 Equality/Community Impact Assessments

There are no equality/community issues arising from this report.

Background Papers

There are no background papers
Resolution to replace purposes of unincorporated charity

(1) This section applies to a charity if—
   (a) its gross income in its last financial year did not exceed £10,000,
   (b) it does not hold any designated land, and
   (c) it is not a company or other body corporate.

“Designated land” means land held on trusts which stipulate that it is to be used for the purposes, or any particular purposes, of the charity.

(2) The charity trustees of such a charity may resolve for the purposes of this section that the trusts of the charity should be modified by replacing all or any of the purposes of the charity with other purposes specified in the resolution.

(3) The other purposes so specified must be charitable purposes.

(4) But the charity trustees of a charity do not have power to pass a resolution under subsection (2) unless they are satisfied—
   (a) that it is expedient in the interests of the charity for the purposes in question to be replaced, and
   (b) that, so far as is reasonably practicable, the new purposes consist of or include purposes that are similar in character to those that are to be replaced.

(5) Any resolution under subsection (2) must be passed by a majority of not less than two-thirds of the charity trustees who vote on the resolution.

(6) Where charity trustees have passed a resolution under subsection (2), they must send a copy of it to the Commission, together with a statement of their reasons for passing it.

http://www.charitycommission.gov.uk/About_us/pogs/q519a001.aspx

B3.1 Consideration of resolutions to replace purposes
The consideration of most section 275 resolutions will be straightforward and we should proceed on the basis that each one is valid unless there is evidence that this is not the case. We can object to the resolution where the trustees:
   have not followed the proper process for making the resolution; or
   failed to ensure that the new purposes are charitable or include purposes that are as similar in character to those being replaced as is reasonably practical.

Proper process
To ensure proper process we need to know that the trustees:
   are properly appointed; and that
   the resolution was passed by not less than two thirds of the trustees present and voting;
   the trustee meeting was quorate where specific provisions are set out in the
governing document on this point;
the decision was taken in the best interests of the charity;
the charity's gross income is not more than £10,000 in the last full accounting period;
the charity is not a company or body corporate; and
the charity does not hold designated land.

THIS FOLLOWING IS THE ORIGINAL HRIN DOCUMENT

- PROPOSED REMOVALS ARE HIGHLIGHTED IN GREEN
- PROPOSED INSERTIONS ARE HIGHLIGHTED IN YELLOW

**Change of name from the 'Heywood Relief in Need Trust Fund' to the 'Heywood Phoenix Trust'**

THIS TRUST DEED is made on 28th day of November 1985 by THE ROCHDALE BOROUGH COUNCIL Town Hall Rochdale (hereinafter called the Council) of the first part LESLIE WORSLEY of 150 Kirkway Middleton being the Mayor of the Borough of Rochdale for the time being (hereinafter called the Ex-Officio Trustee) of the second part JOHN DENNIS GORMAN of 2 Grove Street Heywood MARY MOFFAT of 4 Oak Hill Bents Farm Littleborough SUSAN WALKER of 274 Middleton Road Heywood MATHEW WILLIAM INGOE of 34 Marland Fold Rochdale SUSAN EMMOTT of 12 Pilsworth Road Heywood (hereinafter called the First Nominated Trustees) of the third part CANON ALAN SHACKLETON of St. Luke’s Vicarage York Street Heywood and REVEREND FATHER JOSEPH DUGGAN of St. Joseph’s Presbytery Mary Street Heywood (hereinafter called the first Co-optative Trustees) of the fourth part which persons of the second and fourth parts are jointly hereinafter called the Trustees

WHEREAS
the Council being desirous of advancing the relief in sickness and need in that part of the Metropolitan Borough of Rochdale which comprises the former Municipal Borough of Heywood and of establishing a Charitable Trust to be known as the Heywood Relief in Need Trust Fund has this day paid to the Trustees the sum of £38,570 (Thirty-eight thousand five hundred and seventy pounds) to be held and applied by them upon the Trusts and for the intents and purposes hereinafter expressed and declared_________________

NOW THIS DEED WITNESSETH as follows:

1. THE said sum of £38,570 (Thirty-eight thousand five hundred and seventy pounds) and any further sums received by the Trustees for the purposes of the Trust shall be invested by the Trustees in their names or in the names of any two of them in any investments authorised by Law for Trustees with power from time to time to vary the same for others of a similar character

2. THE Trustees shall first defray out of the income of the Trust all the proper costs, charges and expenses of and incidental to the administration and management of the Trust

3. (1) SUBJECT to payment of the expenses aforesaid the Trustees shall apply the income of the Charity

**INSERT NEW INDENT (A)** in relieving either generally of individually persons resident in the area of the former Municipal Borough of Heywood who are in conditions of need, hardship or distress by making grants of money or providing or paying for items, services or facilities calculated to reduce the need, hardship or distress of such persons

B The Trustees may pay for such items services or facilities by way of donations or subscriptions to institutions or organisations which provide or which undertake in return to provide such items, services or facilities for such persons

(C) In exceptional cases the Trustees may grant relief to persons otherwise eligible therefor who are resident immediately outside the said area but in the opinion of the Trustees
ought nevertheless for sufficient reason to be treated as if resident therein or who are located for the time being therein _______

(D) in promoting the education (including social and physical training) of persons who are resident in, or who attend, or have attended any school in the area of the former Borough of Heywood or the village of Birch in one or more of the following ways or in such other ways as they think fit:

a. in awarding scholarships, bursaries, grants or maintenance allowances tenable at any school, university, college of education or other institution of further of higher (including professional and technical) education, approved by the Trustees;

b. in providing financial assistance, outfits, clothing, tools, instruments or books to enable such persons on leaving school, university or other educational establishment, to prepare for or assist their entry into, a profession, trade or calling;

c. in awarding scholarships, or maintenance allowances to enable persons to travel, whether in the United Kingdom or abroad, to pursue their education;

d. in awarding prizes to children attending schools in the said area.

(2) the Trustees shall have full power to make rules of the award of scholarships, grants, maintenance allowances or other benefits including rules as to the value and period of tenure of the awards, and the qualification and method of ascertainment and selection of persons.

4 RESTRICTIONS—In applying the income of the Charity the Trustees shall observe the following restrictions:

(1) They shall not apply any part of the income directly in relief of rates taxes or other public funds but may apply income in supplementing relief or assistance provided out of public funds

(2) They shall not commit themselves to repeat or renew the relief granted on any occasion in any case

5 INSERT (A) THE appropriation of the benefits of the Trust shall be made by the Trustees at meetings of their body and not separately by any individual Trustee or Trustees: Provided that the Trustees from time to time may appoint two or more members of their body to be a Committee (or in the absence of such an appointment the Chairman of the Trustees and one other Trustee acting with him shall constitute a Committee) for dealing with any cases of emergency. But all acts and proceedings of Committees shall be reported in due course to the Trustees

INSERT (B) In addition to their statutory powers, and a Committee for dealing with any emergency, the trustees may delegate any of their powers or functions to a committee of two or more trustees. A committee must act in accordance with any directions given by the trustees. It must not incur expenditure on behalf of the charity except in accordance with a budget previously agreed by the trustees.

(C) All acts and proceedings of Committees must report their decisions and activities fully and promptly to the trustees.

(D) The trustees must consider from time to time whether the powers or functions which they have delegated should continue to be delegated.

6 NO Trustee shall receive remuneration or be interested in the supply of work or goods, at the cost of the Trust
7 THE body of Trustees constituted under this Deed shall consist of

One Ex-Officio Trustee being the Mayor for the time being of the Borough of Rochdale

Five Trustees nominated by the Council

Two Co-optative Trustees

At least Two and up to FIVE co-optative Trustees

8 (1) THE First Nominated Trustees shall hold office as nominees of the Council for the following periods respectively the said –

JOHN DENNIS GORMAN and MARY MOFFAT for four years from the date hereof

SUSAN WALKER and MATHEW WILLIAM INGOE for three years from the date hereof

SUSAN EMMOTT for two years from the date hereof

(2) The First Co-optative Trustees shall hold office as First Co-optative Trustees for the following periods respectively the said –

CANON ALAN SHACKLETON for four years from the date hereof

REVEREND FATHER JOSEPH DUGGAN for two years from the date hereof

9 (A) ELIGIBILITY FOR TRUSTEESHIP

no one shall be appointed as a trustee;

a. if he or she is under the age of 18 years; or

b. if he or she would at once be disqualified from office under provisions of clause 9 (B) of this deed.

(B) TERMINATION OF TRUSTEESHIP

A trustee shall cease to hold office if he or she:

(1) is disqualified for acting as a trustee by virtue of sections 178 and 179 of the Charities Act 2011 or any statutory re-enactment or modification of that purpose;

(2) becomes incapable by reason of mental disorder, illness or injury of managing his or her own affairs;

(3) is absent without the permission of the trustees from all their meetings held within a period of six months and the trustees resolve that his or her office be vacated; or

(4) notifies to the trustees a wish to resign (but only if enough trustees will remain in office when notice of resignation takes effect to form a quorum for meetings).

10 (A) FUTURE Nominative Trustees shall be appointed by the Council. Each appointment shall be made for a term of four years at a meeting convened and held according to the ordinary practice of the Council. The Chairman of the meeting shall cause the name of each
person appointed to be notified forthwith to the Trustees of their clerk. The person appointed may be but need not be a member of the Council.

10 REMOVE (1) REPLACE (B) EVERY future Co-optative Trustee shall be appointed for a term of four years by a resolution of the Trustees passed at a special meeting of which not less than 21 days notice has been given and may be so appointed not more than one month before the term of an existing Co-optative Trustee expires with effect from the date of expiry but so that the latter shall not vote on the matter.

REMOVE (2) REPLACE (C) Co-optative Trustees shall be persons who through residence, occupation or employment, or otherwise have special knowledge of the area of the former Municipal Borough of Heywood.

11 (a) NO persons (other than the parties to this Deed) shall be entitled to act as a Trustee whether on a first or on any subsequent entry into office until after signing in the minute book of the Trustees a declaration of acceptance and of willingness to act in the trusts of this Scheme.

(b) The Trustees appointed by this Deed by their execution thereof accept the terms of the trust created and signify their willingness to act as Trustees.

REMOVE:

12 ANY Nominative or Co-optative Trustee who is absent from all meetings of the Trustees during a period of one year and any Trustee who is adjudged bankrupt or makes a composition or arrangement with his or her creditors or who is incapacitated from acting or who communicates in writing to the Trustees a wish to resign shall cease thereupon to be a Trustee.

REMOVE 13 REPLACE 12 UPON the occurrence of a vacancy the Trustees shall cause a note thereof to be entered in their minute book at their meeting and in the case of a vacancy in the office of Nominative Trustee shall cause notice thereof to be given as soon as possible to the Council. INSERT - In selecting individuals for appointment as trustees, or advising on nominative trustees, the trustees must have regard to the skills, knowledge and experience needed for the effective administration of the charity. Any competent Trustee may be re-appointed.

INSERT 13 If the number of trustees falls below the quorum in Clause 18, none of the powers of discretions conferred by this deed or by law on the trustees shall be exercisable by the remaining trustees except the power to appoint new trustees.

14 THE Trustees shall hold at least two ordinary meetings in each year.

15 THE first meeting of the Trustees shall be summoned by the Council’s Chief Executive and Town Clerk or if he fails for three calendar months after the date of the Deed to summon a meeting by any two of the Trustees.

16 THE Trustees at their first ordinary meeting in each year shall elect one of their number to be Chairman of their meetings until the commencement of the first ordinary meeting in the following year. The Chairman shall always be eligible for re-election. If at any meeting the chairman is not present within ten minutes after the time appointed for holding the same or there is no Chairman the Trustees present shall choose one of their number to be Chairman of the meeting.

17 A special meeting may be summoned at any time by the Chairman of any two Trustees upon not less than four days’ notice being given to the other Trustees of the matters discussed, but if the matters include an appointment of a Co-optative Trustee then upon not less than 21 days’ notice being so given. A Special Meeting may be summoned to take place after an ordinary meeting.

18 INSERT A THERE shall be quorum when three Trustees are present at a meeting.
A charity trustee must:

(1) declare the nature and extent of any interest, direct or indirect, which he or she has in a proposed transaction or arrangement with the charity or in any transaction or arrangement entered into by the charity which has not previously been declared; and

(2) absent himself or herself from any discussions of the charity trustees in which it is possible that a conflict will arise between his or her duty to act solely in the interests of the charity and any personal interest (including but not limited to any personal financial interest).

Any charity trustee absenting himself or herself from any discussion in accordance with this clause must not vote or be counted as part of the quorum in any decision of the charity trustees on the matter.

18 C  SAVING PROVISIONS

(1) Subject to sub-clause (2) of this clause, all decisions of the charity trustees, or of a committee of the charity trustees, shall be valid notwithstanding the participation in any vote of charity trustee:

(a) who is disqualified from holding office;

(b) who had previously retired or who had been obliged by deed to vacate office;

(c) who was not entitled to vote on the matter, whether by reason of a conflict or interest or otherwise

if without the vote of that charity trustee and that charity trustee being counted in the quorum, the decision has been made by a majority of the charity trustees at a quorate meeting.

(2) Sub-clause (1) of this clause does not permit a charity trustee to keep any benefit that may be conferred upon him or her by a resolution of the charity trustees or of a committee of charity trustees if, but for sub-clause (1), the resolution would have been void, or if the charity trustee has not complied with sub-clause 18 B (conflicts of interest and conflicts of loyalties).

19  EVERY matter shall be determined by the majority of votes of the Trustees present and voting on the question. In case of equality of votes the Chairman of the meeting shall have a casting vote previously on the same question but no Trustee in any other circumstances shall give more than one vote.

20  A minute book and book of accounts shall be provided and kept by the Trustees. Statements of account in relation to the Trust shall be prepared and transmitted to the Charity Commissioners in accordance with the provisions of the Charities Act 1960 except if and in so far as the Charity is excepted by order of regulations.

21  WITHIN the limits prescribed by the Deed the Trustees shall have full power from time to time to make regulations for the management of the Trust and for the conduct of their business including the summoning of meetings, the appointment of a clerk, the deposit of money at a proper bank and the custody of documents.

22  THE Trustees may at any time accept any additional donations or endowments for the general purposes of the Trust and they may also accept donations or endowments for any special objects connected with the Trust not inconsistent with or calculated to impede the due working of the provisions of this Deed.
23 (a) THE Trustees may seek the advice and guidance of the Charity Commissioners concerning the construction of the terms of this Deed or as to the regularity or the validity of any acts done or intended to be done in their capacity as Trustees hereof.

(b) REPLACE Whether or not such advice or guidance is sought no Trustee shall be personally liable for any act done or omitted by him unless he has acted in bad faith.

WITH (b) When exercising any power (whether given to them by this deed, or by statute, or by any rule of law) in administering or managing the charity, each of the trustees must use the level of care and skill that is reasonable in the circumstances, taking into account any special knowledge or experience that he or she has or claims to have ('the duty of care').

(c) No trustee, and no one exercising powers or responsibilities that have been delegated by the trustees, shall be liable for any act or failure to act unless, in acting or in failing to act, he or she has failed to discharge the duty of care.

INSERT

24 DISPUTES
If a dispute arises between the trustees about the validity or propriety of anything done by the charity trustees under this deed, and the dispute cannot be resolved by agreement, the trustees party to the dispute must first try in good faith to settle the dispute by mediation before resorting to litigation.

25 ACCOUNTS, ANNUAL REPORT AND ANNUAL RETURN
The trustees must comply with their obligations under the Charities Act 2011 with regard to:
(1) the keeping of accounting records for the charity;
(2) the preparation of annual statements of account for the charity;
(3) the auditing or independent examination of the statements of account of the charity;
(4) the transmission of the statements of account of the charity to the Commission;
(5) the preparation of an Annual report and its transmission to the Commission;
(6) the preparation of an Annual Return and its transmission to the Commission.

26 REGISTERED PARTICULARS
The trustees must notify the Commission promptly of any changes to the charity’s entry on the Central register of Charities.

27 BANK ACCOUNT
Any bank or building society account in which any of the finds of the charity are deposited must be operated by the trustees and held in the name of the charity. Unless the regulations of the trustees make other provision, all cheques and orders for the payment of money from such an account shall be signed by at least two trustees.

28 APPLICATION OF INCOME AND PROPERTY
(1) The income and property of the charity must be applied solely towards the promotion of the objects:
(a) A charity trustee is entitled to be reimbursed out of the property of the charity or may pay out of such property reasonable expenses properly incurred by him or her when acting on behalf of the charity.
(b) A charity trustee may benefit from trustee indemnity insurance cover purchased at the charity’s expense in accordance with, and subject to the conditions in, section 189 of the Charities Act 2011.

(2) Subject to clause 28, none of the income and property of the charity may be paid or transferred directly or indirectly by way of dividend, bonus, or otherwise by way of profit to any trustee.

29 BENEFITS AND PAYMENTS TO CHARITY TRUSTEES AND CONNECTED PERSONS

(1) General Provisions

No charity trustee of connected person may:

(a) buy or receive any gods or service from the charity on terms preferential to those applicable to members of the public;
(b) sell goods, services or any interest in land to the charity;
(c) be employed by, or receive any remuneration from, the charity;
(d) receive any other financial benefit from the charity;

unless the payment or benefit is permitted by sub-clause (2) of this clause or authorized by the court or the Charity Commission (‘the Commission’). In this clause a ‘financial benefit’ means a benefit, direct or indirect, which is either money or has a monetary value.

(2) Scope and powers permitting trustees’ or connected persons’ benefits

(a) A charity trustee or connected person may receive a benefit from the charity in the capacity of a beneficiary of the charity provided that a majority of the trustees do not benefit in this way.
(b) A charity trustee or connected person may enter into a contract for the supply of services, or of goods that are supplied in connection with the provision of services, to the charity where that is permitted in accordance with, and subject to, the conditions in, section 185 of the Charities Act 2011.
(c) Subject to sub-clause (3) of this clause a charity trustee or connected person may provide the charity with goods that are not supplied in connection with services provided to the charity by charity trustee or connected person.
(d) A charity trustee or connected person may receive interest or money lent to the charity at a reasonable and proper rate which must not be more than the Bank of England bank rate (also known as the base rate).
(e) A charity trustee or connected person may receive rent from premises let by the trustee or connected person to the charity. The amount of the rent and the other terms of the lease must be reasonable and proper. The charity trustee concerned must withdraw from any meeting at which such a proposal or the rent or other terms of the lease are under discussion.
(f) A charity trustee of connected person may take part in the normal trading and fundraising activities of the charity on the same terms as members of the public.

(3) Payment for the supply of goods only - control

The charity and its charity trustees may only rely upon the authority provided by sub-clause (2)(c) of this clause if each of the following conditions is satisfied:

(a) the amount or maximum amount of the payment for the goods is set out in an agreement in writing between the charity and the charity trustee or connected person supplying the goods (‘the supplier’) under which the supplier is to supply the goods in question to or on behalf of the charity.
The amount of maximum of the payment for the goods in question does not exceed what is reasonable in the circumstances for the supply of goods in question.  

The other charity trustees are satisfied that it is in the best interests of the charity to contract with the supplier rather than someone who is not a charity trustee or connected person. In reaching that decision the charity trustees must balance the advantage of contracting with a charity trustee or connected person against the disadvantages of doing so.  

The supplier is absent from the part of the meeting at which there is discussion of the proposal to enter into a contract or arrangement with him or her or it with regard to the supply of goods to the charity.  

The supplier does not vote on any such matter and is not to be counted when calculating whether a quorum of trustees is present at the meeting.  

The reason for their decision is recorded by the charity trustees in the minute book.  

A majority of the charity trustees then in office are not in receipt of remuneration or payments authorised by clause 28.  

In sub-clauses (2)-(3) of this clause:  

(a) ‘charity’ shall include any company in which the charity holds more than 50% of the shares; or  

(b) in sub-clauses (2) – (3) of this clause ‘connected person’ includes any person within the definition set out in clause 33 (interpretation).  

(i) controls more than 50% of the voting rights attached to the shares; or  

(ii) has the right to appoint one or more trustees to the board of the company;  

30 EXPENSES  

The trustees may use the charity’s funds to meet any necessary expense and reasonable expenses which they incur in the course of carrying out their responsibilities as trustees of the charity.  

31 AMENDMENT OF TRUST DEED  

(1) The trustees may amend the provisions of this deed, provided that:  

(a) no amendment may be made to clause 3 (purposes and application of income), clause 23 (Duty of care and extent of liability), and clause 28 (Benefits and payments to charity trustees and connected persons), clause 32 (Dissolution) or this clause without the prior consent in writing of the Commission; and  

(b) no amendment may be made that would have the effect if making the charity cease to be a charity at law;  

(c) no amendment may be made to alter the objects if the change would undermine or work against the previous objects of the charity.  

(2) Any amendment of this deed must be made by deed following a decision of the Trustees made at a special meeting.  

(3) The trustees must send to the Commission a copy of the deed effecting any amendment made under this clause within three months of it being made.  

32 DISSOLUTION  

(1) The trustees may dissolve the charity if they decide that it is necessary or desirable to do so, to be effective, a proposal to dissolve the charity must be passed at a special meeting by a two-thirds’ majority of the trustees. Any assets of the charity that are left after the charity’s debts have been paid (‘the net assets’) must be given:
(a) to another charity (or other charities) with objects that are the same or similar to the charity’s own, for the general purposes of the recipient charity (or charities); or

(b) to any charity for the use for particular purposes which fall within the charity’s objects.

(2) The Commission must be notified promptly that the charity has been dissolved and, if the trustees were obliged to send the charity’s accounts to the Commission for the accounting period ended before its dissolution, they must send the Commission the charity’s final accounts.

33 INTERPRETATION

(1) In this deed:

all references to particular legislation are to be understood as references to legislation in force at the date of this deed and also to any subsequent legislation that adds to, modifies or replaces that legislation.

(2) ‘connected person’ means

(a) a child, parent, grandchild, grandparent, brother or sister of the trustee;

(b) the spouse or civil partner of the trustee or of any person falling within the sub-clause (a) above;

(c) a person carrying on business in partnership with the trustee or with any person falling within sub-clause (a) or (b) above;

(d) an institution which is controlled –

(i). by the trustee or any connected person falling within sub-clause (a), (b), or (c) above; or

(ii). by two or more persons falling within sub-clause (d)(i), when taken together

(e) a body corporate in which –

(i). the charity trustee or any connected person falling within sub-clauses (a) to (c) has a substantial interest; or

(ii). two or more persons falling within sub-clause (e)(i) who, when taken together, have a substantial interest.

(3) Sections 350-352 of the Charities Act 2011 apply for the purposes of interpreting the terms used in sub-clause (2) above.