

ISLE OF ANGLESEY COUNTY COUNCIL

REPORT TO:	EXECUTIVE COMMITTEE
DATE:	15 JULY 2019
SUBJECT:	WELSH CHURCH ACT FUND
PORTFOLIO HOLDER(S):	COUNCILLOR R.W.WILLIAMS
HEAD OF SERVICE:	MARC JONES (EXT. 2601)
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LOCAL MEMBERS:	n/a

A - Recommendation/s and reason/s

The Executive approves the draft scheme as attached in Appendix B and delegates the power to the Head of Function (Resources) / Section 151 Officer and Monitoring Officer, in consultation with the Portfolio Holder (Finance), to:-

- complete the necessary arrangements to have the scheme approved and to set up the charitable body;
- make any changes required by the Charity Commission or legal advisors to the draft scheme in order to complete the process, provided that the changes do not conflict with the principles of the draft scheme. Where any required change changes the principles reflected in the draft scheme, further approval will be required by the Executive before the changes to the scheme are adopted.

Once the Charity Commission confirms registration of the charity, the Head of Function (Resources) / Section 151 Officer will obtain independent expert advice as to how best to maximise the investment returns from the land and cash held in the Fund.

Under the Welsh Church Act 1914 and other subsequent regulations, the Council is required to approve a scheme for the administration of the fund.

B - What other options did you consider and why did you reject them and/or opt for this option?

None

C - Why is this decision for the Executive?

In accordance with paragraph 3.3.1 of the Council's Constitution, apart from decisions reserved for the full Council, decisions taken by Regulatory and other Committees or decisions to be taken by Officers, all other decisions in relation to various functions of the Council will be taken by the Executive.

Decisions in respect of the Welsh Church Act Fund have not been reserved to the Council or delegated to Officers and, therefore, is a decision for the Executive.

CH - Is this decision consistent with policy approved by the full Council?

Not Applicable

D - Is this decision within the budget approved by the Council?		
Not Applicable		
DD - Who did you consult?		What did they say?
1	Chief Executive / Strategic Leadership Team (SLT) (mandatory)	
2	Finance / Section 151 (mandatory)	n/a – this is the Section 151 Officer’s report
3	Legal / Monitoring Officer (mandatory)	Comments provided by the Monitoring Officer have been incorporated into the final report
4	Human Resources (HR)	
5	Property	
6	Information Communication Technology (ICT)	
7	Scrutiny	
8	Local Members	
9	Any external bodies / other/s	
E - Risks and any mitigation (if relevant)		
1	Economic	
2	Anti-poverty	
3	Crime and Disorder	
4	Environmental	
5	Equalities	
6	Outcome Agreements	
7	Other	
F - Appendices:		
Appendix A – Detailed Report Appendix B – Draft Scheme		
FF - Background papers (please contact the author of the Report for any further information):		

1. BACKGROUND INFORMATION

- 1.1. The Welsh Church Act 1914 disestablished the Church in Wales and transferred assets to the County Councils. A sum of cash and property was transferred to Anglesey County Council and income from the fund was used for a number of purposes which are detailed in Schedule 1 of the draft scheme (attached as Appendix B).
- 1.2. The fund was set up in 1922 but the assets were not fully distributed until 1946. The fund continued to be administered by Anglesey County Council until local government reorganisation in 1974 when the funds relating to Anglesey, Caernarfonshire, most of Meirionydd and parts of Denbighshire were brought together and controlled by Gwynedd County Council. Anglesey's contribution amounted to 53.6% of the new fund on 1 April 1974.
- 1.3. On local government reorganisation in 1996, the assets held by Gwynedd County Council were to be distributed to the three successor authorities. Much discussion took place between the Chief Financial Officers of the three authorities, with Anglesey wishing the fund to be distributed on the basis of the pre 1974 asset share, whilst the other two authorities were pressing for a redistribution based on population. After adjusting for asset sales, a redistribution on the basis of the pre 1974 assets would have resulted in Anglesey receiving 48% of the assets, whilst Anglesey would only have received 28% of the assets on a population basis.
- 1.4. Eventually, a compromise agreement was reached whereby the assets of the fund were allocated 50% on the basis of population and 50% on the basis of the pre 1974 position. This resulted in the fund being allocated as follows:-
- | | |
|----------|------------|
| Anglesey | 38.466039% |
| Gwynedd | 43.723717% |
| Conwy | 17.810244% |
- 1.5. It should be noted that, although the Fund continued to be administered by Cyngor Gwynedd, grants were still awarded based on decisions taken by the Isle of Anglesey County Council.

2. CURRENT POSITION

- 2.1. Since the agreement was reached on the distribution percentage, a further dispute arose regarding the value of 2 parcels of land and how they should be accounted for in the final allocation of assets. The land constitutes the following:-
- 37.5 acres at Llanfairynghornwy
0.77 acres at Hen Ysgoldy, Gwalchmai
- 2.2. For reasons which are unclear, the valuation of the 2 parcels of land has taken an inordinate amount of time to complete. There was also a dispute surrounding the ownership of a third piece of land which has only recently been resolved. In addition, the legality of allocating the fund on the agreed basis was questioned again and this required Cyngor Gwynedd to obtain independent legal advice. This slowed the process considerably.
- 2.3. A valuation of the land was obtained in 2014 and updated in 2019 and the independent legal advice has confirmed that the existing Gwynedd County Council fund can be apportioned between the three related parties, being Anglesey, Conwy and Gwynedd Councils, in order that they may establish their individual funds for the intended charitable purposes as defined.

2.4. Based on the current position and the agreed allocation percentages, the Fund has been allocated as follows:-

Anglesey	£ 818k (value of land + cash)
Conwy	£ 379k (cash)
Gwynedd	£ 930k (cash)
TOTAL	<u>£ 2,127k</u>

2.5. On 25 May 2019, the Council received £503,273.24 in cash, in respect of the Council's share of the Fund, with the remainder of the assets transferred to the Council being made up of the two pieces of land valued at £315,000.

2.6. The last set of available accounts completed by Cyngor Gwynedd show that the parcels of land generated a rental income of £2,470 (a return of 0.78%). At this point it may be in the best interests of the Charity to consider selling the land and investing the income generated, along with the cash balances, in order to generate a higher return.

3. SETTING UP A NEW SCHEME AND CHARITABLE BODY

3.1. Once the assets are transferred to Anglesey, it will be necessary for the Council to approve a scheme in order that the fund can be administered in accordance with the original purpose of the fund.

3.2. A draft scheme was found in the file and this scheme may have been presented to a meeting of the Leisure and Heritage Committee 9 October 1996. This scheme follows the current scheme which Cyngor Gwynedd had in place dated 9 May 1994. The Committee resolved to accept the scheme.

3.3. The combined Anglesey, Gwynedd and Conwy Welsh Church Fund was a registered charity and it will be necessary to set up a new charity for the Anglesey Welsh Church Act Fund.

4. RECOMMENDATIONS

4.1. The Executive approves the draft scheme as attached in Appendix B and delegates the power to the Head of Function (Resources) / Section 151 Officer and Monitoring Officer, in consultation with the Portfolio Holder (Finance), to:-

- complete the necessary arrangements to have the scheme approved and to set up the charitable body;
- make any changes required by the Charity Commission or legal advisors to the draft scheme in order to complete the process, provided that the changes do not conflict with the principles of the draft scheme. Where any required change changes the principles reflected in the draft scheme, further approval will be required by the Executive before the changes to the scheme are adopted.

4.2. To request the Head of Function (Resources) / Section 151 Officer to obtain independent advice as how best to maximise the investment returns from the land and cash held in the Fund.

ISLE OF ANGLESEY SCHEME UNDER

SECTION 19

WELSH CHURCH ACT 1914

SCHEME MADE BY THE ISLE OF ANGLESEY COUNTY COUNCIL

UNDER SECTION 19 OF THE WELSH CHURCH ACT 1914

SCHEME

Date of making

Date of approval by the

Secretary of State

Isle of Anglesey County Council of Council Offices Llangefni Anglesey LL77 7TW having certain property vested in it by virtue of section 50 of the Local Government (Wales) Act 1994 and the Welsh Church Act Funds (Designation and Specification) Order 1996 and whereby because of the said section 50 the property is to be applied by the Council in accordance with a scheme made under section 19 of the Welsh Church Act 1914 as that scheme was applicable to the property immediately before 1st April 1996 until the revocation or amendment of that scheme, hereby makes the following scheme.

Citation and commencement

1. This scheme may be cited as the Isle of Anglesey County Council Welsh Church Act Trust Fund Scheme 1996 and shall have effect from 1999 the date of approval by the Secretary of State.

Interpretation

2. In this scheme –

“the 1914 Act” means the Welsh Church Act 1914;

“the 1972 Act” means the Local Government Act 1972;

“the 1994 Act” means the Local Government (Wales) Act 1994;

“the 1996 Order” means the Welsh Church Act Funds (Designation and Specification) Order 1996;

“the Council” means the Isle of Anglesey County Council;

“District Valuer” means the District Valuer of the Inland Revenue Valuation Office Agency for the area in which the land concerned is situated;

“land” includes land covered by water and any interest or right in, to or over land;

“principal council” means a county or a county borough council;

“Wales” has the meaning assigned to it by section 269 of the 1972 Act.

In this scheme unless the context otherwise requires, references to any enactment shall be construed as references to that enactment as amended, extended or applied by or under any other enactment.

Application, Title and Administration

3. This Scheme shall have effect with regard to the application of the property which is now vested in the Council by virtue of section 50 of the 1994 Act, the 1996 Order, and of any donations or endowments which may hereafter be received by the Council for the general purposes of this Scheme.
4. The property referred to in paragraph 3 shall subject as aforesaid be administered and managed by the Council subject to and in conformity with the provisions of this Scheme under the title of "The Isle of Anglesey County Council Welsh Church Act Trust Fund" (the Fund).

Transaction of Business etc.

5. Sections 94 to 98 (restrictions on voting), 99 (meetings and proceedings) and Part VA (access to meetings and documents) of the 1972 Act shall apply to the Council in the administration of the Fund as they apply ordinarily to the Council.

Financial Administration and Accounts

6. The Council shall make proper arrangements for the financial administration of the Fund and shall secure that one of its officers is appointed to be responsible for such administration.
7.
 - (1) The Council shall provide the Secretary of State with such information and documentation as he may from time to time require in connection with the financial administration of the Fund.
 - (2) The Secretary of State may determine that information to be supplied, or information arising out of documentation to be supplied, under sub-paragraph (1) shall be treated as a return for the purposes of section 168 of the 1972 Act (local financial returns).
8. The Secretary of State may require that the officer appointed under paragraph 6 shall keep separate accounts relating to the financial administration of the Fund and that those accounts shall be treated as accounts for the purposes of Part III of the Local Government Finance Act 1982 (Accounts and Audit).

Custody of Documents.

9. The Council shall make proper arrangements with respect to any documents relating to the Fund which are in the custody of the Council or any of its officers.

Arrangements for Discharge of Functions

10.
 - (1) The Council may arrange for the discharge of any of its functions under this Scheme by a Committee of the Council and, where any such arrangement is made, then, unless the Council otherwise direct, the Committee may arrange for the discharge of any of those functions by a Sub-Committee.
 - (2) Any arrangements made by the Council or a Committee for the discharge of functions by a Committee or a Sub-Committee shall not prevent the Council from discharging those functions.
 - (3) Section 104 to 106 of the 1972 Act shall apply to a Committee or Sub-Committee appointed under this paragraph as they apply to any other Committee or Sub-Committee of the Council.

Additional Endowments

11. The Council may receive any additional endowments or donations for the general purposes of this Scheme and it may also receive donations or endowments for any special objects connected with this Scheme not inconsistent with or calculated to impede the due working of its provisions.

Acquisition of Land

12. (1) The Council may out of the Fund acquire by agreement any land which is required for the purposes of this Scheme.
- (2) Where any land is held by the Council for the purposes of this Scheme, the Council may, where it considers it necessary or expedient, out of the Fund, acquire by agreement any adjoining land for the purpose of securing the effective use of the land held by the Council and any land which is acquired under this sub-paragraph shall be held for the purposes of this Scheme.
- (3) The power to acquire land under this paragraph shall include the power to acquire land in exchange for land held by the Council if, in the opinion of the Council, any such exchange would be beneficial for the purposes of this Scheme.

Occupation, Appropriation and Disposal of Land

13. (1) The Council may, in accordance with the following provisions of this paragraph, occupy, appropriate or dispose of any land held by it for the purposes of this Scheme which is not required to be used for those purposes.
- (2) The Council may occupy any land as is mentioned in sub-paragraph (1) above for any purpose for which it is authorised under any enactment to acquire land by agreement on such conditions, and subject to the payment to the Fund of any such sums in the nature of rent, as may be determined by the District Valuer.
- (3) The Council may appropriate any such land as is mentioned in sub-paragraph (1) above for any purpose for which the Council are authorised by any enactment to acquire land by agreement and on any such appropriation:-
 - (a) the Council shall transfer to the Fund such sum as the District Valuer shall certify to be the value of the land; and
 - (b) a memorandum of the appropriation stating the amount of the consideration shall be endorsed on the principal document of title relating to the land appropriated.
- (4) The Council may dispose of any land as is mentioned in sub-paragraph (1) whether by way of sale, lease or exchange for the best consideration that can reasonably be obtained.
- (5) On the grant of any lease under sub-paragraph (4) above the Council shall secure the execution of a counterpart by the lessee; and every lease shall contain a covenant on the part of the lessee for the payment of rent, and all other usual and appropriate covenants applicable to the property comprised therein and a proviso for re-entry on non-payment of the rent or non-performance of the covenants.
- (6) Nothing in this paragraph shall authorised the appropriation or disposal of any land held by the Council for the purposes of this Scheme in breach of any covenant or agreement which is binding upon it.
- (7) The provisions of this paragraph are subject to the provisions of Part V of the Charities Act 1933 (Charity Land).

Management of Land

14. (1) Subject to the provisions of paragraph 13, the Council shall manage all the lands held by it for the purposes of the Scheme and not occupied for the purposes thereof according to the general law applicable to the management of charitable property by trustees.

- (2) The Council shall keep in repair and insure for full value against fire and other usual risks all the buildings held by the Council for the purposes of this Scheme which are not required to be kept in repair and insured by the lessees or tenants thereof.

Investments

15. (1) Any money forming part of, but not for the time being required for the purposes of, the Fund shall be invested in any investment from time to time sanctioned by law for the investment of trust funds or in any authorised security created by a local authority other than any annuity, rent charge or security transferable by delivery.
- (2) The Council shall secure that any such investment is designated as having been made by the Council or a duly authorised officer of the Council, as the case may be, for the purposes of and in the name of the Fund and in accordance with the general law applicable to trustees.

Arrangements with other Councils

16. The Council may make arrangements with any other principal Council in Wales and may act in concert with that Council for any purposes or for assisting any object consistent with the provisions of this Scheme that it thinks desirable.

Appointment of Staff

17. (1) The Council may appoint such officers as it thinks necessary for the proper administration of this Scheme on such reasonable terms and conditions, including conditions as to remuneration and expenses payable to the officers out of the Fund, as the Council think fit.
- (2) In pursuance of sub-paragraph (1) above the Council may arrange for any of its officers to be appointed as part-time officers for the purposes of the administration of this Scheme and any such arrangement may provide that the remuneration and expenses payable in respect of officers under sub-paragraph (1) above shall be paid to the Council fund.
- (3) Section 117 of the 1972 Act (declaration by officers of interest in contracts) shall apply to officers appointed under this paragraph.

Superannuation

18. The provisions of regulations under section 7 of the Superannuation Act 1972 which provide for the superannuation of persons employed by the Council shall apply for or in connection with the administration of this Scheme as they apply to other employees of the Council and, accordingly, the Council may pay out of the Fund to the appropriate superannuation fund in respect of persons so employed such sums as may from time to time become payable under those regulations.

Application of the Fund

19. (1) Subject to the provisions of this Scheme, the Council shall first defray out of the income of the Fund all the proper costs, charges and expenses of and incidental to the administration and management of the Fund; and after payment of the said costs, charges and expenses of and incidental to the administration and management of the Fund; and after payment of the said costs, charges and expenses, the Council shall apply the Fund to such charitable purposes of the nature described in Schedule 1 as the Council may from time to time think fit.
20. (1) In applying as aforesaid any property comprised in the Fund, the Council shall have due regard to the wants and circumstances of any relevant area as defined below; provided that:-

- (a) where, in the opinion of the Council, it is not reasonably practicable to identify a relevant area with respect to any such property, this sub-paragraph shall not apply to that property; and
 - (b) where a relevant area is identified with respect to any such property, the Council may nevertheless, after due consideration and having regard to all the circumstances of the case, apply that property to any of the purposes authorised by this Scheme, whether or not the area to be benefited includes the relevant area or any part thereof.
- (2) In this paragraph “a relevant area” in relation to any property comprised in the Fund means the area of any parish described with respect to the property in sub-section (2) of section 19 of the 1914 Act.

Subsidiary Powers of the Council

- 21. Without prejudice to any powers exercisable under the provisions of this Scheme other than this paragraph but subject to those provisions, the Council shall have power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions under this Scheme.
- 22. Any provision in Schedule 1 which empowers the Council to apply the Fund for any purpose shall, as the case may require, be construed as including power for the Council to apply the Fund in assisting any body to carry out the same purpose.

Revocation and Savings

- 23. (1) The existing schemes specified in column (1) of Schedule 2 are hereby revoked to the extent specified in column (2).
- (2) Any decision made or undertaking given or other thing done by the Council or any other Council in accordance with any such existing scheme with respect to the application of any property comprised in the Fund shall have effect as if made, given or done by the Council in accordance with this Scheme.

SCHEDULE 1 PARAGRAPH 19

The Charitable purposes for which the Fund may be applied.

The Advancement of Education.

Educational

1. The provision of benefits which are not readily available from other sources for persons of any age in one or more of the following ways :-
 - (i) The award of scholarships, bursaries, loans or maintenance allowances to enable or to assist study at any school, university or other place of learning, approved by the Council, which may if the Council think fit include allowances to dependants.
 - (ii) The provision of financial assistance, outfits, clothing, tools, instruments, other equipment, or books or loans to enable pupils or students on leaving school, university or any other educational establishment to prepare for, or to assist their entry into a profession, trade or calling.
 - (iii) The award of scholarships or maintenance allowances or loans to enable beneficiaries to travel abroad to pursue their education.
 - (iv) The provision, or assistance towards the provision of facilities of any kind not normally provided by a local education authority, or a grant maintained school, for recreation, social and physical training at a school, university or other educational establishment.
 - (v) The provision of financial assistance to enable pupils and students to study music or other arts.
 - (vi) The provision of financial assistance to enable beneficiaries to undertake apprenticeships.

Libraries, Museums, Art Galleries etc.

2. The advancement of knowledge and appreciation of the arts and literature of Wales and, in particular, in furtherance of those purposes but without prejudice to the generality thereof :-
 - (i) The establishment, maintenance, replenishment or aiding of charitable institutions, libraries, museums, art galleries; or art, scientific or industrial exhibitions (including exhibitions relating to industrial archaeology); whether national or local, for the principal use and benefit of the Welsh people;
 - (ii) The assistance of charitable societies for study and research in subjects connected with Welsh history, topography, literature and life;
 - (iii) The provision of lectures, exhibitions and equipment;
 - (iv) The acquisition, preservation and publication of records and documents;
 - (v) The provision of suitable premises (by erection, purchase, lease or hiring for occasional use) for any of the purposes authorised by this paragraph.

The Relief of Poverty

Relief in Need

3. The relief either generally or individually of persons who are in conditions of need, hardship or distress by the making of grants of money or the provision of, or payment for, items, services or facilities calculated to reduce the need, hardship or distress of such persons.

The Advancement of Religion

Places of Worship and Burial Grounds

4. The contribution towards the restoration and maintenance of any place of public worship or any burial ground.

Other Purposes Beneficial to the Community

Relief in Sickness

5. The relief in cases of need of persons who are sick, convalescent, disabled, handicapped or infirm by the provision of, or payment for, items, services or facilities which are calculated to alleviate the suffering or assist the recovery of such persons, but which are not readily available to them from other sources.

Elderly Persons

6. The provision or assisting in the provision of accommodation for elderly persons who by reason of infirmities and disabilities of age have need of such reception, care and attention. The provision of funds to organisations promoting the welfare of elderly persons.

Social and Recreational

7. (1) The provisions of, or assisting in the provision of, facilities for recreation or other leisure time occupation being facilities which are available to the members of the public at large and which are provided in the interests of social welfare with a view to improving the conditions of life of the persons for whom they are intended and, in particular, in furtherance of those purposes but without prejudice to the generality thereof, the provision of, or assisting in the provision of playing fields, other sporting facilities, parks, open spaces and centres or halls for meetings, lectures or classes.

(2) Sub-paragraph (1) above is intended, in particular, to be concerned with the provision of, or assisting in the provision of facilities etc. to persons in need by reason of their youth, old age, infirmity or disablement, poverty or social and economic circumstances.

Aesthetic, Architectural, Historical and Scientific Matters

8. The advancement of the education and public benefit of the Welsh people by promoting their interest in aesthetic, architectural, historical or scientific matters relating to Wales and in particular in furtherance of those matters but without prejudice to the generality thereof :-

(a) the acquisition and preservation of :-

(i) Land of special interest in relation to science and natural history;

(ii) Land, buildings or objects of beauty or of historic or architectural interest;

(b) the acquisition, preservation and publication of records and documents of historic interest.

Medical and Social Research, Treatment, etc.

9. The preservation and protection of the physical and mental health of society and, in particular, in furtherance of those purposes but without prejudice to the generality thereof :-

(a) the advancement of education in the theory and practice of medicine;

(b) the promotion of medical and social research and schemes for the prevention and treatment of disease and publishing the results of such research;

(c) the provision of nursery and convalescent homes and hostels.

Probation etc.

10. Making grants in cases of need for the assistance of :-

(a) persons placed on probation, or children and young persons from community homes or any other institution or a substantially similar nature established under statutory authority;

(b) the families of any such persons, children or young persons; or

(c) discharged prisoners.

People who are Blind or Visually Impaired

11. Provision for the welfare of persons who are blind or visually impaired, including the provision of charitable homes and holiday homes.

Emergencies or Disasters

12. The contribution towards the alleviation of the effects of emergencies or disasters involving destruction of or danger to life, and property and directly assisting persons in need as a result of such emergencies and disasters.

Other Charitable Organisations

13. Contributions towards charitable organisations, the purposes of which are consistent with the provisions of this Scheme or the Welsh Church Acts 1914 to 1945.

SCHEDULE 2 PARAGRAPH 23

The revocation of existing schemes.

(1) The Scheme made by Gwynedd County Council on the day of

(2) The Whole Scheme

Dated the day of 1996

I approve the foregoing scheme made by the Isle of Anglesey County Council under Section 19 of the Welsh Church Act 1914.

.....
SECRETARY OF STATE FOR WALES