

APPLECROSS FORUM - THE COMMUNITY FUND

Update paper for Zoom Meeting on 18/11/20

Introduction

We last met to face to face in January, we had no idea of the global changes about to take place. Over intervening months efforts have been made to progress this issue, but it has been difficult in all the circumstances to keep everyone engaged and actually get things moving.

However, we now need to get to grips with the fact that we are going to be living in the current environment for an extended period of time, and we have to be able to progress things. The Zoom format, whilst not ideal, is a method of doing this, and this paper is intended to help the meeting on 18th November to take decisions about how to progress the Community Fund.

Background

For the last year, the issue of holding a Fund has been discussed on several occasions. Different options have been considered. In January 2020, the Forum agreed that it did not see itself as becoming a Constituted body and therefore would be unable to hold the Fund. Moreover the concept of offering more than a “banking” role was developing (see paper by Phil Buckley at <https://applecrossforum.files.wordpress.com/2020/01/option-1-phil-buckley.pdf>) This was pulled into a paper shared in May of this year, and it is helpful to review this in conjunction with this update.

This earlier paper, attached as Appendix 2, looked at the tasks to be done by a future fundholding body and looked in detail at the possible creation of a new Scottish Charitable Incorporated Organisation (SCIO) with the responsibility of holding and disbursing funds plus taking on a fund seeking function on behalf of the community.

The paper also spells out the crucial issue about relationships between the Forum and a possible SCIO. It stresses the need to create an appropriately close, though not a directive or controlling link between the Forum and the new SCIO. To this end it specifically suggests that a small number of Trustees be identified with the Chairs of both the Community Council and the Community Company being included *ex officio*, whoever those individuals may be from time to time. This was seen as a key method of ensuring that the new SCIO had the necessary close relationships with the two overarching bodies with an Applecross overview. It also has the merit of offering

transparency and community engagement, short of actual elections, in the makeup of the Board of Trustees. The suggestion of creating a joint admin support role for the Fund and the Forum was also made.

In an effort to make progress, this paper and a further paper about the future functioning of the Forum were shared on the website, and comments and queries asked for. It was also at this time that nominations for Shadow Trustees for a possible SCIO were asked for, as were members of a small Advisory Group to assist the business of the Forum.

Where we are now

There was a sufficiently good response to the papers to identify people willing to act as Shadow Trustees and, having been asked to assume these roles by the Forum Chair, David Mackie, Tery McCowan and Fiona Mackenzie have done some work to progress the ideas of the SCIO. It must be stressed that this work has been done with the clear recognition that it is advisory, shadow activity which will need to be either endorsed with the support of the Forum to proceed or come to an end. No commitments have been made otherwise.

The Forum Chair wrote to both the Community Council and Community Company Chairpersons in line with the paper to invite them to become potential Trustees. Owen has indicated that he is disinclined to take this role on and Jon is still reflecting on the proposal.

Importantly the shadow Trustees have looked at how the ideas contained in the May paper under the section "Tasks to be done" might be expanded into a set of purposes for the SCIO. These are attached as an appendix to this paper. If proceeding then clearly they are worthy of careful review. We have also approached the legal representative used by Gerry McPartlin in the early investigative work he carried out and confirmed that she would be willing to work for us and produce the required legal documentation. The Trust has previously indicated that it would finance this from the Fund before the transfer is made.

An important consideration in earlier discussions was the possibility of establishing a Community Endowment for the future boosted by financial support from Foundation Scotland. In this regard, communications have been kept in place although no commitment has been made. Time however is

certainly of the essence if we wish to proceed and take advantage of some match funding offered by Foundation Scotland

It is also important to state that at this time we have nowhere to hold the funds due to us as a community, an increasing concern which needs resolved

Considerations

There are several important areas to be considered by the Forum if we are to proceed with the SCIO proposal, and these are as described below and then summarised in a set of questions which could be answered by the Forum.

The areas are as follows:

- Shadow Trustees have made a start, but they will need clear support to continue the process, set up the SCIO and convert to Trustees in due course. If we are progressing this, it is suggested that in line with good practice formal appointments would be time limited and staged to allow for refreshing without destabilising the new organisation. The number of Trustees should be kept to the minimum to aid smooth operation, 5 might be considered a reasonable number
- The original paper in May made the case for including the Chairs of the Community Company and Community Council as *ex officio* Trustee appointees. This is the most straightforward way of ensuring that the SCIO operates with the necessary close relationship to the Forum and to the two Constituted bodies with Applecross wide perspectives
- The earlier paper also made the case for the Forum to consider the Purposes of the SCIO and a first draft of these, not yet shared with the Lawyer, is attached to this paper. These will need to be refined and located within a larger document in due course and can be brought back to the Forum before the Shadow Trustees complete the set-up work.
- Administrative support for the Forum and the Community Fund has been suggested before. This combined role would provide a positive opportunity to keep these functions closely linked but it would have to be appropriately funded . It is considered that the collective need might be in the area of 2/3 days a month, with the payment being in line with locally used rates. The annualised cost of this would have to be deducted from the Fund.

Questions

1 Does the Forum wish the current Shadow Trustees to progress the SCIO proposal?

2 Does the Forum agree with the suggestion that Trustee numbers should be 5?

3 Does the Forum consider that it would be desirable to have the Chairs of the Community Council and Community Company as *ex officio* Trustees?

4 In the event that 3 above is not agreed, will the Forum nominate a further number of Trustees?

5 Is the Forum content with the areas of the draft Purposes, noting that the final document would come back for consideration?

6 Is there a desire to look at establishing a joint administrative role funded from the Fund?

Conclusion

The outcome of the answers to these questions will dictate what requires to be done. If this proposal is to be developed, it should be noted that time is of the essence to enable the appropriate transfer of Funds from the Trust to the community.

FM,DM,TM

November 2020

APPENDIX 1 (Paper November 2020)

APPLECROSS COMMUNITY FUND

(DRAFT) PURPOSES

The purpose of the Applecross Community Fund will be to preserve and grow the fund with a view to giving assistance, by disbursement of money, out of the income or the capital of the fund, to individuals, groups, societies and other bodies of whatever description, in the furtherance of the following purposes:

- Education and individual skills training
- The advancement of community resilience and / or sustainability
- The provision of local services
- The development of transport solutions
- The development of cultural heritage
- Such other educational or charitable purposes as the Trustees, in the exercise of their discretion, determine to be in the interests of the community of Applecross.

Explanatory notes:

1. The decisions of the Trustees will be governed by a detailed governing document or constitution which addresses such things as membership rules, rules for trustees, organisational structure, procedures for meetings including *quorum* and voting rights of Trustees, dissolution and disbursement of surplus funds on dissolution. The purposes will sit within that document.
2. Some organisations endeavour to devise an exhaustive list of objectives beyond which no funding can be offered. Such an approach can lead to anomalies resulting in worthy applications having to be declined or the interpretation of purposes being stretched artificially in order to accommodate good applications. The format presented here offers the Trustees a wide discretion but with clear guidance as to the principles to be applied in administering the fund. No discretion is truly unfettered and so any exercise of discretion that fails to take account of factors that should be considered or gives undue weight to factors that should not be considered or is so off beam as to be obviously wrong, can be challenged. And so, in addition to offering guidance to Trustees in the exercise of their discretion the Purposes also set the limits.
3. Consideration might be given to setting a geographical definition within the purposes as to what is meant by the community of Applecross such as the boundaries of the Community Council area or those of Applecross and Shieldaig Community Councils (see plan attached). Again, this has the potential of creating anomalies for example having regard to the diasporic nature of the community. This is another aspect on which the Trustees might be entrusted with a discretion since an attempt to define in advance all of the possible permutations and limitations may be in vain and deprive the Trustees of a degree of

flexibility in the determination of applications for funding on a case by case basis.

4. An important aspect of the Fund is that it should be allowed to grow by way of prudent investment, donations, grants and bequests. It is likely that the Forum and / or the Fund Trustees will consider ways of publicising the fund and inviting donations so that a meaningful resource can be maintained in perpetuity for the benefit of the community of Applecross.

APPENDIX 2 (Paper May 2020)

APPLECROSS FORUM - THE COMMUNITY FUND

Introduction

When we last met, in a world looking substantially different from today, we discussed both the future formality of the Forum and the wide and various issues associated with the establishment of a Community Fund. The most important points that came from that discussion were that we did not want to turn the Forum into a constituted body, and separately that we accepted that the Community Fund would have to be held by a constituted body. It follows therefore that we need to do two things. Firstly to look at the future functioning of the Forum and how we develop its success in light of that thinking (see separate paper), and secondly to consider which constituted body might be most appropriate to hold and operate the Fund.

The tasks requiring to be done

A good starting point is to look at what needs to be done once the Fund gets an established home. This then dictates what the best solution is likely to be. In general we have talked about somewhere to hold the Fund, but in effect, we would be looking for quite a bit more to take place. It is suggested that the role for the Fundholders might be as follows:

- to hold a substantial Fund on the Community's behalf
- to disburse funds against an agreed set of criteria (having developed these in the first place)
- to oversee the appropriate use of the fund and in particular any significant fund dispersed

- to liaise with Foundation Scotland and make use of their expertise if and as required
- to finalise and take forward any investment in a Community Endowment Fund.

Finally, taking a long term view of the Fund, it may be that this body might take on a role in attracting additional funds for Community benefit by developing the Fund as a natural home for legacies and donations. It could also seek out other fundraising opportunities open to such a body. This is not an immediate requirement but it would seem short sighted not to see this as a genuine possibility for the future.

What sort of Body?

When we met in March, of course we were considering whether the Forum might become an incorporated body and be able to hold such powers. At that time we agreed to continue with the Forum in its current fashion. The list of activities set out above demonstrate that there is a fairly significant role to be undertaken. It does not sit naturally with any existing body, even if it were deemed agreeable that it could hold such a Fund.

Through Gerry McPartlin, we received advice on the possible establishment of a Scottish Charitable Incorporated Organisation (SCIO) which was touched on at our March Meeting and this has subsequently been elaborated upon. A SCIO is a specific Scottish designed charitable structure that allows charitable bodies to operate without the complex structures of Company Law. It is subject to regulation by the Office of the Scottish Charity Regulator (OSCR) and has to operate within a regulated framework. A key consideration if we were to create such a body to undertake this role, would be its relationship to other bodies, given that from the Charity Regulator's perspective such a SCIO cannot be under the control of another external body. Equally true is the fact that we have a small pool of people to draw on and we have to maximise efficiencies, while at the same time avoid perceived or actual conflicts of interest. The trick here seems to be to find a way of keeping an appropriately close relationship to existing key bodies, including the Forum, which would surely retain an overall role in regard to setting a context, whilst decisions on behalf of the SCIO would be taken by its small number of appointed Trustees.

If we were to go down this road, we would be creating what was referred to in the previous discussion as a single tier SCIO, with existing bodies, most likely through the Forum, forming its membership. To achieve the sort of links that we would need it to have, the Trustees of the SCIO would ideally be appointed by dint of their office as Chairs of the Community Company and Community Council, potentially a Chair from another constituted body, plus a further small number of Trustees. Ideally a total of 5 might realistically be considered a maximum, particularly given how stretched we are as a community. Some thought would have to be given to the management of appointments to ensure continuity within the SCIO. It is this group that would become the legal entity and carry out the roles described earlier in the paper. In conducting these roles they would be free to co-opt assistance and support to undertake the functions described.

Conclusion

The approach above does seem to give us something of a compromise in that the Forum remains as is desired, we create a fairly light & nimble body whose sole function is in service of the Community Fund, and we create it with links to key bodies already in place. Administrative support would be needed and ideally this could fit with the role of supporting the Forum (the role would need reviewed and remunerated).

We have been looking at this issue for some time and it is important to start to move it on. Apart from anything else, the issue of the Fund has begun to overshadow all the activities of the Forum. If this proposal is attractive, we should look to appoint potential Trustees in shadow form and task them with taking the matter forward whilst keeping the Forum fully informed. This would certainly require formal legal advice and hence some cost.

Fiona Mackenzie
May 2020

