

**PWYLLGOR CRONFA ELUSENNOL
CHARITABLE FUNDS COMMITTEE**

DYDDIAD Y CYFARFOD: DATE OF MEETING:	12 March 2024
TEITL YR ADRODDIAD: TITLE OF REPORT:	Update on the Rationalisation of Charitable Funds Held by Hywel Dda Health Charities
CYFARWYDDWR ARWEINIOL: LEAD DIRECTOR:	Huw Thomas, Director of Finance & Sharon Daniel, Interim Director Nursing, Quality & Patient Experience
SWYDDOG ADRODD: REPORTING OFFICER:	Rhian Davies, Assistant Director of Finance & Nicola Llewelyn, Head of Hywel Dda Health Charities

Pwrpas yr Adroddiad (dewiswch fel yn addas)

Purpose of the Report (select as appropriate)

Er Sicrwydd/For Assurance

**ADRODDIAD SCAA
SBAR REPORT**

Sefyllfa / Situation

At its meeting held on 20 March 2023, the Charitable Funds Committee (CFC) approved an approach to rationalise the number of individual charitable funds held within Hywel Dda Health Charities (HDdHC).

The purpose of this report is to provide the CFC with an update on the work that has been undertaken since March 2023 to review the nature and structure of the charity's individual funds.

Cefndir / Background

At its meeting held on 20 March 2023, the CFC received a report outlining a number of proposals in relation to rationalising the number of charitable funds held within HDdHC. The report highlighted that there were currently over 250 funds held separately within the charity and that a number of these funds had very small balances making it very difficult to spend. The report also highlighted that a significant amount of the money held by the charity was in restricted or designated funds, with many areas of Hywel Dda University Health Board (HDdUB) not able to easily access funds. Monitoring this number of funds was also noted an onerous, time-consuming task.

This report provides the CFC with an update on the work that has been undertaken since March 2023 to review the nature and structure of the charity's individual charitable funds.

Asesiad / Assessment

1. Unrestricted Funds for Designated Purposes

HDdHC currently holds £4.58m of unrestricted funds held in 163 individual funds for designated purposes (as of January 2024). Since April 2023, a programme of engagement has taken place with fund managers and key internal stakeholders to allow colleagues the opportunity to discuss and share their thoughts and ideas on the rationalisation of funds

proposals, the most appropriate structure for designated funds held within their services, and to review dormant and small value funds. This has involved one-to-one meetings as well as attendance at team meetings at a local, service and Health Board wide level.

Following this engagement process a proposed new fund structure has been developed for the following 11 areas:

- Carmarthenshire Community Services
- Ceredigion Community Services
- Pembrokeshire Community Services
- Cancer Services
- Women and Children’s Services
- Therapies
- Pharmacy
- Corporate
- Primary Care
- Pathology
- Radiology

The proposed new fund structure will result in a more efficient use of funds for the services for which they were donated whilst retaining a designation for use in relation to a particular department, speciality or service. For example:

Existing funds	Proposed funds
T604 Hywel Dda Chiropody	T604 Hywel Dda Chiropody fund
T768 Carms Clinical Support Chiropody	
T814 Ceredigion Clinical Support - Chiropody	
T918 Pembrokeshire Clinical Support - Chiropody	

Draft new fund structures are also available for the five additional areas listed below however further engagement is required following the publication of the Operations Directorate’s new management structure in spring 2024:

- Carmarthenshire Unscheduled Care
- Ceredigion Unscheduled Care
- Pembrokeshire Unscheduled Care
- Scheduled Care
- Mental Health and Learning Disabilities

Further engagement work is required to ensure that any proposed changes to the structure of funds is aligned to the management structure of the departments, specialities and services holding the funds.

2. Pharmacy Charitable Funds

During the review of funds, it has been identified that the income held within the four designated charitable funds for Pharmacy Services should be managed through revenue funds rather than charitable funds. A review of the income received to these funds concluded that the income is not in the form of charitable donations but instead generated from payment from the provision of data for clinical research services. This is because of an historic approach adopted by predecessor organisations.

An expenditure plan is in the process of being developed by the Pharmacy Management Team so that the balance of funds currently held (£125,814.25 as of 31 January 2024) is spent in line with the charity's eligibility criteria. Any future dated income from 1 April 2024 will be managed through revenue funds.

3. Restricted Funds

HDdHC currently holds £5.38m of restricted funds held in 102 individual funds (as of January 2024). Historically, restricted funds have been created for gifts made in wills or for specific fundraising appeals.

Between April and August 2023, the Finance Team undertook a review of the paperwork associated with the 260 legacy gifts left to HDdHC since 2013 to document the wording contained in each will. This was with a view to ascertaining whether the legacies should remain classified as restricted or whether they could be reclassified. The collated list was presented to the HDdUHB Corporate Legal Services Team in August 2023, who contacted NHS Wales Shared Services Partnership's (NWSSP) Legal and Risk Services regarding the instruction of Counsel to undertake the review of these restricted funds.

Initial written advice was received from Counsel in October 2023. However, it was felt that the advice received did not cover what had been requested in terms of advising on the ability to reclassify the legacy gifts received by the charity since 2013. A subsequent meeting was held with Counsel in late October 2023 to discuss and clarify what was required. Further written advice was received in December 2023 however this has not provided the definitive advice sought on the classification of the legacy gifts or the level of clarity sought to make recommendations on the future structure of restricted funds.

On the basis of the legal advice received to date, it is not currently viable to proceed with making recommendations on the structure of restricted funds held by HDdHC as clearer advice is required. The Corporate Legal Services Team has communicated our position to NWSSP Legal and Risk Services and a meeting will be arranged to discuss the position further. An update will be provided to the May 2024 CFC meeting.

4. Legacy Gifts Received From April 2023

From 1 April 2023 a new process has been put in place, in line with Charity Commission guidance, to ensure the correct classification of legacy gifts at the point of receipt.

Has a 'trust' been imposed?

- A trust does not arise if a legacy gift is accompanied by a desire, wish, recommendation, hope, or expression of confidence that the recipient will use it in a certain way. In practical and accounting terms the implication is that donations should be presumed to be unrestricted and not subject to a 'trust'.
- A trust does arise from an unequivocal restriction imposed by a donor, for example by saying it 'must be used' or 'can only be used' for a specified purpose. For a particular gift to be treated as restricted, written evidence of an intention to restrict is required for example a will, a letter from a donor.

5. Next Steps

- Contact has been made with both Internal and External Audit and we will continue these discussions.
- Contact to be made with the Charity Commission once legal advice has been finalised.
- The timeline for implementing new fund structures will be confirmed once the outstanding issues have been resolved.

Argymhelliad / Recommendation

The Charitable Funds Committee is asked to:

- **RECEIVE ASSURANCE** from the work that has been undertaken since March 2023 to review the nature and structure of the charity's unrestricted funds for designated purposes.
- **NOTE** the position in relation to Pharmacy charitable funds.
- **NOTE** the current position relating to the review of restricted funds.

Amcanion: (rhaid cwblhau)

Objectives: (must be completed)

Committee ToR Reference: Cyfeirnod Cylch Gorchwyl y Pwyllgor:	3.1 To make and monitor arrangements for the control and management of the Board's Charitable Funds, within the budget, priorities and spending criteria determined by the Board and consistent with the legislative framework.
Cyfeirnod Cofrestr Risg Datix a Sgôr Cyfredol: Datix Risk Register Reference and Score:	Not Applicable
Parthau Ansawdd: Domains of Quality Quality and Engagement Act (sharepoint.com)	Not Applicable
Galluogwyr Ansawdd: Enablers of Quality: Quality and Engagement Act (sharepoint.com)	1. Leadership
Amcanion Strategol y BIP: UHB Strategic Objectives:	Not Applicable
Amcanion Cynllunio Planning Objectives	Not Applicable
Amcanion Llesiant BIP: UHB Well-being Objectives: Hyperlink to HDdUHB Well-being Objectives Annual Report 2021-2022	10. Not Applicable

Gwybodaeth Ychwanegol: Further Information:	
Ar sail tystiolaeth: Evidence Base:	NHS Charities Guidance (updated 31 October 2022) Charities Statement of Recommended Practice Streamlining NHS charitable funds - HFMA briefing December 2022
Rhestr Termau: Glossary of Terms:	Included in document
Partïon / Pwyllgorau â ymgynhorwyd ymlaen llaw y Pwyllgor Cronfa Elusennol: Parties / Committees consulted prior to Charitable Funds Committee:	NWSSP Legal and Risk Services

Effaith: (rhaid cwblhau) Impact: (must be completed)	
Ariannol / Gwerth am Arian: Financial / Service:	The proposal seeks to make it easier to spend donations in a timely manner.
Ansawdd / Gofal Claf: Quality / Patient Care:	The proposal seeks to make it easier to spend donations in a timely manner.
Gweithlu: Workforce:	Not applicable
Risg: Risk:	We will seek appropriate advice regarding the proposed changes to minimise risk.
Cyfreithiol: Legal:	We will seek appropriate advice regarding the proposed changes to ensure compliance with legislation.
Enw Da: Reputational:	The proposal seeks to make it easier to spend donations in a timely manner.
Gyfrinachedd: Privacy:	Not applicable.
Cydraddoldeb: Equality:	This is a proposal document only. The requirement for an EQIA will be reviewed when a decision will be required.