
REVIEW OF CHARITABLE TRUSTS HELD BY ARGYLL & BUTE COUNCIL

1.0 EXECUTIVE SUMMARY

The main purpose of this report is to ask members to consider winding up the following trusts:- James H Hall Bequest, John Paterson Bequest, Fleming Bequest and Miss Ann MacLean Trust.

Members are also being asked to agree to apply to OSCR for approval of the reorganisation of the following trusts by transferring the funds to the Hope Kitchen in Oban:- Miss Evangeline MacDonald Bequest, Miss Catherine McCaig Trust and Misses McGillvray Trust

The report details the reasons for each of these proposals and the processes of reorganisation.

Reorganising these trusts will allow the funds of the registered charities to be used more effectively and the trusts to achieve their objectives.

The Recommendations are as follows:-

For the proposals approved by OSCR give final authorisation of the actions outlined in this report. The trustees now require to provide authority to make payment to the recipient charities as detailed and have the trusts wound up and removed from the OSCR register namely:-

- i. James H Hall Bequest SC025066. Approve the payment of the remaining funds to David Andrew Greenlees Trust SC025066 and then to wind up the Trust and remove it from the OSCR register.
- ii. John Paterson Bequest SC025066. Approve the payment of the remaining funds to David Andrew Greenlees Trust SC025066 and then to wind up the Trust and remove it from the OSCR register.
- iii. Fleming Bequest SC025066. Approve the payment of the remaining funds to Kintyre Forum on Community Care SC023331 on the basis the funds will be used for the relief of those suffering ill health or disability and then wind up the Trust and remove it from the OSRC register.
- iv. Miss Ann MacLean Trust SC025066. Approve the payment of the remaining funds to Moving On Mid Argyll (MOMA) SC041901 and then to wind up the trust and remove it from the OSCR register.

For the Miss Evangeline MacDonald Trust SC025066 and Miss Catherine McCaig Trust SC025066 where members agreed to apply to OSCR to reorganise by transferring all the funds held to Oban Charitable Trust SC017747 agree instead to apply to OSCR to transfer the funds to the Hope Kitchen in Oban SC041770 as detailed in Appendix 1.

In respect of the Misses MacGillvray Trust SC019593, to agree to apply to OSCR to reorganise by transferring all the funds held to the Hope Kitchen in Oban

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2.0 INTRODUCTION

- 2.1 The Council at their meeting on 24th April 2014 approved proposals for reorganising certain registered charitable trusts. OSCR have now also approved the proposed charity reorganisation schemes for these charities. It is therefore necessary for the trustees to give final authorisation to the reorganisation schemes for them.

3.0 RECOMMENDATIONS

- 3.1 For the proposals approved by OSCR give final authorisation of the actions outlined in this report. The trustees now require to provide authority to make payment to the recipient charities as detailed and have the trusts wound up and removed from the OSCR register namely:-
- v. James H Hall Bequest SC025066. Approve the payment of the remaining funds to David Andrew Greenlees Trust SC025066 and then to wind up the Trust and remove it from the OSCR register.
 - vi. John Paterson Bequest SC025066. Approve the payment of the remaining funds to David Andrew Greenlees Trust SC025066 and then to wind up the Trust and remove it from the OSCR register.
 - vii. Fleming Bequest SC025066. Approve the payment of the remaining funds to Kintyre Forum on Community Care SC023331 on the basis the funds will be used for the relief of those suffering ill health or disability and then wind up the Trust and remove it from the OSRC register.
 - viii. Miss Ann MacLean Trust SC025066. Approve the payment of the remaining funds to Moving On Mid Argyll (MOMA) SC041901 and then to wind up the trust and remove it from the OSCR register.
- 3.2 For the Miss Evangeline MacDonald Trust SC025066 and Miss Catherine McCaig Trust SC025066 where members agreed to apply to OSCR to reorganise by transferring all the funds held to Oban Charitable Trust SC017747 agree instead to apply to OSCR to transfer the funds to the Hope Kitchen in Oban SC041770 as detailed in Appendix 1.
- 3.3 In respect of the Misses MacGillvray Trust SC019593, to agree to apply to

OSCR to reorganise by transferring all the funds held to the Hope Kitchen in Oban

4.0 DETAIL

4.1 APPROVAL BY OSCR OF REORGANISATION SCHEMES

The Council at their meeting on 24th April 2014 approved proposals for reorganising certain registered charitable trusts as detailed below. OSCR have approved these proposals, therefore it is now necessary for the trustees to give final approval on these actions. The trustees now require to provide authority to make payment to the recipient charities as detailed and have the trusts wound up and removed from the OSCR register namely:-

- (1) James H Hall Bequest SC025066. Approve the payment of the remaining funds to David Andrew Greenlees Trust SC025066 and then to wind up the Trust and remove it from the OSCR register;
- (2) John Paterson Bequest SC025066. Approve the payment of the remaining funds to David Andrew Greenlees Trust SC025066 and then to wind up the Trust and remove it from the OSCR register;
- (3) Fleming Bequest SC025066. Approve the payment of the remaining funds to Kintyre Forum on Community Care SC023331 on the basis the funds will be used for the relief of those suffering ill health or disability and then wind up the Trust and remove it from the OSRC register
- (4) Miss Ann MacLean Trust SC025066. Approve the payment of the remaining funds to Moving On Mid Argyll (MOMA) SC041901 and then to wind up the trust and remove it from the OSCR register.

4.2 TRUSTS STILL REQUIRING TO BE REORGANISED

Miss Evangeline MacDonald Bequest SC025066

Miss Catherine McCaig Trust SC025066

Members had agreed at their meeting on 24th April 2014 to apply to OSCR to reorganise all the funds held by both these trusts to Oban Charitable Trust. The Oban Charitable Trust confirmed they were prepared to accept the funds which they would intend transferring to an appropriate organisation with charitable status. They advised they would intend to transfer the funds to the Hope Kitchen in Oban which is a registered charity. In view of this it is recommended that members consider agreeing to apply to OSCR to transfer the funds from both these trusts to the Hope Kitchen rather than to the Oban Charitable Trust as detailed in Appendix 1. The Oban Charitable Trust are in agreement that this would be the preferred method. OSCR have also been consulted on the matter.

Misses McGillvray Trust

Members are asked to consider the proposal detailed in Appendix 1 in relation to this trust.

4.3 PROCESS OF REORGANISATION

If the trust is a registered charity then reorganisation requires to be undertaken in terms of the Charities and Trustees Investment (Scotland) Act 2005. In order to be able to reorganise a charity, the proposals must meet all of the reorganisation conditions.

There are three types of reorganisation namely (1) varying the terms of the constitution of the charity (2) transfer of the property to another charity and (3) amalgamation of the charity with another charity. All of these changes require approval of the Office of the Scottish Charity Regulator.

The reorganisation conditions which are relevant for the purposes of this report in relation to registered charities are :-

- (a) that some or all of the purposes of the charity have been fulfilled as far as possible or adequately provided for by other means;
- (b) can no longer be given effect to (whether or not in accordance with the directions or spirit of its constitution);
- (c) that some or all of the purposes of the charity have ceased to be charitable purposes;
- (d) that some or all of the purposes of the charity have ceased in any other way to provide a suitable and effective method of using its property having regard to the spirit of its constitution; or
- (e) that the purposes of the charity provide a use for only part of the property.

The reorganisation scheme must lead to either (a) if seeking reorganisation because the current purposes are in some way no longer relevant, useful or appropriate that the scheme would enable the resources of the charity to be applied to better effect for charitable purposes consistently with the spirit of its constitution, having regard to changes in social and economic conditions since it was constituted (b) if seeking reorganisation because can no longer give effect to a provision or a provision is no longer desirable that the reorganisation would enable the charity to be administered more effectively.

The Council, if satisfied that any of those conditions are met, can then resolve to proceed on this basis. An application would thereafter require to be made to the Office of the Scottish Charity Regulator seeking approval of the reorganisation scheme who will publish the proposal on the OSCR website for those charities with annual income of less than £250,000. None of the trusts which the Council is trustee for has an income over this level. The public may object to the proposal and it will then be for OSCR to determine whether they will approve the reorganisation. If the reorganisation is approved the funds would be disbursed to the recipient charities and the trusts wound up.

The Council had prior to the introduction of the Charities and Investment (Scotland) Act 2005, considered proposals for amalgamation/transfer of trust funds but in view of the changes to the legislation it is recommended that this be reconsidered as some of the proposals can no longer be effected in terms of the legislation now existing which distinguishes between those trusts that are registered charities and those that are not.

4.4 BENEFITS OF REORGANISATION

The Council has a duty to ensure it manages and invests the funds of the trusts appropriately. Currently we have numerous charitable trusts that are effectively dormant as they do not earn enough interest on their own to be able to pay any grants out. By combining some of the trusts this would allow us to make grant payments from the combined interest and also invest the funds in a higher earning interest deposit account.

- 4.5 The Council is also currently undergoing a review of the investment management of the trust funds, therefore ensuring the best possible performance is achieved.

Previously all registered charitable trusts were independently examined by Inverclyde Council and Argyll & Bute Council reciprocated this service by examining Inverclyde Councils trusts. However, from 2013-14 the Local Government (Scotland) Act 1973 requires a full audit to be carried out on all registered charitable trusts by the appointed auditor of the local authority. Audit Scotland charge for this service therefore by reducing the number of trusts we administer, through some of the options mentioned above, will subsequently reduce the number of audit fees charged.

For some of the smaller charities, after the payment of the audit fee there may be insufficient funds remaining to pay out grants, or it could even eliminate the charity altogether. Therefore, by amalgamating charities this avoids excessive fees and the potential elimination of the smaller trusts.

The Trustees have certain legal duties and obligations they must perform and the Council is also required to carry out legal and administrative work in relation to the trusts. By reducing the number of trusts, this process becomes more streamlined.

In order that the funds of the registered charities referred to in this report can be used more effectively and the trusts achieve their objectives, the members are asked to consider resolving to reorganise the charities as detailed in Appendix 1.

5.0 CONCLUSION

- 5.1 In order that the funds of the registered charities can be used more effectively and the trusts achieve their objectives, the members are asked to consider giving final approval to the reorganisation of the charitable Trust Funds outlined in this report where the proposed schemes have been approved by OSCR. In order that the funds of the registered charities referred to in this report can be used more effectively and the trusts achieve their objectives, the members are asked to consider resolving to reorganise the charities as detailed in Appendix 1.

6.0 IMPLICATIONS

- 6.1 Policy - None
- 6.2 Financial
- 6.3 Legal
- 6.4 HR
- 6.5 Equalities - By reorganising the charities it should enable more equal access to funds
- 6.6 Risk - Failure to reorganise the charities would lead to the objectives of the charity not being met and potential that trusts could be eliminated due to audit fees.
- 6.7 Customer Service - Reorganising the charities will enable more individuals to access the funds.

Executive Director of Customer Services

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For further information contact: Sheila MacFadyen – 01546 604265

APPENDICES

Appendix 1 - Reorganisation Proposals