

CHARITABLE TRUSTS, BEQUESTS AND TRUST FUNDS

1.0 EXECUTIVE SUMMARY

1.1 The Mid Argyll, Kintyre and the Islands Area Committee are Trustees for a number of Charitable Trusts, Bequests and Trust Funds. Historically a report has been brought to the Area Committee on an annual basis with recommendations for distribution.

1.2 While officers continually seek to simplify and update processes where possible to ensure ongoing compliance with the original terms of the bequests and to reduce the administrative burden of the management and distribution, there remains a number of challenges. A number of the charitable funds were established many years ago, and as a consequence of changes in society over time the intended beneficiaries of the bequests are no longer easily identified.

1.3 This report provides details of a number of the Trusts and Bequests that remain active in the Mid Argyll, Kintyre and the Islands Area and seeks agreement from Members on proposed distribution methods.

2.0 RECOMMENDATIONS

2.1 The Mid Argyll, Kintyre and the Islands Area Committee are asked to:

1. note the financial position of the Charitable Trusts, Bequests and Trust Funds as of July 2021,
2. agree that a moratorium be placed on awards being made from the following funds, Latimer Mcinnes Trust, Macalister Trust, Kilmory Lochgilphead Churchyard, Kilmartin New Burial Ground Bequest, Kilmartin War Memorial Fund and Kilkerran Cemetery,
3. agree that the Hutcheson Memorial Trust and May Paterson Trust prizes be limited to £30,
4. agree that all other charities and trust funds, that have historically been awarded to Council Departments and Allied partners, are awarded on the basis outlined in paragraph 5.5 and defined within appendix 1, and

5. note that officers are in ongoing dialogue with representatives from the Lord Advocates office to establish appropriate methods of distributing those funds that have no established distribution arrangements.

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3.0 INTRODUCTION

3.1 The Mid Argyll, Kintyre and the Islands Area Committee are Trustees of 19 Charitable Trusts, Bequests and Trust Funds with an estimated unrestricted balance of around £145k. This report provides information on proposals in relation to the ongoing management of these funds and seeks agreement on distribution proposals.

4.0 RECOMMENDATIONS

4.1 The Mid Argyll, Kintyre and the Islands Area Committee are asked to:

1. note the financial position of the Charitable Trusts, Bequests and Trust Funds as of July 2021,
2. agree that a moratorium be placed on awards being made from the following funds, Latimer Mcinnes Trust, Macalister Trust, Kilmory Lochgilphead Churchyard, Kilmartin New Burial Ground Bequest, Kilmartin War Memorial Fund and Kilkerran Cemetery,
3. agree that the Hutcheson Memorial Trust and May Paterson Trust prizes be limited to £30,
4. agree that all other charities and trust funds, that have historically been awarded to Council Departments and Allied partners, are awarded on the basis outlined in paragraph 5.5 and defined within appendix 1, and
5. note that officers are in ongoing dialogue with representatives from the Lord Advocates office to establish appropriate methods of distributing those funds that have no established distribution arrangements.

5.0 BACKGROUND & DISTRIBUTION ARRANGEMENTS

- 5.1 Historically reports are prepared and submitted to Area Committees outlining the status of each of the funds, proposed distribution method(s) and the amounts available.
- 5.2 Of the 19 funds for which the Area Committee are trustees 12 have historically been awarded to Council Departments and allied partners (for example Roads and Amenity Services).
- 5.3 In September 2020 the Area Committee agreed that those funds that hold less than £1k in unrestricted reserves (i.e. monies the charity has available to spend without drawing on capital or restricted reserves) be made available, in their totality, during the financial year (2021/22), essentially placing a moratorium on the distribution of monies from these funds, thereby lessening the administrative burden and ensuring maximum community benefit.
- 5.4 The Area Committee is asked to formally agree to place a moratorium on the distribution of monies from 6 funds as they have no/limited funds available for distribution. This approach would serve to less the administrative burden and allow interest to accumulate to ensure maximum community benefit as a later date.
- 5.5 In order to provide a level of consistency to the process for those Bequests/Trusts which are transferred to Council Departments or allied partners it is proposed that to allow for maximum benefit from the resources available, those Funds that hold more than £1k will be allocated on a basis of the interest from the previous financial year plus 1/20th of the unrestricted funds.
- 5.6 The exemption to this rule is the funds which relate to a school prizes, the Hutcheson Memorial Trust and the May Paterson Trust. It is suggested the level this prize be £30 this is in line with those awarded in other areas. This will be paid by Finance in receipt of confirmation of the recipient from the school.
- 5.7 Should the Area Committee approve this approach up to £2933.00 will be available to council departments and allied partners this financial year.
- 5.8 A small number of funds 3 have bespoke distribution methods which are generally undertaken by Legal and Regulatory Support, this process will continue. Officers will continue to monitor the expenditure from these funds, should expenditure not provide a community benefit Officers will explore what remedial action can be taken.
- 5.9 Due to a number of factors including, changes in society over time and changes to personnel and corporate structures the intended beneficiaries of the bequests are no longer easily identified. However, officers are in ongoing dialogue with representatives from the Lord Advocates office to establish appropriate methods of distributing those funds that have no established arrangements. Proposals for these remaining funds will be brought to a future meeting of the Area Committee.

6.0 CONCLUSION

6.1 This report has outlined the current position in terms of financial and distribution arrangements of the funds/bequests held in trust by the Area Committees. On approving the recommendations they will provide a clear community benefit while meeting our obligation of ensuring transparent and effective governance.

7.0 IMPLICATIONS

7.1 Policy	None
7.2 Financial	None.
7.3 Legal	Area Committees, as Trustees, must ensure that the distribution arrangements comply with the terms of the funds/bequests, failure to do so would result in the Council being liable.
7.4 HR	To proceed with reorganisation, in terms of section 10 or 11 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 would require the allocation of Officer time.
7.5 Fairer Scotland Duty	None
7.5.1 Equalities – protected characteristics	None
7.5.2 Socio-economic Duty	None
7.5.3 Islands	None
7.6 Risk	None
7.7 Customer Service	None

Douglas Hendry

**Executive Director with responsibility for Legal & Regulatory Support
October 2021**

Appendix 1 – Distribution Arrangements for Trust Funds and Bequests.

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