

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 December 2023;
2. agree that the Hutcheson Memorial Trust and May Paterson Trust prizes be limited to £30;
3. 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
4. agree that officers develop proposals for distribution arrangements for the Campbell Bequest, McNeil Bequest, the Macalister Mortification and The Fisher Bequest for later consideration by members.

CHARITABLE TRUSTS, BEQUESTS AND TRUST FUNDS

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 £139K. 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 December 2023;
2. agree that the Hutcheson Memorial Trust and May Paterson Trust prizes be limited to £30;
3. 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
4. agree that officers submit proposals for distribution arrangements for the Campbell Bequest, McNeil Bequest, the Macalister Mortification and The Fisher Bequest for later consideration by members.

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 many have historically been awarded to Council Departments and allied partners (for example Roads and Amenity Services).

5.3 In December 2021 the Area Committee agreed to place a moratorium on the distribution of monies from 6 funds as they had no/limited funds available for

distribution. This approach has served to lessen the administrative burden and will allow interest to be accumulated to ensure maximum community benefit at 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. This approach being the recommendation of Financial Officers as a means for members to meet their fiscal responsibilities as trustees, specifically that the funds are maintained over the longer term and not exhausted.
- 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 of each prize be £30 this is in line with those awarded in other areas. This will be paid by Finance on receipt of confirmation of the recipient from the school. The Hutcheson Memorial Trust is awarded to the pupil that displays general excellence within the subject of mathematics, while the May Paterson Trust is awarded to the pupil that displays general excellence within business studies.
- 5.7 Should the Area Committee approve this approach over £4000.00 will be available to council departments and allied partners this financial year.
- 5.8 A small number of funds, three, have bespoke distribution methods which are 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 the restrictive nature of some funds, specifically the Campbell Bequest, McNeil Bequest, the Macalister Mortification and The Fisher Bequest, difficulties had been faced in establishing suitable distribution arrangements. Officers from Legal and Regulatory Support had been in dialogue with both The Scottish Charity Regulator (OSCR) and Lord Advocates Office in an attempt to establish appropriate methods of distributing these funds. Specifically using provisions within the Law Reform (Miscellaneous Provisions)(Scotland) Act 1990 and The Public Trusts (Reorganisation) (Scotland) (No.2) Regulations to transfer the resources to charities and trusts that are better placed to meet the terms of each of the funds.
- 5.10 Largely as a consequence of the lack of associated documentation of the funds, despite making all reasonable enquiries, very little progress had been made. Consequently officers are of the opinion that progress can only now be made by preparing bespoke, council administered, distribution methods for the aforementioned funds for later consideration by the Area Committee. These arrangements will draw upon existing models of distribution to ensure maximum community benefit.

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 **Climate Change** – None

7.7 **Risk** – None

7.8 **Customer Service** - None

Douglas Hendry

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December 2023

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Appendix 1 – Distribution Arrangements for Trust Funds and Bequests.

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