

CHARITABLE TRUSTS, BEQUESTS AND TRUST FUNDS

1.0 EXECUTIVE SUMMARY

1.1 The Oban, Lorn and the Isles 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 Oban, Lorn and the Isles Area and seeks agreement from Members on proposed distribution methods.

2.0 RECOMMENDATIONS

2.1 The Oban, Lorn and the Isles 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 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;
3. agree that officers submit proposals for distribution arrangements for the Mackinnon Ledingham Bequest, Archibald Dow Bequest, Coals for Poor, Oban and Kilmore and Kilbride for later consideration by members; and
4. note that there remain 4 funds, Miss F Mclucas Bequest, Mrs Mellors Bequest, Miss M M Camerons Bequest, and Dugald Mcphail Memorial

Fund with no identified beneficiaries and that these are subject to ongoing consideration by officers.

CHARITABLE TRUSTS, BEQUESTS AND TRUST FUNDS

3.0 INTRODUCTION

3.1 The Oban, Lorn and the Isles Area Committee are Trustees of a number of Charitable Trusts, Bequests and Trust Funds. 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 Oban, Lorn and the Isles 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 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;
3. agree that officers submit proposals for distribution arrangements for the Mackinnon Ledingham Bequest, Archibald Dow Bequest, Coals for Poor, Oban and Kilmore and Kilbride for later consideration by members; and
4. note that there remain 4 funds, Miss F Mclucas Bequest, Mrs Mellors Bequest, Miss M M Camerons Bequest, and Dugald Mcphail Memorial Fund with no identified beneficiaries and that these are subject to ongoing consideration by officers.

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 15 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 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 In December 2021 the Area Committee agreed to formally place a moratorium on the distribution of monies from those funds that had no/limited funds available for distribution. This approach has served to lessen the administrative burden and allow interest to accumulate 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 the those funds that hold more than £1k will be allocated on the 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 Should the Area Committee approve this approach around £3.9k will be available to council departments and allied partners this financial year, on the basis of the distribution proposal within Appendix 1 being met.
- 5.7 A small number of funds, three, have bespoke distribution methods which are undertaken by Legal and Regulatory Support. Officers will continue to monitor the expenditure from these funds and should expenditure not provide a community benefit Officers will explore what remedial action can be taken.
- 5.8 Due to the restrictive nature of some funds, specifically the Mackinnon Ledingham Bequest, Archibald Dow Bequest, Coals for Poor, Oban and Kilmore and Kilbride, 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.
- 5.9 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 consideration by the Area Committee. These arrangements will be developed for later consideration by members and draw upon existing models of distribution to ensure maximum community benefit.
- 5.10 There remains a number of funds that have no identified beneficiaries or methods of distribution, specifically the Miss Flora McLucas Bequest, Mrs Mellors Bequest,

Miss M M Camerons Bequest and Dugald Mcphail Memorial Fund. Given the explicit nature of the terms of each there is no scope to award these funds as they currently sit and as such Officers will require to follow the provisions within the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 and The Public Trusts (Reorganisation) (Scotland) (No.2) to re-organise these particular funds.

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 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

Executive Director with responsibility for Legal & Regulatory Support

December 2023

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Appendix 1 – Distribution Arrangements for Trust Funds and Bequests.

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