

**CHARITABLE TRUSTS, BEQUESTS AND TRUST FUNDS – DISTRIBUTION
ARRANGEMENTS**

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. 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. However, there remains a number of challenges, a number of the 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.
- 1.2 This paper invites the Trustees of the MacKinnon Ledigham Bequest, Archibald Dow Bequest, Coals for the Poor Oban and Kilmore and Kilbride Bequest to consider distribution arrangements for each of these funds.

2.0 RECOMMENDATIONS

- 2.1 The Oban Lorn and the Isles Area Committee are asked to:
1. agree the proposals for distribution arrangements for the MacKinnon Ledigham Bequest, Archibald Dow Bequest and Coals for the Poor Oban, outlined within this report,
 2. agree that a review of the updated distribution arrangements for the aforementioned funds be undertaken and reported to the Area Committee following the first 12 months of operation; and
 3. agree that the unrestricted funds held within the Kilmore and Kilbride Bequest be made available, in their totality, immediately and that a moratorium be placed on this fund thereafter.

CHARITABLE TRUSTS, BEQUESTS AND TRUST FUNDS – DISTRIBUTION ARRANGEMENT

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 invites Trustees to consider distribution arrangements for 4 of these funds.

4.0 RECOMMENDATIONS

4.1 The Oban Lorn and the Isles Area Committee are asked to:

1. agree the proposals for distribution arrangements for the MacKinnon Ledigham Bequest, Archibald Dow Bequest and Coals for the Poor Oban, outlined within this report,
2. agree that a review of the updated distribution arrangements for the aforementioned funds be undertaken and reported to the Area Committee following the first 12 months of operation; and
3. agree that the unrestricted funds held within the Kilmore and Kilbride Bequest be made available, in their totality, immediately and that a moratorium be placed on this fund thereafter

5.0 BACKGROUND

5.1 Due to the restrictive nature of some funds, specifically the MacKinnon Ledigham Bequest, Archibald Dow Bequest, Coals for the Poor Oban and Kilmore and Kilbride Bequest, difficulties had been faced in establishing suitable distribution arrangements. Consequently, 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.

5.2 Largely as a consequence of the lack of associated documentation of the funds, despite making all reasonable enquiries, very little progress had been made in this regard. Consequently officers are of the opinion that progress can only now be made by preparing bespoke, council administered, distribution models for the aforementioned funds. These arrangements have drawn upon existing models of distribution, which have been working well in other localities, thereby ensuring maximum community benefit.

6.0 ARCHIBALD DOW BEQUEST

6.1 The Archibald Dow Bequest was established to benefit the poor of Taynuilt. At the time of the original bequest the benefactors would have been clear about who the intended beneficiaries would be. This is however, rather more difficult to quantify today, and it may be useful for trustees to refer to appendix 1, which offers some guidance and definitions of poverty which can be broader than simply a lack of funds.

6.2 For the avoidance of doubt only those resident in Taynuilt, specifically those residents with the following postcodes are eligible to access this fund.

PA351AG	PA351HP	PA351HR	PA351HT
PA351HU	PA351HW	PA351HY	PA351HZ
PA351JA	PA351JB	PA351JD	PA351JE
PA351JF	PA351JG	PA351JH	PA351JJ
PA351JL	PA351JN	PA351JP	PA351JQ
PA351JR	PA351JS	PA351JT	PA351JU
PA351JW	PA351JX	PA351JY	PA351JZ
PA351LA	PA351YD		

6.3 On the basis that Trustees wish to manage the resources of the Fund, Trustees should establish eligibility criteria that must be met before applications will be considered.

6.4 Care needs to be taken by the Trustees to ensure that the Fund is not unintentionally depleted by broad acceptance criteria. It is proposed that applying 'is in receipt of means tested benefits' as the eligibility criteria would be likely to have the effect of increasing both the number of applications and the overall burden on the Fund and therefore more detailed specification is proposed.

6.5 The Scottish Welfare Fund which was established to assist individuals and families on a 'low income' use the following indicators:

- In receipt of a qualifying benefit (Jobseekers Allowance, Employment Support Allowance, Income Support or Universal Credit)
- For those people who are employed/self-employed, they must be in receipt of some amount of Universal Credit as well (a nil payment due to deductions for earned income would mean they do not qualify).

- 6.6 It is proposed that the same eligibility criteria be applied to those seeking an award from the Bequest. This would ensure that the Fund is only accessible by those individuals and families on a low income. However, the application form will ask for specific details as to why they are facing financial hardship at the time of submitting the application, adding a further layer of assurance that the terms are being fulfilled.
- 6.7 It is further proposed that in order to be considered eligible applicants must be over the age of 16.
- 6.8 It is proposed that awards are set at £50 for individuals and £100 for families. It is also recommended that applicants receive a maximum of a single award each calendar year.
- 6.9 As of 30/03/2023 the balance of the Archibald Dow Bequest stands at £2,049 which comprises of £751 restricted funds and £1298 unrestricted.
- 6.10 It should be noted that the level of interest gained by the Fund is low. It is recommended that there should be no limit to the amount which can be awarded in each calendar year providing that it does not exceed the amount available in the unrestricted funds. This would be reviewed annually and reported to the Area Committee.

7.0 MACKINNON LEDIGHAM BEQUEST

- 7.1 The Mackinnon Ledigham Bequest was established to offer relief of aged persons in the Ross of Mull.
- 7.2 It is proposed that those that are of state pension age and live within the Ross of Mull be eligible to access this fund. i.e. those individuals that are 66 years of age and above. Please note that from 6 May 2026, the state pension age will start increasing and will reach 67 by 6 March 2028 (affecting anyone born between 6 April 1960 and 5 April 1977).
- 7.3 For the avoidance of doubt those that live within the area bounded by the north by Loch Scridain and to the south by the Firth of Lorne, specifically those within Bunessan, Fionnphort, Ardtun, Camas, Carsaig, Knockan, Pennyghael and Uisn, Knocknafenaig, Suidhe and Shiana would be eligible to access this fund.
- 7.4 It is further proposed that £50 be awarded for each successful application. It is also recommended that applicants receive a maximum of one award each calendar year.
- 7.5 As of 30/03/2023 the balance of Bequest stands at £6197 which comprises of £2000 restricted funds and £4197 non-restricted.

8.0 COALS FOR THE POOR OBAN

- 8.1 The Coals for the Poor Oban was established following a collection by Oban Town Council. As of 30/03/2023 the balance of the fund stands at £3378 which comprises of £1334 restricted and £2044 non-restricted funds.

- 8.2 Given the similar nature of the this Bequest and the Archibald Dow Bequest and to ensure a consistency in approach it is suggested that the criteria for the Coals for the Poor Oban be the same as the Archibald Dow Bequest, specifically applications would only be welcomed by those on a qualifying benefit or for those people who are employed/self-employed, they must be in receipt of some amount of Universal Credit. Applicants must be over the age of 16 with awards set at £50 for individuals and £100 for families and limited to one award each calendar year.
- 8.3 To ensure that the terms of the Bequest are fulfilled applicants would also be asked to confirm that any award made would be used specifically for the purposes of purchasing coal.
- 8.3 It is suggested that only those that are resident in the Burgh of Oban would be eligible to access this fund, which follows the criteria established for the John of Lorn Bequest, which has proven to be successful since its introduction in September 2020.

9.0 KILMORE & KILBRIDE BEQUEST

- 9.1 The Kilmore and Kilbride Bequest was established to meet the expenses in keeping the Kilbride Burial Ground in order.
- 9.2 This fund had been identified for possible transference to an external partner to deliver. However, this approach has proven not to be possible and therefore it is suggested that the unrestricted funds reserves (i.e. monies the fund has available to spend without drawing on capital or restricted reserves) be made available, in their totality, immediately to Roads and Infrastructure. Payment would only be made once it is confirmed that the cemetery is being maintained. The capital will remain as this cannot be distributed. This approach will essentially place a moratorium on the distribution of monies from this fund.
- 9.3 This approach will lessen the administrative burden, ensuring maximum community benefit. This approach mirrors that of the James McKechnies Fund (For upkeep of family headstones and lairs in Pennyfir Cemetery) and the Miss Mary A McNivens Trust (For the maintenance of her two family lairs in Tiree burial ground) which the Area Committee are also Trustees for.

10.0 CONCLUSION

- 10.1 This report has outlined the current position in terms of financial and distribution arrangements of funds 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.
- 10.2 Each of the funds have been inactive for a number of years, this report seeks to address this and ensure that it provides a clear community benefit while meeting our obligation of ensuring transparent and effective governance.

11.0 IMPLICATIONS

- 11.1 **Policy** - Consideration of the questions raised will ensure that the intentions of the original bequests are honoured.
- 11.2 **Financial** - None, the Council acts as trustee for the Funds, it does not represent assets of the Council. However, there is a risk that the Council would have to repay each fund if an objection was raised as to the award/use of funds.
- 11.3 **Legal** - Area Committees, as Trustees, must ensure that the distribution arrangements comply with the terms of each fund, failure to do so would result in the Council being liable.
- 11.4 **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.
- 11.5 **Fairer Scotland Duty** - None
 - 11.5.1 **Equalities – protected characteristics** – None
 - 11.5.2 **Socio-Economic Duty** – None
 - 11.5.3 **Islands** – None
- 11.6 **Climate Change** – None
- 11.7 **Risk** – Recent changes to the benefit system, and low interest rates may result in an oversubscription. If there was an objection raised as to the use of any of the funds in a particular way, there is a risk that the Council could have to pay the costs themselves and repay the Trust the costs. The level of risk is considered to be acceptable.
- 11.8 **Customer Service** – None
- 11.9 **The Rights of the Child (UNCRC)** – None

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Appendices

Appendix 1 – Definitions of Poverty