



# EXECUTIVE BOARD DECISION

<b>REPORT OF:</b>	Executive Member for Resources
<b>LEAD OFFICERS:</b>	Director of HR, Legal and Corporate Services
<b>DATE:</b>	14 <sup>th</sup> December 2017

<b>PORTFOLIO/S AFFECTED:</b>	ALL
<b>WARD/S AFFECTED:</b>	All
<b>KEY DECISION:</b>	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>

**SUBJECT: CLOSURE OF COUNCIL CHARITY: HENRIETTA KENYON BEQUEST**

## 1. EXECUTIVE SUMMARY

A proposal to close all business, dealings and the account of the “Henrietta Kenyon Bequest” (HKB) account held and managed by the Council.

## 2. RECOMMENDATIONS

That the Executive Board:

- note the background and options available to the Council relating to this dormant charity;
- authorises the closing of the charity and the account of the Henrietta Kenyon Bequest;
- authorises the application to the Charities Commission for a direction to transfer funds for a dormant bank account under the provisions of the Charities Act 2011;
- and in doing so to enter into discussion/consultation with other charities that may be eligible to receive funds from the HKB, or as directed by the Charities Commission and;
- approves the distribution of the monies to such charity/charities who have been identified as having the same aims and purpose by the Director of Finance and IT in consultation with the Executive Member for Resources.

## 3. BACKGROUND

As previously reported to the Executive Board, the Council is the trustee/part trustee of five inactive charities/trusts that are no longer in operation or meeting the purpose they were initially set up to achieve. The five charities are as follows:-

Harriet Holt Trust  
Common Goods Trust,  
Garstang Lecture Fund,  
Henrietta Kenyon Bequest,  
Poors Land Charity

Over the years these charities have gradually become redundant which unfortunately means that whilst funds are available in each of the accounts the charities themselves are inactive. For most of

the charities, the purpose for which they were set up has become obsolete therefore restricting spending of the monies held in the accounts. With others the reason for the inactivity has largely been due to a lack of presence of trustees to conduct business. As a result monies have remained in accounts for a number of years with accrued interest. Three of these charities are registered with the Charities Commission whereby annual accounts are submitted yearly, and this requires resources from the Council.

The charities have become however dormant and no further monies have been injected into or spent from the accounts for almost 15 years and in some cases even longer.

Collectively there are sums of approximately £81,851 held in the accounts. Given this lack of activity it is now considered appropriate for the Council to consider options for utilising the dormant funds for good causes in the Borough.

Given the differing nature of each of the dormant accounts it is intended that separate reports will be presented for each charity. This report focuses on the Henrietta Kenyon Bequest (HKB).

#### **4. KEY ISSUES & RISKS**

The HKB is a charity that is registered at the Charities Commission under charity no 225127. The charitable objects are “to provide comforts and amenities for aged persons resident in the hostel known as Brookhouse, Pearl Street, Blackburn which would not otherwise be provided out of the rates taxes or other public funds”.

The Governing Document is a Will dated 19 July 1932 of Henrietta Kenyon who was an “inmate” of Queens Park Hospital Blackburn whereby she instructed the residue of monies from her estate to be paid “for the benefit of the inmates of the Women’s ward of the Queens Park Hospital, Blackburn”.

It is unfortunately not clear how the Council came to manage this account and it can be presumed that after the monies were paid by the executors the remaining account was transferred to the local authority at some stage.

The Charities Act 2011 provides that “charity” means an institution which is established for charitable purposes only. A ‘charitable purpose’ is a purpose which is for the ‘benefit of the public’ and for other purposes including ‘the advancement of health or the saving of lives’, ‘the relief of those in need because of youth, age, ill-health, disability, financial hardship or other disadvantage’ (amongst other reasons set out in the legislation).

Whilst this account is registered as a charity and there is a will, the Charities Commission are only holding the first and last page of the will so it is safe to say that there is detail not known to the Council.

This causes a concern particularly if there is missing information relating to the closure of the account.

On this basis and in the event of absent trustees it is recommended that the Council apply to the Charities Commission under the Charities Act 2011 to request a direction to be made to deal with the dormant account. This is the most viable option for the Council to transfer funds in an ethical and prudent manner, under the direction of the Charities Commission.

There are currently monies in the sum of £14,752.09 (approx.) held in the charity’s account which have not been added to or drawn from for a number of years.

In respect of the HKB it is therefore considered that the best option is to:-

- a) Close the account
- b) Apply to the Charities Commission to make a direction relating to the dormant account under

the provisions of the Charities Act 2011

- c) Transfer monies to another local charity/charities that performs a similar purpose
- d) If for whatever reason, the Charities Commission do not make a direction or are not able to make a direction then the matter will be referred back to members of the Executive Board Committee to discuss further alternative options.

## **5. POLICY IMPLICATIONS**

The Council supports a range of services in the local community and transferring money from a dormant charity account to support local services reflects the Council's objectives of improving health and wellbeing of all persons in our community.

## **6. FINANCIAL IMPLICATIONS**

There are no direct financial costs to the proposals to transfer money from a dormant account to a local charity as set out in the report, other than internal officer time and resources.

## **7. LEGAL IMPLICATIONS**

In disposing of a charity's funds the Council must be mindful to its ethos as a charity and ensure that there is transparency.

An unincorporated charity can be closed and the assets transferred to other charities that carry out similar work or have similar objectives. Section 268 of the Charities Act 2011 enables trustees of a charity, by resolution, to transfer all property of a charity to another charity or two or more charities as specified in that resolution. The trustees have to be satisfied that it is expedient in the interests of furthering the purpose in which the property is held and that the purposes of the charities are similar.

The resolution must be passed by a majority of not less than two-thirds of the charity trustees who vote on the resolution. Notice is also required to be sent to the Charities Commission who may direct that publicity is given to the proposed transfer, they may ask for additional information or may object to the proposal.

Additionally the provisions in the Charities Act 2011 at section 107 allows the Charities Commission to make a direction where accounts are dormant and the trustees are unknown, to transfer funds to another charity. The Council will apply for a direction and in the event that a direction is not made by the Charities Commission, a further report will be presented to the Board to discuss further options. The process of applying for a direction is crucial and sensible at this stage given the lack of a complete Governing Document and absent trustees. Once this option is exhausted the Council will be able to consider alternative suitable options.

Any transfer of funds will be subject to consultation and discussion with the receiving charity and also checking the activity of the receiving charity and work history.

All existing debts and liabilities will need to be cleared before the remaining assets are transferred.

## **8. RESOURCE IMPLICATIONS**

The legal processes required will be funded from within existing resources and once completed the transfer will result in a small resources utilisation saving within the Financial Services Team which is factored into the current restructuring programme.

## **9. EQUALITY AND HEALTH IMPLICATIONS**

**Please select one of the options below. Where appropriate please include the hyperlink to the EIA.**

Option 1  Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2  In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. *(insert EIA link here)*

Option 3  In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

## 10. CONSULTATIONS

Consultation has been undertaken with the Charities Commission.

## 11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

## 12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded in the Summary of Decisions published on the day following the meeting.

<b>VERSION:</b>	<b>1</b>
-----------------	----------

<b>CONTACT OFFICER:</b>	<b>David Fairclough and Rabia Saghir</b>
-------------------------	--

<b>DATE:</b>	9 <sup>th</sup> November 2017
--------------	-------------------------------

<b>BACKGROUND PAPER:</b>	Review of Charities Accounts.
--------------------------	-------------------------------