



EXECUTIVE BOARD DECISION

REPORT OF: Executive Member for Resources

LEAD OFFICERS: Director of HR, Legal and Corporate Services

DATE: [August 2018]

PORTFOLIO/S AFFECTED: ALL

WARD/S AFFECTED: All

KEY DECISION: YES NO

SUBJECT: CLOSURE OF COUNCIL CHARITIES: Garstang Lecture Fund and the Poors Land Charity

1. EXECUTIVE SUMMARY

In delivery of the Council's proposals to close dormant charities accounts; to close all business, dealings and the accounts of dormant charities held and managed by the Council.

2. RECOMMENDATIONS

That the Executive Board:

- a) note the background and options available to the Council relating to the dormant charities;
- b) authorises the removal of the restriction relating to permanent endowments of the charity in accordance with s.281 of the Charities Act 2011 that the fund ought to be freed from the restrictions with respect to expenditure of capital that apply to it.;
- c) authorises the change of 'purpose' of each charity as identified in this report; and where the current purpose is sufficient, authorise the transfer of funds and close the account
- d) In relation to a charity registered with the Charities Commission; to inform the Charities Commission of the change of purpose (Garstang Lecture Fund)
- e) agree that the executive member resources consider submissions from other charities/organisations that may be eligible to receive funds (on the proviso they use the funds for the required purpose as designated by the council);
- f) approves the transfer of funds to other charities/organisations identified as having the same aims and purpose, (on the proviso they use the funds for the required purpose), by the Director of Finance & Customer Services, in consultation with the Executive Member for Resources.
- g) subject to a-f above approve the closure of the financial accounts

3. BACKGROUND

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

Harriet Holt Trust (unregistered)

Common Goods Trust

Garstang Lecture Fund 526120

Henrietta Kenyon Bequest 225127

Poors Land Charity (unregistered)

Over the years these charities have gradually become redundant resulting in funds sitting in the charities accounts, unspent for numerous years and accruing interest. For most of the charities, the purpose for which they were set up has become obsolete, thus restricting the spending of monies and being inactive from lack of trustee management to conduct business. Three of these charities are registered with the Charities Commission whereby annual accounts are required to be submitted yearly, requiring resources from the Council.

No monies have been injected into or spent from the accounts for almost 15 years or longer.

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

This report deals with the following two charities: Garstang Lecture Fund and the Poors Land Charity. These two charities have funds of approximately £35,737.08. The other three charities have previously been dealt with in a separate report to the July Executive Board.

4. KEY ISSUES & RISKS

It is noted that both of these charities hold 'permanent endowments'. This is money or property that was originally meant to be held by a charity forever for its benefit, for the benefit of the charity. This is usually set out as a restriction in the charity's governing document.

Permanent endowment can be:

- land
- buildings
- cash
- investments

(Example: a charity was set up with a donated lump sum of money. The donor specified that the money must be invested to provide an income for the charity and only the income could be spent.)

In order to dissolve the charity the trustees would need to pass a resolution to lift that restriction, in order to transfer funds.

Additionally, as the 'purpose' of the charities are obsolete, it is considered appropriate to amend that particular purpose in order to apply the funds effectively. This will enable the council to spend monies properly and with transparency in the closing of the accounts process.

Details of each charity is set out below:-

Garstang Lecture Fund

- Purpose: This charity was set up in 1946 to pay for one lecturer to deliver two lectures in Blackburn as follows:-
- On current topics on pure and applied science art history and/or to explain the bearings of new discoveries on life industry and education AND To provide lectures in a school or combination of schools on specific studies or prospective careers, provided always that the Grammer School of Queen Elizabeth and the Girls High School in Blackburn shall each be given the option of one school lecture a year under the provision of the Trust.
- To change the purpose of the charity to “support educational development of children and young people in the Borough”
- The Governing Document at paragraph 4 states that trustees shall at all times have power to vary or modify the said rules and regulations
- It is noted that the Garstang Lecture Fund charity has a ‘permanent endowment’ (i.e. - is money or property that was originally meant to be held by a charity forever.) This is in the form of 2 securities:
 - 1) 4% Debentures in Walker and Homfrays (Brewery) Limited for a capital value of £450.00 and gross yearly income of £18.00
 - 2) 5% Preference Shares in Newcastle and Gateshead Water Company, capital value £375.00, gross yearly income £18.15 (further and up to date information to be obtained from Finance)
- The Council will deal with the formalities of closing its interest in the debentures
- In order to dissolve this charity, the Council as trustee are required to pass a resolution under s.281 of the Charities Act 2011 to remove the restriction - that the fund ought to be freed from the restrictions with respect to expenditure of capital that apply to it.
- A s.281 resolution cannot be applied to any functional land or property to remove the restriction – as far as the Council is aware this does not relate to functional land
- Estimated sums: £32,400.56

Poors Land

- This is not a charity registered with the Charities Commission
- Purpose: The yearly income is to be applied for the ‘benefit of the poor of the Ancient Township of Blackburn generally, or of deserving and necessitous persons resident therein’ Amongst other things listed in the Governing Document the trustees are encouraged to spend on any dispensary, infirmary, hospital, home etc., contribute towards the provision of nurses, traveling expenses of patients, cost of outfit for under 21s if entering into a trade, proper care and supervision for poor persons for temporary charge of air or special protection or treatment, supply of clothing bedding for the sick, food or other articles etc.
- Change the purpose of the charity to “support homelessness and the poor of the Borough”
- The charity is holding 2 interests in land:-
- Land known as Southworth Green Farm, at Mellor; and Lang House Farm, at Yate Bank, Blackburn. The interest in the land is classed as ‘permanent endowment’ and a resolution would need to be made under s.281 of the Charities Act 2011 to remove the restriction prior to transfer of any funds.
- An internet search and also a Land Registry map search show that Lang House Farm, Yate and Pickup no longer exists and the land has been sold on and in private ownership.
- A Land Registry search has revealed that Southworth Green Farm still exists however the land is unregistered so there are no details of ownership. It is presumed that the Council does not own this land. The land is outside the boundary of Blackburn with Darwen. The Council will make further enquiries in respect of ownership of land which will be reported to a future Executive Board
- Estimated sums: £3,336.52

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

The Council as trustees have the power to amend the purpose of the charity to a similar purpose provided a charity has an income of less than £10,000 in the last financial year and does not hold any functional land or property. In relation to charities registered with the Charities Commission, once the 'purpose' of a charity has been amended the trustees must inform the Charities Commission. Additionally once the funds have been transferred the trustees must inform the Charities Commission the Charities Commission so that it can be removed from the register of Charities.

In relation to charities not registered with the Charities Commission, there is no requirement to inform the Charities Commission.

As these charities hold 'permanent endowments' the Council as trustees need to pass a resolution under s.281 of the Charities Act 2011 to remove the restriction prior to transfer. S.281 provides that the charity trustees may resolve that the fund ought to be freed from the restrictions with respect to expenditure of capital that apply to it, and that the purpose can be carried out more effectively if the capital can be expended as well as the income, rather than just the income.

A section 281 resolution cannot be applied to any functional land or property to remove the restriction. As far as the Council is concerned the charities are not holding any functional land or property.

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

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.

VERSION:	1
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CONTACT OFFICER:	David Fairclough and Rabia Saghir
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DATE:	July 2018
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BACKGROUND PAPER:	Review of Charities Accounts.
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