

T H E M A C F A R L A N E T R U S T

Minutes of a meeting of the Trustees held at St Botolph's Hall
Bishopsgate on 16th February 1989 at 3.00 pm.

Present: The Revd Alan Tanner, Mr Grinsted, Mrs Guy, Dr Jones,
Mr Knight, Mrs Leitch and Mr Palmer.
In attendance: Wg Cdr Williams and Mr Williams.

AGENDA

- 89.12 Apologies for absence
- 89.13 Minutes of meeting held on 17th January 1989
- 89.14 Matters arising
- 89.15 Finance
- 89.16 Allocations Committee
- 89.17 Insurance/Mortgage Protection
- 89.18 Administration
- 89.19 Information and Public Relations
- 89.20 Any other business
- 89.21 Date and place of next meetings

89.12 APOLOGIES FOR ABSENCE had been received from
Mr Peter Stevens and Mr Simon Taylor.

89.13 MINUTES OF PREVIOUS MEETING held 17th January 1989.
The Chairman asked for comments. An error in Item
89.06 C1(a) was pointed out and amendment was agreed
to read "The Trust had no resources to make business
appraisals or subsequently to monitor performance".
It was proposed by Dr Jones and seconded by Mr Knight
that the Minutes be accepted as a true record. This
was agreed unanimously and the Minutes were signed by
the Chairman.

89.14 MATTERS ARISING

It was agreed that there were no matters arising from
the previous Minutes that would not be covered by the
current Agenda.

89.15 FINANCE

General

The Administrator reported that Trust expenditure
at the end of January had been £733,533. A full
summary had been circulated with Agenda papers (and
is attached at Annex A). The sum at date of the
meeting was now well over three quarters of a
million pounds.

The Administrator further reported that management expenditure was in line with the budget previously approved, but no written summary had been produced for the current meeting. A budget for 1989-90 would be submitted at the next meeting.

Investment Values

Mr Grinsted reported that the upturn in capital values of stocks which had been forecast by the Investment managers was beginning to show. The longer dated stocks had recovered to within one point of purchase values and although the medium term stocks had a little further to go there was a reasonable chance of full recovery before the end of the financial year. In the meantime the yield on investment was still satisfactory.

Investment Policy: Stop-Loss

Mr Grinsted gave a further resume of the Stop-Loss policy recommended by the managers, which had been briefly discussed at the previous meeting. He reported that he had had further discussion with MANEX and now recommended to the Trustees that this procedure should be adopted. Mr Grinsted put to the meeting a form of instruction to MANEX (a copy of which is attached as Annex B). It was proposed by Mr Knight and seconded by Mrs Leitch that this recommendation was accepted. This was agreed unanimously and the instruction was signed by the Chairman.

Publication of Accounts

The subject of publication of accounts was discussed. It was agreed that subject to requirements by Charity Commissioners and by the Department of Health and Social Security any further publication would be a matter of Trustees' discretion.

It was further agreed that a synopsis of the accounts would be included in an Annual Report and that this synopsis or a further simplified summary could be made available to members of the Trust or other bona fide enquirers.

89.16

ALLOCATIONS COMMITTEE

Grants

Attention was drawn to the fact that the grants to 31st January 1989 (Annex A) and the summary of grants since the previous meeting, issued with Allocations Committee papers, included an element of overlap.

Verbal Report on Meeting of 16th February

Mr Williams gave a short report on the meeting which had taken place on the morning of 16th February. 11 applications had been considered and 7 grants made totalling £3200. The remainder had been referred back for further investigation.

Policy Matters

Matters of policy considered by the Allocations Committee were notified to the meeting but no further decisions were asked. These included:

- a Eligibility of parents of deceased, the requirement to prove 'dependance' and the case for assistance with funeral costs. This was being referred to solicitors for advice.
- b Assistance with complementary therapy. Some assistance was being given in a number of cases but demand and success would be monitored to ensure that funds were not over-committed.
- c Mortgage. The Allocations Committee had held some preliminary discussion on this subject in preparation for Agenda Item 89.17.

89.17 MORTGAGES

The Chairman proposed that the general case should be considered before the individual 'test case' application and this was agreed.

On invitation from the Chairman Mr Grinsted introduced his paper on principles (dated 12th February 1989, circulated prior to the meeting and attached as Annex C to these minutes). This paper had been seen by members prior to the meeting except for Dr Jones who had not received a copy. The Chairman thanked Mr Grinsted for producing the paper and for his resume.

There was general discussion on the matter of the principle of assistance with house purchase. It was agreed that the paper offered a major step forward and that principle of 'equity sharing' could represent an important element of a policy which protected the interests of the Trust as well as providing help to individuals at the lowest possible running costs.

It was further agreed that as Mr Grinsted had stated, the paper did not represent a ready made scheme that could be put into effect immediately, but was a basis for discussion with the Trust's solicitors to establish a system that was legal and also fair to all parties.

Two particular immediate queries were identified and the Administrator was asked to put these to the Trust's solicitors:

- a Can the Trust own property for the purpose of letting?
- b Would Trust ownership of property require further variation of the Trust Deed?

Since it was clear that no final policy decision was feasible at the meeting the discussion moved on to the Newcastle case to examine the possibility of an interim policy as an immediate solution to this particular need and as a test case to develop future policy.

Correspondence in this case had been circulated by Dr Jones and by the Administrator.

The Trustees recognised that anything less than an immediate solution would be little or no help to the family and it was agreed nem con that some way forward should be found as quickly as possible.

Several options were considered some of which had a degree of overlap in matters of principle. Most suggestions had a degree of support, votes were taken on several issues as follows:

To do nothing would be unacceptable.	Unanimous
The individual case should wait until completion of general policy.	3
Equity sharing should be a major element of general policy.	3
The Trust should made an outright grant to purchase a house.	nil
The Trust should make a loan of £35,000 (conditions not specified).	3
The Trust should buy a house outright for let and possible re-sale to the family.	2

All the above votes were taken on matters of agreement in principle and subject to constant reminder and consideration that such agreement did not necessarily mean that it could be put into effect without considerable further administrative and legal work.

On this basis there was further discussion on whether the individual case could be pursued in advance of further work on general principles and considerable doubt was cast on this course of action.

It was put again to the vote that a policy based on equity sharing should be developed as rapidly as possible and the Newcastle case put forward as a development case for this principle.

There were four votes for this, the Chairman again withholding his vote and the motion was therefore carried.

At this point Dr Jones declared his dissatisfaction with the decision and withdrew from the meeting.

At the request of the Chairman Mr Grinsted agreed to make further examination of the subject and to assist the Administrator in discussion and negotiation with the solicitors.

89.18

ADMINISTRATION

The Administrator introduced or reported on the following items:

a Variation to Trust Deed

The variation enabling appointment of a successor to Mrs Demmery or to fill subsequent vacancies had been circulated. Some minor queries on terminology had been raised which were being put to the solicitors.

Subject to these queries it was proposed by Mr Grinsted and seconded by Mrs Guy that the variant be approved and the motion was carried unanimously.

The deed would now be engrossed for signature.

b Auditors

The Administrator reported that the appointed Auditors had sent certain conditions of agreement and asked whether these should be submitted for formal approval. It was agreed that the Chairman and Deputy Chairman would scrutinise the proposals and advise the Administrator, and that no further formal action was needed.

c Staff

It was reported that a second secretary had been appointed and would start work on 1st March and that a number of promising applications had been received for the post of assistant social worker which should enable a satisfactory appointment to be made early in April.

d Office Equipment

The Administrator stated that he had examined the possibility of 'networking' the office computer to allow simultaneous multiple use of the data and word processing facilities. This was feasible and could be achieved within the current annual budget. He recommended this as essential to exploit the capabilities of the increased staff and requested authority to proceed. This was agreed without formal vote.

e Office Work Cycle

The Administrator reported that the cycle of Trustees meetings at four week intervals or even less was increasingly difficult to support in parallel with routine office work and asked the Trustees to consider extending the cycle to give time for follow-up work to be completed and then circulated in good time for the next meeting. He particularly drew attention to the fact that April would be a busy month following the end of the financial year and it would be extremely difficult to present any financial summary to the Trustees before the end of the month.

The meeting took note of this statement and the Chairman said that it would be considered under Agenda item (89.20).

89.19

ANY OTHER BUSINESS

No further formal business was raised.

89.20

DATE AND PLACE OF NEXT MEETINGS

The next meeting was confirmed for
Tuesday 14th March.

Allocations Committee 11.00 am

Trustees 3.00 pm

Venue to be confirmed.

Further dates were deferred, the next to be
considered for late April if possible.

GRO-C

14th March 1989

Chairman

MACFARLANE TRUST

Summary of Grants Made

31st January 1989

A Single Payments

	No	Total	Amount	Overall
January to March	84		25,671	
April	25	109	8,812	34,483
May	21	130	11,611	46,094
June	59	189	23,627	69,721
July	37	226	19,733	89,454
August	43	269	25,533	112,987
September	23	292	14,835	127,822
October	68	360	39,663	167,485
November	108	468	65,498	232,983
December	130	598	74,550	311,533
January	92	690	47,636	359,169

B Regular Payments

	No	* Initial Ongoing		Total	Overall
November	126	150,380		150,380	
December	122	137,220		137,220	287,600
January	56	68,380	18,380	86,764	374,364

Overall total paid out £733,533

Commitment to Regular Payments £5,822 per week

£302,744 p.a.

* Initial payments include backdating, normally to November 87

THE MACFARLANE TRUST

INVESTMENT PORTFOLIO

STOP/LOSS POLICY

The aim of the Stop/Loss policy is twofold. The first is to limit any loss that can be made on an investment, and the second is to ensure that profits are taken within an agreed limit from any high that the price might have reached.

NEW FUNDS INVESTED OR
EXISTING HOLDINGS SOLD AND SWITCHED:

If the price of a stock falls by 0.5 or more of a point below either its purchase price, or the highest level reached since purchase, the stock shall be sold, unless a nominated member of the Trust disagrees.

EXISTING HOLDINGS (not subject to switching):

The stop/loss policy shall not apply until the market price of each stock has recovered to equal the original purchase price, when the policy shall thereafter apply to the said stock in manner shown above.

NOMINATED MEMBERS OF THE TRUST:

MANEX shall operate the policy in accordance with its own internal check system as recorded in its letter dated 27th January, 1989, and when a sale is signalled approval shall be sought from

Mr. C.H. Grinsted (Deputy Chairman)
or failing him
Mr. Peter Stevens (Trustee)
or failing him
Wing Commander John Williams (Administrator)
or failing him
Manex shall have discretion to act as it sees fit.

The effort made and the time spent by Manex in contacting a nominated member of the Trust shall be that which is considered to be reasonable in order not to lose any opportunity that will exist to limit the loss on sale.

APPROVED by resolution of the Trustees this ^{16th} day of February, 1989.

GRO-C

Chairman

THE MACFARLANE TRUST

MORTGAGE POLICY - A PROPOSAL

In the Grant policy of the Trust that has evolved since applications for assistance began to be received, it is clear that those requesting assistance for house purchase are seeking substantial amounts of money. These applications, together with others likely to be considered, will represent a substantial call upon the funds of the Trust and it follows that if such 'grants' are to be met they should be dealt with by the Trustees in a manner that is seen to be responsible money management, whilst taking into account and treating with due compassion and understanding the special circumstances of each application.

It further seems to me that a responsible attitude means, *inter alia*, that the support which is given by the Trustees should not be a total loss to the Trust. Money that is lent should be recoverable when there is a change of circumstance that removes the original need, so that the money can be used again for other deserving beneficiaries.

It must be recognised that any support given by the Trust means an investment in an appreciating capital asset from which someone stands to benefit, and it is by this reasoning I have reached my first conclusion. Except in the most extreme circumstances and then only for a temporary period, the Trust should not be involved in underwriting the repayment of loans made by third parties (Banks/Building Societies). To act otherwise means that by novation (stepping into the shoes of the borrower) we would be making what could amount to a substantial investment in an asset over which we have no control and which, at the end of the day, reverts to the borrower or surviving dependents. They would have no obligation to redeem the support given by the Trust, because the Trust will have given such assistance as paying Agent for and on behalf of the borrower as principal. Lest it should be suggested that the Trust itself should become the lender for those parts of the instalments which it is called upon to pay, it is difficult to envisage a legal arrangement that is not extremely complicated to establish the interest of the Trust in the investment. Without such a complicated legal arrangement (if it was feasible), recovery of the Trust's long term payments would depend on the goodwill of the borrower or his representatives, and that could be deeply prejudiced by any thought on the part of the borrower that the support given was 'compensation' and not repayable.

Thus I repeat that, in my view, the Trust should not become involved in any underwriting of repayments to third parties, except as a very temporary measure to relieve an acute emergency.

My second conclusion is that the Trust should display a willingness to provide mortgage assistance, but only by way of lending money in return for a charge upon the property and an undertaking to repay in prescribed circumstances, and then only if there has been a proper and independent survey of the needs of the applicant and the property being purchased.

The lending should also be regarded as a business proposition so that the Trust's money is protected and there is a reasonable prospect of recovery and, if possible, a return on the investment which is considered to be reasonable. Thus, a questionnaire should be devised (probably similar to that required by a Building Society/Bank) that would provide basic data on the applicant's circumstances and enable the Allocations Committee to judge against a pre-determined criteria if the case was worthy of support.

This is important because it must be recognised that the Trust is engaged in an exercise that is highly discriminatory and favouring the few who ought not to be able to manipulate the system. It should also be understood and made very clear that circumstances will arise when the Trust will have a right to the return of its money and (if appropriate) interest thereon, with a right to embark upon legal action for recovery if repayment is not made.

Perhaps it might be useful, at this stage, to provide an example of what could happen to justify a recovery of money lent for the benefit of an applicant whose principal need derives directly from being HIV positive. The applicant is the husband who wishes to relocate his family comprising himself, wife and two dependent children, in privately owned accommodation, and wishes to commit himself to a house costing £40,000. The Building Society is prepared to advance £15,000 based on the earnings of the wife (the husband being unemployed). Because the need is proved to be genuine and there are no alternative and suitable premises the Trust agrees to make a second loan of £25,000. The Building Society will undoubtedly expect that its loan (though the smaller amount) shall have priority in terms of repayment of capital and interest. In view of the health record and prospects of the borrower it is most unlikely that the Trust also will receive repayment by instalments, and it is further unlikely that the Trust will receive repayment of the capital sum during the lifetime of the borrower whilst the purchased property remains in occupation by the borrower. Regrettably, the borrower (now the mortgagor) dies; the children having reached mature age have 'flown the nest'; the wife is left alone in a property which she cannot afford and is probably too big for her needs; the wife makes a new relationship and either out of the existing property, or by sale and re-purchase, makes a new matrimonial home. In the meantime the value of the property has increased by capital appreciation and, unless another arrangement has been made, the Trust has not recovered its money originally intended for the borrower whose need for relief arose from his condition of HIV positive, when the need no longer exists. End of example which I readily concede can have many permutations. Nonetheless the purpose in quoting it is to illustrate that in the right circumstances the Trust ought not to abandon the whole of its lending, if that money can be used for equally deserving persons. This also illustrates the difference between an outright grant on the one hand, and on the other the lending of money with the prospect of recovery.

If the Mortgage policy of the Trust is to be by way of recoverable loan (and not a grant) it follows that enquiries must be made and questions answered in order to establish the rights of the Trust to recovery which will, if necessary, stand up in a Court of Law if and when challenged. The questionnaire that is customarily issued by a Building Society/Bank will probably be familiar to the Trustees. It requires information on personal details, income, financial commitments, property details, etc. In addition the lender requires an independent survey and valuation of the proposed property, and knowledge of the down-payment to be made by the borrower. The Trust will require similar information to show it is acting responsibly but, because the circumstances in which the Trust is being asked to advance money contemplates risks that other lenders would not be prepared to face, I believe it is important that the Trust should make doubly sure that the conditions upon which substantial sums are lent are right and proper and will be wholly justified as meeting a need as prescribed in the Trust Deed. The list below gives examples of questions that could be asked:

1. Is the mortgage for the benefit of the applicant alone. If not, who else will occupy the property?
2. Will any member of the household contribute to repayment of the loan?
3. Is the applicant to be a sole registered owner of the property. If not, what other person will have legal rights to the property?
4. Does the applicant understand that the money to be made available by the Trust is not a grant, and the Trust expects it to be repaid at the appropriate time? If yes, what provision does the applicant intend to make to ensure that the loan is repaid, either by regular instalments or by a lump sum?
5. Does the applicant understand that the borrowing of money creates a debt that ought to be repaid, and that itself brings pressures which will not be welcome in a deteriorating health situation?
6. What steps will the applicant take to ensure the property is preserved, protected and insured against fire and destruction?
7. What proportion of the independent valuation does the borrowing represent?
8. For how long is the borrowing required?
9. Does the applicant understand that the Trust will require a charge on the property?
10. Does the applicant agree to pay the legal charges?

11. Does the applicant understand that if he is in receipt of a regular weekly payment from the Trust, this regular payment will cease after a prescribed period?
12. Does the need of the applicant (and dependents) justify the purchase of private property financed by substantial borrowings which may be beyond the means of the applicant to repay?
13. Has any investigation been made of alternative accommodation that does not need heavy borrowing? If so, with what result?
14. Is the application supported by Medical opinion?
15. Is the applicant wholly qualified by reason of being HIV positive as the sole source of need?
16. What steps have been taken to obtain a mortgage from a Building Society/Bank, and with what result?
17. If promise of a mortgage has been obtained from another source, what are the terms?
18. Does the other lender know of the special circumstances of the applicant, and of the request to the Trust for additional support?

Not all of these questions would need to be asked in every case, but those which are selected would elicit the facts as they ought to be known to the Allocations Committee. The answers will also enable the Administrator and the Trust's lawyers to prepare the necessary documentation. For example, the documents will need to express how and when the money lent is to be repaid, and what circumstances would trigger an obligation to repay the whole or part of the capital sum. It is this last issue that is probably the most important one to be addressed by the Trustees and which distinguishes the Trust's policy and objectives from those of a Bank/Building Society. The Bank/Building Society expects to get its money back with interest over a period of time, and so long as that requirement is met it is not concerned what happens to the property by way of capital appreciation or eventual disposal. On the other hand, the Trust has very little prospect of recovering its money in the traditional way and must recognise that if it is not to be accused of 'paying compensation' it must be seen to have rights of recovery which are reasonable. The following are suggestions:

1. Upon death of the borrower (subject to period of grace not exceeding 24 months to allow the surviving spouse to find alternative accommodation, or upon remarriage if earlier).
2. Upon divorce of the borrower (subject to a period of grace not exceeding 12 months to allow the borrower to find alternative accommodation).
3. Upon resale of the property.

4. Upon destruction of the property by fire, accident or act of God, (against which the Trust should insist on insurance).
5. Upon the event when any dependent children have 'flown the nest' and the size of the property is not required for borrower and spouse.
6. If the property is subject to confiscation.
7. If the capital sum has not been repaid within the prescribed period.
8. If the property is to be occupied by a 'common law' spouse or other persons not directly dependent on the borrower.
10. Upon expiry of a long lease for which a capital sum has been paid.
11. Upon default in regular payments, or upon the failure of children of mature age and in employment to contribute to repayments.

In pursuing all of these issues, and there maybe more that I have overlooked, it is for the Trustees to determine the maximum extent to which the Trust will commit itself. I have already said earlier in this paper that in producing a mortgage policy the Trust will be engaged in a highly discriminatory practice in lending large amounts of money to the favoured few who may well look upon it as 'compensation', against which the Trust has resolutely expressed its opposition. A house that may cost £40/50,000 in the North is likely to cost £80,000 in the Midlands, and £120,000 in the South. The Trust must either have a geographical spread of financial assistance within clearly defined boundaries, or it must determine a maximum amount per loan irrespective of location and be prepared to stick to it. Every Trustee will recognise that the Trust funds are limited and it may be that in adopting a mortgage policy, and however unfair it may seem and despite the potential scramble, the Trust has got to impose (say in each region) a policy of 'first come first served' up to the maximum of Capital set aside from the Trust funds.

For example, it is envisaged that within the year 1989 the Trust is likely to reach a level of 'regular' weekly payments at a rate that will require the investment of £5M of capital to be set aside to produce income sufficient to sustain those regular payment. Assume a further £2.5M is set aside to meet 'one off' payments. The remaining £2.5M must be the maximum that can be earmarked, not to earn 'interest' but to make substantial mortgage loans. Say the maximum per loan was £25000 irrespective of the value of the property and its location, it would permit the Trust to assist in 100 cases but no more unless, of course, the Government were persuaded to make more funds available. In that respect, the implementation of a policy such as being suggested here might provide the data, experience and track record required to justify another approach to the Government for greater assistance. The Trust could be seen to have acted responsibly not only in meeting need, but also in the business-like way it has approached the problem and resolved it in a manner tailor made to the needs of those who qualify.

In his paper of November 1988, Peter Stevens drew attention to the data that had been researched and analysed showing a prima facie need for mortgage assistance. He made certain proposal for relief. This paper does not in any way seek to modify those proposals if the Trustees are minded to accept them.

The purpose of this paper is to illustrate responsible steps that, I feel, ought to be taken to assist those in need and, at the same time, retaining some control over and preserving, with the prospect of recovery for the benefit of others, those monies that have been entrusted to the stewardship of the Trustees. This paper also illustrates that the lending of money requires proper research and administration that cannot be done in a rush. The process can always been speeded up if the Trustees are willing to set down clear criteria against which all applications are judged, and that will also take time to prepare based upon thoughts prompted by this submission. It will also be necessary to consult lawyers.

If the decision of the Trustees is to provide mortgage assistance by outright non-interest bearing non-recoverable grants of substantial sums with no heed to recovery, then this submission is of no consequence. I personally do not believe that is a responsible discharge of our duties. This paper therefore seeks to suggest some way out of the impasse we have reached, and whilst it calls for some hard and sometimes dispassionate decisions, nevertheless I believe it to be in the best interest of ALL our beneficiaries who are entitled to a proper and fair share of assistance we are able to dispense.

If the matter is to be progressed further it seems that the Administrator (assisted by a sub-committee and in conjunction with the Trust's lawyers) should prepare a pro forma questionnaire and the criteria against which all applications, without exception, should be judged for final decision of the Allocations Committee.

Clifford Grinsted
Deputy Chairman

12th February, 1989