

## **THE MACFARLANE TRUST**

### **Minutes of a meeting held on 29 April 2013**

#### **PART B**

##### **618.13 Minutes of the previous meeting**

The minutes of the private part of the meeting held on 21 January 2013 were agreed as a correct record and signed by the Chairman.

##### **619.13 Payments review**

The board received a paper from the Chief Executive setting out details of serious failings which she had uncovered in relation to the way staff had been dealing with regular payments to beneficiaries, in particular in relation to widows. The picture had emerged piecemeal over a number of weeks after the Chief Executive joined the organisation. As soon as she had become aware of the problem, she raised it with the Chairman, and it had been agreed that the Chief Executive should appoint an accountant on a short-term basis to undertake a thorough review of widows' payments.

The main issues which had emerged were:

- The last widows' census had been conducted in the autumn of 2011 and no repeat census had been conducted since. In addition, the autumn 2011 census had never been implemented, except in a few cases where a small number of widows had complained and forced their individual cases to be dealt with. This was the reason it had come to the Chief Executive's attention in the first place;
- The uplift to the benchmark from £18,000 to £19,000 with effect from 1 April 2012 had never been implemented;
- Some of the calculations had been done incorrectly;
- There had been no written procedure for how to make the calculations
- The Finance Manager had been processing payments passed to her by the Support Services Manager but had not been checking whether the calculations were correct;
- The board had previously undertaken to pay any widows who could provide evidence of their income for the years in question could have their payments backdated to May 2009, but this liability had never been quantified because of the payments not having been processed.

The Chief Executive presented the results of the review that had been undertaken. The main findings were:

- 51 beneficiaries had been underpaid for 2011/12 and/or 2012/13; the underpayments totalled £171,000
- 20 beneficiaries who appeared to be due discretionary payments for 2011/12 and 2012/13 had never been paid; the payments due to these people totalled £224,000
- 22 beneficiaries had been overpaid for 2011/12 and 2012/13; the overpayments totalled £51,000

The financial implications were:

- Immediate liability for underpayments, and payments never made - £395,000
- Potential liability back to May 2009 - £474,000
- Annual ongoing additional cost - £275,000

It was noted that the figures would be subject to refinement as further work was done.

Following considerable discussion, it was agreed that MFT would:

- Write to widows who had never been paid, giving them backpayment to the date of the census information they provided and ensuring they now received monthly payments.
- Write to any widows who had been underpaid, giving them backpayment for underpayments and ensuring they now received the correct monthly payment.
- Where widows had been overpaid, we would not try to reclaim these funds, as the overpayments were due to staff error. However, we would write to them and ensure they now received the correct monthly payment.
- Undertake a new census once all the backpayments had been processed, to ensure that widows were being paid at the correct level in relation to their income.
- Undertake a serious data cleansing exercise; this would require additional, short-term staff resource.
- Where there was supporting documentation back to May 2009, we should backdate the payments, but we should not proactively invite people to apply back to this date. The board would be asked to end the backdating policy once the payments review was complete, so that this open-ended liability did not continue.
- The Chief Executive would brief the Department of Health and the auditors, and would discuss with the auditors how best to present the liability in the accounts.

**620.13**

#### **Beneficiary status**

The board received a paper setting out the situation of the widow of a Macfarlane Trust primary beneficiary, who had contracted Hepatitis C but not HIV from her late husband. As she was seen as a Macfarlane Trust beneficiary due to her being the widow of an MFT primary beneficiary, she could not seek support as a primary beneficiary of the Caxton Foundation. However, the MFT trust deed only conferred primary beneficiary status on infected widows when they had been infected with HIV, or co-infected with HIV and Hepatitis C. Following discussion with the Department of Health, the Chief Executive advised the board that DH felt that the board of MFT had the discretion to confer primary beneficiary status on this individual. Her situation had arisen due to a gap between the provisions in the MFT and Caxton Foundation trust deeds, in that it had never been anticipated that someone would contract Hepatitis C and not HIV from their partner.

Following discussion, the Chief Executive was asked to investigate further whether or not the individual could become a Caxton Foundation beneficiary instead, and to clarify whether or not the individual would receive MFET payments if she were made a primary beneficiary of MFT.

**621.13      Beneficiary loan**

The board received a paper setting out a request from beneficiary 1451 to transfer his original interest-bearing loan of £20,000, taken out in 2008, to a new property. It was noted that the beneficiary should have been making repayments of £250 per month, but had never done so. Following discussion, it was agreed that the request to transfer the loan should be declined, and the beneficiary asked for full repayment of the loan, including interest, upon sale of his property.

**622.13      Conduct of board meetings**

**i)      Confidentiality of information**

RE advised the board that he was concerned that confidential MFT matters which were discussed at board meetings were somehow leaking out to beneficiaries and board members of some of the other Alliance House entities. He reminded the board of the need to keep board discussions confidential; this was of particular importance given the sensitive nature of some of the issues which the board had discussed that day.

**ii)      Notification of items for inclusion on board agendas**

It was agreed that the Chief Executive should be given a minimum of 5 working days' notice before a meeting takes place of any items for inclusion on board agendas.

**623.13      Staffing matters**

The Chief Executive gave the board an update regarding a number of staffing issues, with particular reference to those arising from the payments review, item 619.13 above.

**624.13      Any other confidential business**

None.