

MACFARLANE TRUST

**A meeting of the Board of Trustees will be held on
Monday 30 April 2012 at 10.00a.m. at The New Cavendish Club,
44 Great Cumberland Place, London W1H 7BS**

A G E N D A

ADMINISTRATION

535.12 Apologies for Absence

536.12 Board & Committee Appointments

- (1) To confirm that Mr Evans will succeed Mr FitzGerald as Chairman of the Board of Trustees from the conclusion of the meeting.
- (2) To note that, as Chairman of the Trust, Mr Evans will succeed Mr FitzGerald as a Director of MFET Ltd ex officio.
- (3) To consider:
 - the composition of the National Support Services Committee, Messrs Dolan and GRO-A having stood down from the Board of Trustees and the presently continuing members of the Committee being Mrs Boyd and Messrs Burgess, Mishcon and Spellman; and
 - the Terms of Reference of the Committee (attached) and whether any changes should be made to its remit in light of the reduced size of the Board and the system of fixed non-discretionary payments, supplemented by calibrated discretionary "top up" disbursements, now applying for the benefit of infected beneficiaries.
- (4) To consider a process for the appointment of a Board nominated Trustee consequent upon Mr FitzGerald's retirement.

537.12 Minutes of Previous Meeting

To approve the minutes of the meeting held on 30 January 2012
(*previously circulated and now attached*).

538.12 Matters Arising from the minutes other than those itemised separately on the Agenda

533.12 (518.11 - 508.11) To receive an oral report from the Chairman on the updating of the MFT Trust Deed and to give all necessary authorisations for the execution on behalf of the Trustees of the Deed of Amendment and the Appointments Protocol, final copies of which, and of the draft letter to the Charities Commission regarding the amendment of the Objects Clause are attached.

533.12 (518.11 - 509.11) To receive an oral report from the Chief Executive on developments regarding the 5th floor of Alliance House.

GOVERNANCE AND POLICY

539.12 The Caxton Foundation/Macfarlane Trust Liaison Committee

To receive the minutes of the meeting of the Liaison Committee held on 12 April 2012 (*attached*).

540.12 The National Support Services Committee

(1) To receive the minutes of the meeting held on 14 March 2012 and the consolidated grant schedules for the year (*attached*). (*Note: As there were two meetings of the Committee in December 2011, there was no planned meeting in January 2012; the business of the February 2012 meeting was conducted at the March 2012 meeting*).

(2) To consider a recommendation from the NSSC regarding a business-related application. (*Note: A copy of the minute, approved by the Chairman of the NSSC, reflecting the Committee's majority position, was circulated on 28 March 2012 together with copies of the NSSC papers detailing the case.*)

(3) To note the end of year report by the Support Services Manager (*attached*).

541.12 Reserves Working Party

To receive the minutes of the Working Party on utilisation of the reserves held on 10 January, 15 February, 5 March, 14 March and 27 March 2012, together with a paper from Mr Mishcon on work in progress (*attached*), and to note:

- the appointment of =MC to undertake the living in the environment survey (*copy of the =MC proposal attached*);
- the letters to the infected and non-infected communities about the survey (*attached*); and
- the level of the responses, including some adverse comments received, and replies from the Chief Executive.

542.12 Department of Health

To receive an oral report from the Chairman on the meeting with Department of Health officials on 5 March 2012 (Departmental minutes attached).

543.12 Chairman's Statement for 2012/13

To receive an early draft of the Chairman's Statement to accompany the Annual Financial Report which will incorporate the audited financial statements for the year ended 31 March 2012 (*attached*).

544.12 Trust Objectives for 2012/13

To consider the draft objectives prepared by Mr Evans (*attached*).

FINANCE

545.12 Financial Reports

(1) To receive and review the following (*attached*):

- (a) discretionary disbursement summary for 2011/12 Q4;
- (b) investment report for 2011/12 Q4;
- (c) management accounts for 2011/2012 Q4; and
- (d) revised management and disbursement budgets for 2012/13 in light of the MFET Ltd Directions by the Secretary of State in respect of funding for the Trust and Eileen Trust for 2012/13 (copies of the Directions and of the letter and e-mail from the Department of Health dated 27 March 2012 *attached*).

MANAGEMENT

546.12 The Chief Executive's Report

To receive the Chief Executive's Report for Q4 (attached).

To note the "Men Only" event in 2012 will be held over the weekend of 15/16 June. The Chairman and Chief Executive will be attending.

547.12 Any Other Business

548.12 Dates of Future Meetings

- (1) To note that the next meeting will be held on Monday, 30 July.
- (2) To consider bringing forward the following meeting from the end of October to Monday, 24 September in order to accommodate the reporting timeframe set by the Department of Health on the work of the Reserves Working Party.

Note: To mark the retirement of Mr FitzGerald from the Chairmanship of the Board of Trustees, there will be a modest lunch at the NCC after the meeting. The luncheon is scheduled to start at 1.00pm.

**THE MACFARLANE TRUST - MEETING OF THE BOARD OF TRUSTEES
30 APRIL 2012**

ATTENDANCE SHEET

Mr C FitzGerald - Chairman
Name

Signature

GRO-C

Mrs E Boyd
Name

Signature

GRO-C

Mr Alan Burgess
Name

Signature

GRO-C

Mr R Evans
Name

Signature

GRO-C

Mr S Fuller
Name

Signature

Apologies Received

Mr M Gregory
Name

Signature

GRO-C

Dr Vanessa Martlew
Name

Signature

GRO-C

Mr R Mishcon
Name

Signature

GRO-C

Mr P Spellman
Name

Signature

GRO-C

In Attendance:

Chief Executive
Name

Signature

GRO-C

Assistant to Chief Executive
Name

Signature

GRO-C

Support Services Manager
Name

Signature

GRO-C

Finance Manager
Name

Signature

GRO-C

Administration Secretary
Name

Signature

GRO-C

THE MACFARLANE TRUST

**Minutes of the Meeting of the Board of Trustees held on
Monday 30 April 2012 at The New Cavendish Club,
44 Great Cumberland Place, London W1H 7BS from 10.00am**

PRESENT	Mr C FitzGerald	(Chairman)
	Mrs E Boyd	(Chairman NSSC)
	Mr A Burgess	
	Mr R Evans	
	Mr M Gregory	
	Dr V Martlew	(Medical Trustee)
	Mr R Mishcon	
	Mr P Spellman	
IN ATTENDANCE	Mr M Harvey	(Chief Executive)
	Mrs L Haigh	(Finance Manager)
	Ms R Riley	(Support Services Manager)
	Mr N Fish	(Assistant to the Chief Executive)
	Ms C Hogan	(Administration Secretary)
APOLOGIES	Mr S Fuller	

540.12 Apologies for Absence

Apologies for absence had been received from Mr S Fuller.

541.12 Board & Committee Appointments

(1) The Chairman confirmed that, following the special meeting of the Trustees held on 30th January 2012 Mr R Evans would be succeeding him as Chairman of the Trust. He offered his congratulations and welcomed him into the role. Mr Evans responded that it was a privilege to be asked and to serve the beneficiaries and the Board. The term of Chairmanship would run with that of Mr Evans' role as a Trustee (January 2015).

(2) The Chairman announced that Mr Evans would also succeed him as a Director of MFET Ltd ex officio.

The Chairman pointed out that the NSSC currently only had four members. Mr Spellman suggested that the incoming chair and chair of the NSSC should meet with the Board's CEO to consider whether there would be any future need for a standing NSSC now that the discretionary and non-discretionary system of payments to registrants, widows and carers was almost completed and the Reserves' review was advancing. Mr Fitzgerald said this was a most important aspect that should to be considered quickly.

(3) Mr Evans reminded the Board that there will be a vacancy as a Trustee, following the resignation of Christopher Fitzgerald. In

anticipation of this he had approached John West and Eve Rook/Liz Rizutto (working together) inviting them to submit proposals to administer the process of appointing a replacement Trustee. The joint submission from Eve Rook and Liz Rizutto was considerably cheaper and it was therefore Mr Evans' intention to use their services at a cost of £3,000. Mr Evans felt that the interview panel should include himself, one of the user Trustees and the Chair of the NSSC. This was agreed. He asked the user Trustees to decide amongst themselves which of them should sit on the Appointments panel. He invited Trustees to send him their thoughts of what particular skills would be required from the new Trustee.

Note: Following the meeting the user trustees agreed that Matt Gregory should sit on the Appointments Panel.

542.12 Minutes of the Previous Meeting
Minute No. 522.11 (page 5)

Mr Mishcon pointed out that, contrary to the minute, management accounts overspend had not been discussed. Mrs Boyd had not been at the previous Board meeting and was not aware that NSSC expenditure was due to be discussed. In the penultimate paragraph on page 5, the minute referring to a communication plan being provided should be removed as one had not been.

Subject to these amendments, the minutes were signed off as a correct record.

543.12 Matters Arising

533.12 (518.11 – 508.11) The Chairman informed the Board that the Trust was now in a position to press ahead with the amendment to the Trust Deed and the execution of the Appointment Protocol. On the Deed itself, the only change since the last discussion related to Schedule 3, where the deed was now more specific with what support could be given, as was the case with the deed originally. In the Appointment Protocol, reference had been removed to the number of Trustees that must be nominated by each appointing body. After the Department of Health (DH) had signed the documents, copies would be sent to the Chair of the Eileen Trust for acknowledgment.

Mr R Evans pointed out that there was a typographical error on page 1 of the Appointments Protocol, the sentence should read "The Board will comprise..." rather than compromise.

The Chairman drew the Board's attention to the important sections of the Trust's lawyer's letter to the Charity Commission which made it clear that individuals co-infected with HIV and hepatitis C can be supported by the Trust and that the non-infected beneficiary class had been clearly defined and now included carers. Clause 11.3 on page 5 was entirely new and allowed for user Trustees to be

included on the Board. Mr Mishcon would be settling the wording of the paragraph in bold with the Trust's lawyer.

Dr Martlew felt that the first paragraph under point 1 and the second paragraph under point 1.3 should be amended to reflect the fact that "women and others with bleeding disorders, e.g. von Willebrands could be supported", rather than just male haemophiliacs and women with von Willebrands disease. The Chairman asked that the Chief Executive look at the wording and inform the Trust's lawyer of the correct form of words. Where it stated 'compensation' in paragraph 3.1 it should have stated 'ex-gratia payments'.

Subject to the above amendments, the Chairman and Mr R Evans would sign the Deed of Amendment and Mr Evans would sign the Appointments Protocol. The amended letter would be sent to the Charity Commission.

533.12 (518.12 – 509.11) The Chief Executive provided an oral report on the latest news regarding the relocation to the 5th floor. The Trust had received a letter of assurance from Alliance House estates that the Caxton Foundation would be granted the lease for the 5th floor from 20 December unless Teletch came back with a rental offer substantially above the market rate. In answer to Trustees' concerns, Mr Mishcon notified the Board that Teletch had an excluded lease and therefore had no right to renew. The Chief Executive was in discussion to assign the lease for the 1st floor to Teletch as they had intimated that they wished to retain a small sales office in London. The DH, who had been understanding throughout the process, had also provided a letter of comfort.

544.12 The Caxton Foundation/Macfarlane Trust Liaison Committee

It was reported that the Liaison Committee had met three times so far. The Service Level Agreement provides for four meetings a year and the next meeting would take place in the autumn, when the budgets will be set. The resources usage percentages had been set at 30% for the Trust, 8% for MFET Ltd and 2% for the Eileen Trust. The DH had agreed that the maximum whole time equivalent number of staff to be employed should not exceed 12.

545.12 The National Support Services Committee

- (1) The minutes of the NSSC meeting on 14 March 2012 were ratified by the Board and the consolidated grant schedules were noted. It was suggested by the Chairman that the terms of reference remove the mention of the Hon. Treasurer since the Trust did not currently have one. Following a brief discussion, Mr Evans agreed that he would decide in due course whether he wished to receive the papers in the future.
- (2) The Chairman referred the Board to the text of the Agenda item and the papers that had been previously circulated. There was a lengthy discussion about the merits of the business in the

current economic climate, the previous support afforded to this beneficiary and his past history in servicing loans from the Trust. Strong opinions were expressed in favour and in opposition to giving further business funding to the beneficiary. In particular this related to the application including a business loan of £55,000. The Board agreed that advice should be sought on the trading status of the enterprise.

The Board agreed *5:3 in favour, with one abstention, to write to the primary beneficiary with the following proposal:

- i. That a grant be paid in the sum of £20,000 to enable pump priming. The grant to be paid when the loan documentation has been finalised, formally agreed by the beneficiary and he has registered the business as a Limited Company.
- ii. That a loan facility of £55,000 be earmarked for drawdown on the production of a statement of purpose and the most recent management accounts. The loan to be secured by a second charge against the beneficiary's property. The loan would be charged at 1 percentage point variable over the prevailing bank base rate over the term. Payments will be paid in tranches according to the beneficiary meeting stipulated milestones, to be assessed by the Chairman and Chief Executive. If subsequent recovery of loan payments proves necessary other than by conventional repayments, the property may not be sold until the beneficiary has passed on.
- iii. That the beneficiary write formally to MFET Ltd asking that the non-discretionary payments for the term of the loan and compound interest be directed to the Macfarlane Trust representing loan repayments.
- iv. That solicitors be instructed to prepare the necessary loan contract and charge documents.

**In Favour* – Mr C FitzGerald, Mr R Mishcon, Mrs E Boyd, Mr A Burgess, Mr S Fuller (by Proxy, Mr C Fitzgerald). *Not in Favour* – Dr V Martlew, Mr P Spellman, Mr M Gregory. *Abstention* – Mr R Evans.

- (3) The end of year report by the Support Services Manager was noted.

The Chairman tabled a handwritten sheet which provided further figures at point 3.1

The Chairman asked that the Chief Executive consider in due course whether beneficiaries whose incomes are close to the top of a pay band are receiving an equitable payment figure compared with those at the bottom of the next highest band. Mr Gregory expressed his dissatisfaction that those in the top income bracket received no discretionary support from the Trust. The Chairman noted his comments but suggested to the Board that these were people with household incomes of at least £80k per year and, because the Trust was bound by charity law, they

would be unable to make discretionary payments to them. It was agreed that their position be reviewed in due course.

It was noted that a meeting was being arranged between the Chair of the NSSC and the Chair of the Caxton Foundation's National Welfare Committee to ensure that the decisions of the two committees were consistent wherever possible.

The Board concurred with a suggestion from the Support Services Manager that recommended greater financial support be given to orphans. It was suggested that the Support Services Manager encourage them to make applications setting out their needs.

546.12 Reserves Working Party

The minutes of the meetings of the working party, headed by Mr Mishcon, were noted. The Terms of Reference of the Working Party were to recommend to the Board the way in which the Reserve Funds, totalling approximately £4.2M would be utilised. The Department of Health required the Board to submit proposals to them in advance of agreeing the Mft's allocation for 2013/14. Mr Evans said that at a meeting on 5th March he and the Chief Executive had negotiated with the Department that the proposals are submitted by 30th September; previously they were expecting them by 31st August. This would mean that the Board should consider bringing forward the meeting after next from October to September so that the whole Board could sign off the proposals.

The appointment of =MC to support the Chief Executive and Support Services Manager was noted. Mark Simmons, Social Worker had also assembled a team of professionals working in the NHS who would assist, independently of their NHS responsibilities. It was noted that a letter had been sent under Mr Mishcon's signature, to all beneficiaries. The Chief Executive said that he had received a number of positive responses so far to the suggestion that visits be made by =MC to individual beneficiaries to discuss their needs but also a significant number from beneficiaries who were strongly opposed. Mr Burgess and Mr Gregory said they had both received representations from a number of beneficiaries strongly opposed to home visits, particularly by a company independent of the Trust. There were also many representations, in opposition, on the website

Mr Mishcon informed the Board that, regrettably, the wrong letter had been sent out to Primary Beneficiaries (PB) and that only the bereaved community had received the correct version. As a consequence, an extensive Question and Answers sheet had been created and placed on the Trust's website and in the newsletter. It had also been sent to those people who responded positively to the approach. Mr Mishcon was pleased to report that the Trust had received 200 or so positive responses with 162 people requesting a visit. This figure was higher than he had envisaged.

Mr A Burgess read a number of emails and comments he had received from PBs who had contacted him to express their discontent with this exercise including a number who had gone to their MPs about it. The main issues seemed to be that some people, including those who had responded "positively", had reported feeling pressurised and coerced into signing up to a home visit and that their privacy would be breached. Many were unhappy that people's debts were going to be written off. Mr M Gregory added that some people were very upset by the approach, irrespective of the letter version which had been issued. Mr Mishcon was sorry to hear this as the intention had only ever been to utilise the reserves as well as possible, within the constraints of charity law, and there was a need to move with urgency. He felt that more needed to be done to get the message across that the Trust were here to help and improve the situations of beneficiaries in need; a charity cannot simply divide the funds equally amongst all beneficiaries regardless of need. He added that he understood that the intention was that people's debts would not simply be written off but rather they would be negotiated down where possible and the underlying issues addressed, with some assistance where necessary.

Mr Evans added that the DH had requested a detailed plan for the reserves by the end of September otherwise they would begin to claw the money back over a number of years. He was very sensitive and understanding of the concerns and emotions expressed by many beneficiaries. Not only should the Trustees convey the message better but they should also listen more closely to the concerns and opinions of the beneficiaries. However, if the exercise did not now go ahead in some form there was a real danger that from 2013/14 the Department of Health would reduce the Trust's annual allocations and expect MfT to supplement the figures from Reserves. In the circumstances he thought that the exercise should proceed, with the support of the entire Board, but the Trust should be more sensitive to the beneficiaries' views regarding visits and collecting information. He took the point that many may be supportive but the strong views of the large number in opposition should not be ignored.

A discussion ensued about the main issues beneficiaries had with the current approach and how best these could be addressed. It was resolved that an open meeting would be set up with people for all of the Trust's beneficiary cohorts. The meeting would provide an opportunity for them to meet with the Chairman and a Trustee to and discuss their issues in an open forum as well as giving them the opportunity to propose further ways of spending Reserve Money.

The Board agreed unanimously that this was the appropriate way to proceed

Note. The meeting will take place on 20th June

547.12 Department of Health

The Chairman gave an oral report on the meeting with DH officials on 5 March. He reported that a new Eileen Trust beneficiary had been discovered but it had been negotiated that the funding split of 96:4 in favour of the Trust would remain unchanged due to the large number of widows the Trust supported compared with the Eileen Trust.

548.12 Chairman's Statement for 2012/13

Mr Evans invited comments to be sent to him by the end of the week. He reported that the audit was due to be completed by the end of May and that the figures were due to be published in June. After the accounts had been signed off by one of the Partners at Ward Williams they would be circulated to the Board with final approval due to take place in July.

Note. No comments were received

549.12 Trust Objectives for 2012/13

Trustees were invited by Mr Evans to comment on the draft Trust Objectives for 2012/13 by 7th May. He intended to hold one to one meetings with each Trustee in the next month or so.

Note. No comments were received.

550.12 Financial Reports

The Chairman made various comments on the Finance papers and budgets which were noted by the Board. After a detailed presentation appertaining to technical matters within the financial reports, the Chairman recommended that the Board accept the budgets.

The Board Approved the Draft Budgets for 2012/13

The Chairman reported that the Trust's reserves stood at circa £4.2m. He suggested that the benchmarks used by PIM needed to be more bespoke as they were currently misleading.

551.12 The Chief Executive's Report

The Chief Executive went through his report page by page and invited questions from the Board. He welcomed Catherine Hogan on board who would be replacing Gillian Brown.

552.12 Any Other Business

There was no other business.

553.12 Dates of Future Meetings

(1) The meeting that had been due to take place on 30 July was moved to 23 July due to the Olympics and the difficulties that this would pose for travel and accommodation.

(2) The meeting after next would take place on 24 September

There being no further business the meeting closed at 13:40

GRO-C: R Evans

Approved.

Chairman

31st July 2012

TERMS OF REFERENCE
The National Support Services Committee

Membership

To comprise 5 members, including at least one user trustee (provided at least one is willing to stand) and not more than two user trustees.

Every appointment to the committee will be made by the full Board of Trustees following nomination by another Board member but only with the nominee's consent. Where there are more nominees than there are committee places available for appointment/re-appointment, there will be a vote with Board members casting their votes on voting papers which will list the nominees in alphabetical order against as many columns of voting boxes as there are places available and allowing each voting Board member to cast one vote in each column. A vote in the first column will carry the number of points equal to the number of places available and a vote in each succeeding column will carry one point less than a vote in the last preceding column. The nominees with the highest number of points will be appointed until all the places available have been filled.

The term of office for each committee member will normally be two years. However, in the case of the members appointed for the financial year 2009/10 two will serve for two years and three for one.

The Chairman of the Board of Trustees may be an ex officio member of the committee or, if not ex officio, will have the right to attend and speak at all meetings of the committee.

Sight of Papers

All committee papers will be subject to review by the Medical Trustee and the Hon. Treasurer. Minute 381.08 of the meeting of the Board of Trustees held on the 27 October 2008 has amended this to read as follows:-

Case papers will be referred to the Chairman of the Board, the Hon. Treasurer and Medical Trustee if, in the first instance, deemed necessary by the Chief Executive or Support Services Manager or by the Committee should they deem it necessary. Agendas, Minutes of Meetings and papers pertaining to policy matters will continue to be sent to the Chairman of the Board, the Hon. Treasurer and medical trustee.

A copy of the detailed memorandum that accompanies each case for consideration by the NSSC can be made available to any Trustee who requests it. If a Trustee still expresses a genuine concern, then the issue can be raised at the next meeting of the Board of Trustees.

Quorum and Meetings

The quorum will be three members including the Chairman. The committee will meet on the first Wednesday in each calendar month or where deemed necessary, at the direction of the Chairman.

Terms of Reference

- In terms of welfare policy development, the Committee will consider such matters and make recommendations as and when appropriate to the Board of Trustees where final decisions on such matters will rest.
- To consider cases for support from the beneficiary community that fall outside the published office guidelines or where the Chief Executive considered it inappropriate to use the discretionary authority available to him.
- To consider first reviews or, where new supporting evidence is available, appeals against decisions taken by the committee.
- To refer second appeals, against any primary appeal decision being upheld, to the full board of trustees if there are reasonable grounds so to do..
- To consider beneficiary referrals (and requests for support arising from those referrals) made by the Support Services Manager to the Terence Higgins Trust, external consultants or other organisations.
- To monitor prevailing support services policy and review where appropriate and make proposals for recommendation and adoption by the full board of trustees.
- To maintain an ongoing review of the Office Guidelines to ensure that, as far as possible, they reflect the provision of support likely to be required by the registrant and wider beneficiary constituency.
- The Chairman, or a delegated member of the committee, will present the minutes of each meeting that has taken place after the previous board meeting to the full board of trustees for confirmation.
- The Chairman will be appointed by the Committee at the first available opportunity.

Authorities

The office guidelines are a delegated authority for the provision of support to the beneficiary community.

Cheque signature authority for support service payments to be in accordance with the bank mandate.

The Support Services Manager, in the absence of the Chief Executive, has discretion to agree a support request up to £1500.00 if outside the office guidelines and where she believes the application for support would have had the consent of the committee.

The Chief Executive has discretion to agree a support request up to £4,000.00 (previously £2,500) with or without the office guidelines where he reasonably believes the application would have received the consent of the committee.