

THE MACFARLANE TRUST

Minutes of the Meeting held on Monday 22 October 2007 at the Novartis Foundation, 41 Portland Place, London W1 from 10.00am

PRESENT	Mr C FitzGerald	(Chairman)
	Mrs E Boyd	(Chairman NSSC)
	Mr G Clarke	(Hon. Treasurer)
	Mr P Dolan	
	Mr R Evans	
	Mr C Hodgson	
	Mr GRO-A	
	Mr R Mishcon	
	Mr P Spellman	
	Dr M Winter	(Medical Trustee)
APOLOGIES	Dr S Chapman	
	Mr GRO-A	(received by e-mail)
IN ATTENDANCE	Mr M Harvey	(Chief Executive)
	Mr N Fish	(Assistant to Chief Executive)
	Ms R Riley	(Support Services Manager)
BY INVITATION	Ms M Protani	(Agenda item 327.07)
	Ms Neasa Coen	(As above)

319.07 Apologies for Absence
The apologies were recorded.

320.07 Minutes of the Previous Meeting
The minutes of the meeting held on the 23 July 2007 were approved and signed as a correct record.

321.07 Matters Arising
304.07 – (287.07) (275.07(2) – The Chief Executive reported that it was his understanding that 1823A had now achieved the closure she had sought. The Chief Executive drew the Board's attention to the Complaints Procedure that had been drafted taking into account comments made by Members of the Board of Trustees. The Board noted the revised Complaints Procedure and also noted that the procedure had been included in the recently despatched Newsletter to the beneficiary community and had been placed on the website.

304.07 – (287.07) (277.07) – the Chief Executive reported that the draft compromise agreement in respect of terminating Ms

Allen's' employment with the Macfarlane (and Eileen) Trusts was now with the solicitors and that acceptance of the arrangement was now a matter for Ms Allen.

304.07 – (296.07) The Board of Trustees noted the exchange of correspondence that had occurred. The Chief Executive reported that the Haemophilia Society were now following the recruitment procedures recommended by OCPA and that the recruitment of a replacement for Mr GRO-A was subject to this procedure. Mr Evans advised the Board of Trustees that the exchange of correspondence between the Chairman of the Society and the Chief Executive had occurred while he was interim Chief Executive of the Society and that he had not involved himself in the matter. The Board were advised that the Chairman would attend the final selection hearing in respect of a successor to Mr GRO-A and that the closing date for applications was the end of October 2007.

304.07 – The Board noted that the Dr Winter had given evidence to the Archer Inquiry on the 29 August. The transcript of his evidence can be found on the Archer Inquiry website.

307.07 The Board of Trustees noted that this matter appeared separately as an item of business on the agenda.

308.07 – Noted. The Board of Trustees also noted that various anomalies had been addressed in the regular payments review exercise and that the Stage 2 process as to how surplus income from the reserves portfolio might be utilised appeared separately on the agenda as an item of business.

315.07(4) – Noted.

317.07 – Noted. The Chairman advised the Board of Trustees that he had not yet decided if he would attend the WFH in Istanbul.

318.07 – The Board noted that this appeared separately as an item of business on the agenda.

322.07

The Chief Executive's Report

The Report and attached event reports were received. The Chief Executive went through the report page by page and invited comments. The Chairman alluded to a number of matters that had arisen at the recent meeting of the Partnership Group, they were:-

a) Fundraising – That the Group were unhappy about the connotations of "charity" that were associated with this income generating activity.

b) THT – That there should be a method of "feedback" to assess performance of the THT service to the beneficiary community.

c) Financial Advice – That the need for coherent financial advice and the Trust's policy in terms of where advice might be sought should be published in the next Newsletter.

d) Events - That there was some concern about the attendance at events, specifically the recent Infected Women Only event, by female infected intimates from the Eileen Trust.

e) Fraud Investigation – the Chief Executive reported that he had not yet had any ministerial reply in respect of the Trust's concerns how alleged benefits fraud was managed by the benefits agency. *(Chief Executive's Note: A copy of the ministerial reply was circulated to the Board of Trustees on the 22 October).*

The remainder of the Chief Executive's report was noted.

323.07

Incorporation of the Board of Trustees

The Chairman welcomed Mrs Moira Protani and Ms Nasa Cohen from Berwin Leighton Paisner.

He went on to remind the Board of Trustees that he had raised this matter under Any Other Business at the previous meeting and that Mrs Protani had been invited to summarise the benefits of incorporation for the Board of Trustees.

In summary, the points embracing incorporation were as follows:-

- a) A matter of Trust governance.
- b) That the Board of Trustees was now unincorporated and for these purposes would be regarded as individuals, specifically for contractual purposes.
- c) That the matter had been discussed a few years ago and it was decided at the time not to proceed.
- d) The Board of Trustees are jointly and severally liable for the contracts entered into by the Trust and could be sued personally.
- e) The fact that a Trustee was no longer a member of the Board of Trustees, for example through retirement or otherwise, did not remove that liability.
- f) That each agreement moving liability for the Trustees should be novated in favour of each new Board of Trustees. Novation had to be agreed by both parties.
- g) Assignment was an option but where there were only benefits and no liabilities to the Trustee.
- h) That without incorporation:-
 - litigation was problematic:-
 - difficult to locate trustees who would be party to the litigation.
 - liability would fall on the original trustees.
 - the need to constantly novate or assign contracts.

That incorporation was a straight forward process by application to the Charity Commission; the Board could be styled "The Incorporated Trustees of the Macfarlane Trust" with no requirement to change the trust deed.

It was the view of Berwin Leighton Paisner that incorporation of the Board of Trustees removed any personal liability that otherwise might have been the case and that Counsel's' view

had been received in that respect. This was contrary to the opinion expressed by the Charity Commission but Ms Protani was confident that the opinion from Counsel would prevail. The process of incorporation would mean that all existing contracts, including the arrangement for the management of the investment portfolio currently held in a nominee company, would have to be assigned/novated to the incorporated body. This would be a "one off" process.

The Chairman thanked Ms Protani and Ms Coen for their summary..

The Board resolved that the process of incorporation should proceed and that the Chief Executive liaise with Berwin Leighton Paisner in this respect

324.07

National Support Services Committee

1) Mrs Boyd, Chairman of the Committee, presented the minutes and schedules of support of the meetings held on the 1 August, 5 September and 3 October.

The minutes and schedules were received.

2) Support Services Trends

The Board of Trustees noted the graphs that accompanied the disbursement schedules and the trends they revealed. The Board asked that there be a degree of consistency in the presentation of the graphs to facilitate trend analysis. It was further resolved that the disbursement of grants made under office guidelines should be reported.

3) The draft Stage 2 paper, on how surplus income from the reserves portfolio might be utilised, was received and approved by the Board of Trustees as a working document for the working party. The Board of Trustees accepted two proposals arising from the paper as follows:-

a) That the monthly payment to the Guardians of Orphans should be raised to £250.00 pcm with immediate effect and backdated to the 1 April 2007. The Chairman opined that it was possible, even likely, that non-infected widows who had dependent children might seek some form of equivalence in this respect and that this should be a matter of priority for the Stage 2 working party.

b) That the Honeycombe Legacy should be made available to all non-infected widows.

The proposals at a) and b) were adopted.

It was suggested that the working party could be formed from the Board of Trustees and that members of the Partnership Group be invited to serve as a consultative body. This would be a matter for the NSSC as the working party would report to them in the first instance. The Board noted that Messrs GRO-A and Mishcon had expressed interest in becoming members of the working party.

4) The Board of Trustees noted that there was no business relating to the Honeycombe Legacy Fund. The need for a

degree of feedback from recipients of disbursements from the Honeycombe Funds was sought by the Board.

5) There were no nominations arising in respect of the vacancy that had occurred through the resignation of Mr GRO-A as a Trustee. The matter was deferred.

325.07 Employment Affairs Committee

The Board of Trustees noted that apart from matters raised in the Chief Executive's report, there had been no business for the committee to consider in the previous quarter.

326.07 The Annual Plan

The plan with the current update and previous update positions was noted.

327.07 The Business Case Review and Redefinition

The Chairman introduced this item and stated that there were clearly two separate but related funding issues and they were:-
1) The current need to seek an uplift in disbursement funding for the beneficiary community and,

2) The way the Trust might be funded in the longer term.

It was vital that the impetus on settling on a strategic context for uplift in the current level of disbursement funding should not be lost.

He alluded to the Signum report and the subsequent note from the Hon. Treasurer, circulated with the agenda, and that there had been no further exchanges on this matter.

He felt that any revised document should focus less on the history and medical detail and should concentrate more on how the needs of, and therefore support to, the community of care had changed and continued to evolve. He referred to the work, still in progress, that had been undertaken by the Hon.

Treasurer and that it was his wish that matters should be taken forward by way of a working party.

He referred to an "off the record" meeting that Mr Evans and the Chief Executive and his assistant had recently had with Mr Brian Bradley at the DH. He invited Mr Evans to report to the Board of Trustees.

Mr Evans confirmed that the meeting had taken place and that a "follow up" as to how matters might be progressed had not yielded any enthusiasm from officials at the DH. He went on to say that at a later meeting with Mr Bradley and Mr Stopes-Roe, Mr Evans felt that the aims and objectives of the Trust as to how funding in the future might be made available was more clearly appreciated. He went on to say that the DH officials would welcome a paper that reflected the Trust's thinking in this respect.

The Chairman referred to the reply he had received from the MSPHP following his letter of welcome when she took office. The MSPHP had stated in her letter that the DH would consider

"a revised case from the Trust on behalf of your registrants in due course" in respect of the current funding arrangements and that the opportunity this presented should not be lost. Mr Mishcon referred to his thesis questionnaire and thanked all those that had helped him in the preparation of the document. He referred to the helpful input from the Partnership Group and that the objective was to achieve a similar response to the questionnaire that accompanied the Long Term Review (LTR). The Board asked that they receive via the Chief Executive a copy of the questionnaire document. Mr Evans opined that the data arising from the questionnaire would prove extremely useful in the assessment of the long term support demands the Trust would have to confront. It was resolved that a working party should be formed under the Chairmanship of Mr Evans and that he would meet with the Chief Executive to discuss the way forward. It was noted that Mr Mishcon would make himself available for the working party. Mr Mishcon suggested that Dr Chapman may welcome an invitation to serve on the working party.

328.07 The Annual Plan – Second Quarter

The annual plan circulated with the agenda was noted. It was agreed that the Mishcon initiative would be very helpful in seeking to meet some of the objectives therein.

329.07 Partnership Group

There was no business under this agenda item.

330.07 Financial Reports

The reports circulated with the agenda were noted.

- 1) The schedule of grants and regular payments for the second quarter of the 07/08 financial year were noted and were within budget parameters.
- 2) The investment report for the second quarter of the 07/08 financial year was noted. It was noted that the values of the reserves portfolio at the end of the quarter were virtually the same as they were at the beginning, notwithstanding the Northern Rock difficulties.
- 3) The management accounts for the second quarter of the 07/08 financial year were noted.
- 4) The draft Standing Financial Regulations, circulated with the agenda, were approved and adopted after a number of minor textual alterations. The revised text would be circulated to the Board of Trustees.

331.07 Any Other Business

The next meeting of the Board of Trustees will be the 21 January 2008. The proposed dates for the remainder of 2008 were noted and agreed subject to any notification to the Chief Executive. The dates are 21 April, 14 July and 20 October.

The meeting terminated at 1.15pm.