Agenda Item: 22.05

A REVIEW OF THE LOANS POLICY OF THE MACFARLANE TRUST

Introduction

Following successful completion of the audit for 2004/05, it was pointed out by the auditors that the Trust should review its prevailing policy towards the making of loans to registrants. They were processed using a vague procedure that had been in place for a number of years but, even so, was difficult to identify.

This was further exacerbated by the fact that there was no complete loans register and what was available was sometimes inaccurate. It was reported that the loans register was lost during the handover period between the outgoing and incoming Chief Executive.

The loans policy is unclear but it is understood to be:-

a) Loans up to 12 months can be repaid from regular payments, with exchange of letters agreeing to the repayments.

b) Loans with no defined term are supported by an exchange of letters with a promise to repay. The terms and conditions of the repayment would vary according to the circumstances the loan was made available. By way of an illustration, the repayments could be deducted from regular payments or could be recovered from the sale of a property. The simple letters of exchange, now used by the Trust, are a promise to repay; it would be difficult for a number of reasons to enforce recovery.

c) Secured loans that will be redeemed either when the property is sold or when the estate is the subject of probate. The Trust has a number of equity share mortgage arrangements where the value of the original % of the value of the property rises or falls in line with property market trends. Repayment secured in the property deeds.

The paper concentrates on those loans where repayments from regular payments are not feasible.

Comment

The Trust is a revenue driven organisation and receives a given level of support, each year, to support by way of revenue the needs of its community of care. It can lend money, if trustees agree that such support should be given; it is not subject to the strictures of the FSA as it does not seek to make a profit from any such transactions.

Pre Procedure Considerations

It is vital that before any agreed procedures are addressed, the Trust should consider, as a policy, whether or not it should continue to make term loans available. If the Trust resolves that loans (with a repayment term longer than 12 months) are a legitimate constituent within the range of support services available then the following will have to be addressed.

If the Trust deems that it should not make term loans available, then the policy towards term loans has been decided.

The following additional questions will arise in respect of term loans:-

1) To whom should the Trust make loans available?

2) Would the Trust ever seek to enforce repayment of a loan other than through the regular payments system? Should all loans carry a repayment term or a required date when the loan has to be repaid?

3) Should we overtly contribute to an individual's debt burden and the accompanying non-financial difficulties that will arise? These might include stress and the consequences that the Trust might have in dealing with stress it has inadvertently caused and the opportunity cost to the borrower of such debt.

4) Is there any additional action the Trust might introduce prior to making a loan available? This would apply in respect of small bank loans and credit card debts. The paper acknowledges that this is largely what happens at the moment.

5) Should the cost of drawing up lien be added to the principal borrowed?

Comments

If the Trust recognises that it would rarely, if ever, seek the enforced repayment of a secured loan then that would suggest a weakness and render any policy impotent. The only alterative is a grant to meet the purpose.

Recommendations

Clearly, the Trust has to be keep the option of making a loan available in certain circumstances. On the basis that the Trust is revenue driven, the following types of loans or advances should be available to all classes within the community of care.

a) A simple advance against regular payments recoverable in 12 months.

b) A loan recoverable against regular payments for a period of up to two years. If the borrower passes away then the Trust should have a policy of immediate write-off and not seek to extend the process of recovery to the next of kin. The repayment should not be greater than 30% of the value of the annual regular payments (excluding winter and summer payments) but can be x by 2 to achieve the maximum loan available.

c) That loans secured on property are terminated immediately and each borrower be contacted to establish whether or not there is any likelihood of a repayment. If there is little chance of any repayment, the loan should be written off.

d) Where there is the perception or certain knowledge that Trust funds that are being used to enhance the capital value of a property prior to a sale there should be no funding for this purpose. This would not include alterations of works that are driven by health needs.

e) That the current equity share arrangements should be abandoned and converted to a fixed and not a % charge. This would mean that Trust will devaluate the money what could contribute to the other, but is it right to make a profit out of registrant?!

Loan Definitions

It is matter for the NSSC as to whether or not a loan should be awarded, the purpose of the loan and the arrangements for repayment subject to the above recommendations should be adopted.. The arrangements for the loan documentation and "signing off" with the borrower are a matter for the accounts section.

The NSSC are asked to consider this document in light of the uncertainties that currently exist.

IF YOU REALISTICALLY KNOW THERE IS A VERY LOW POSSIBILITY OF A LOAN BEING REPAID, THEN THERE IS NO POINT GIVING THE LOAN.

Should we turn down people who need more long term loans, longer term loans are a temporary solution to the problem. If they are having problems, should we make sure someone will help them to manage their money? Should we offer special grants and help them to pull their life together? Should we consider that the improvements to the house are necessary, and then turn it into a grant and not a loan, or should loans be offered to everyone?

Many registrants request loans when their financial difficulties are so great that they can no longer cope. If we can stop them reaching this point by offering the services of a Debt Counsellor at the early stages, then the need for loans could reduce significantly.