


8. MAYOR'S WELFARE FUND CHARITABLE TRUST



General Manager responsible:	General Manager Community Services
Officer responsible:	Community Support Unit Manager
Authors:	Robert O'Connor, Solicitor, Legal Services Unit & Robyn Steel, Team Leader Safer Christchurch, Community Support Unit

PURPOSE OF REPORT

1. The purpose of this report is to seek the Council's agreement as sole Trustee of the Mayor's Welfare Fund Charitable Trust to:
 - (a) Alter the Mayor's Welfare Fund Charitable Trust Deed to grant to the Council the power to nominate a person in the place of the Mayor as a member of the Mayor's Welfare Fund Charitable Trust Committee where the Mayor does not wish to act in that capacity and for that person to be the chairperson of the Committee in lieu of the Mayor; and
 - (b) Select the groups who may nominate members of the Mayor's Welfare Fund Charitable Trust Committee as required by the Trust Deed; and
 - (c) Alter the Mayor's Welfare Fund Charitable Trust Deed to allow Maori, Pacific and Refugee and Migrant representatives to be members of the Mayor's Welfare Fund Charitable Trust Committee; and
 - (d) Alter the Mayor's Welfare Fund Charitable Trust Deed to permit the delegation of the Trustee's powers of investment to certain Council Officers; and
 - (e) Update the list of nominated persons with authority to act as signatories of the Mayor's Welfare Fund Charitable Trust bank account.

EXECUTIVE SUMMARY

2. The Council is the sole Trustee of the Mayor's Welfare Fund Charitable Trust established by Deed of Trust dated 7 September 1992 (attached).
3. A number of amendments to the Deed of Trust are required to reflect current practice and a number of decisions of the Council as Trustee are required to comply with the terms of the Trust Deed.
4. The Trust Deed currently provides in clause 4.8(a)(ii) that the Mayor of Christchurch for the time being shall be a member of the Mayor's Welfare Fund Charitable Trust Committee. In addition clause 4.8A.4 of the Trust Deed provides that the Mayor shall be chairperson of that Committee. It is proposed, where the Mayor declines to accept appointment or wishes to discontinue his appointment, that the Council be given power to nominate a person to act as a member of that Committee in the Mayor's place and for that person to act as Committee chairperson in lieu of the Mayor.
5. The Mayor's Welfare Fund Charitable Trust Committee appointed under the Trust Deed currently includes representatives from the following agencies/organisations/sector/community groups:
 - Age Concern
 - Salvation Army
 - Catholic Social Services
 - Christchurch City Mission
 - Home and Family Christchurch Inc
 - Barnardos
 - Methodist Mission
 - Ministry of Social Development – Work and Income
 - Prisoners Aid and Rehabilitation
 - Refugee and Migrant Community
 - Presbyterian Support
 - St Vincent de Paul
 - Maori Community
 - Pacific Community

6. It is a formal requirement of clause 4.8(a)(i) of the Trust Deed that the Council as Trustee formally “selects” those groups entitled to representation on the Mayor’s Welfare Fund Charitable Trust Committee.
7. The current wording of the Trust Deed does not expressly permit the appointment of representatives from the Maori, Pacific and Refugee and Migrant communities to the Mayor’s Welfare Fund Charitable Trust Committee and accordingly it is necessary to amend the Trust Deed to formally permit that representation to occur.
8. The Trust Deed provides in clause 4.1 that “the Trustee [i.e. the Council] may invest any part of the Trust Fund by purchase, exchange or otherwise in such investments as the Trustee may in its uncontrolled discretion determine ...”. To avoid the need for individual investment decisions to be referred to the Council as Trustee it is recommended that the Council as Trustee delegate its investment powers under the Trust Deed to certain specified Council officers.
9. By resolution dated 25 February 1999 the Council as Trustee granted authority to certain elected members and officers to act as signatories of the Trust’s bank account. This authority needs to be updated to reflect the current operational structure of the Council organisation. It is therefore necessary for the Council as trustee to cancel or revoke all previous authorities in respect of the Trust bank account and to authorise any two of the holders from time to time of the following positions to be authorised signatories on that account:
 - Mayor of the City of Christchurch
 - Chairperson of the Mayor’s Welfare Fund Charitable Trust Committee
 - General Manager Community Services
 - Community Support Unit Manager
 - Community Development Manager
 - Assistant Management Accountant
 - Team Leader Community Grants Funding

Financial implications

10. There are no financial implications.

Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?

11. Yes.

LEGAL CONSIDERATIONS

12. Clause 12 of the Trust Deed gives express power to the Council as Trustee to alter the Trust Deed “if in the opinion of the Trustee:
 - (a) The same is made to correct a manifest error.
 - (b) Is of a formal or technical nature.
 - (c) Is necessary to give the Trustee any further powers or discretions consistent with the terms of these Rules including (without limiting the generality thereof) a revision of the Trustee’s powers of investment and allowance for continuing developments in areas relating to the Purposes.
 - (d) Is to allow the Trust to continue to be approved or to be approved by any relevant fiscal authority.
 - (e) Is necessary to allow the Trust to receive the benefit of any gift, grant or other funding.

PROVIDED THAT no such alteration shall be made if its nature or effect would be such as to derogate from the exclusive charitable nature of these presents.”

13. The Legal Services Unit is of the opinion that the proposed changes to the Trust Deed are of a technical or formal nature and further, that they do not derogate from the exclusive charitable nature of the Trust Deed and that they are therefore permitted under clause 12 of the Trust Deed.
14. The Trust Deed currently provides in clause 4.8(a)(ii) that the Mayor of Christchurch for the time being shall be a member of the Mayor's Welfare Fund Charitable Trust Committee. In addition clause 4.8A.4 of the Trust Deed provides that the Mayor shall be chairperson of that committee ex officio.
15. It is proposed, where the Mayor declines to accept appointment or wishes to discontinue his appointment, that the Council be given power to nominate a person to act as a member of that Committee in the Mayor's place and for that person to act as Committee chairperson in lieu of the Mayor. If that proposal is to be adopted, it is necessary to amend the Trust Deed.
16. It is a formal requirement of clause 4.8(a)(i) of the Trust Deed that the Council as Trustee formally "selects" from time to time those "welfare groups" entitled to representation on the Mayor's Welfare Fund Charitable Trust Committee.
17. This clause provides that:

"... the committee shall mean a committee comprising:

 - (i) one nominee of each of that or those welfare groups selected by the Christchurch City Council from time to time at its discretion the welfare groups so selected at the date hereof set out in the list annexed hereto and marked with the letter "B".
18. To permit the formal 'selection' of those groups and organisations presently represented on the Mayor's Welfare Fund Charitable Trust Committee to occur it will be necessary to amend clause 4.8(a)(i) of the Trust Deed to remove the reference to "welfare" groups so that other groups, such as Maori, Pacific and Refugee and Migrant communities, may be represented.
19. In addition, in order to formalise the current Committee membership it is necessary for the Council as Trustee to formally by way of resolution "select" in terms of the Trust Deed those groups entitled to representation on the Mayor's Welfare Fund Charitable Trust Committee.
20. The Trust Deed provides in clause 4.1 that "the Trustee [i.e. the Council] may invest any part of the Trust Fund by purchase, exchange or otherwise in such investments as the Trustee may in its uncontrolled discretion determine...".
21. Clause 4.8(a) of the Trust Deed permits the Council as Trustee to "delegate at any time or times and to the Committee any of the Trusts, powers, authorities or discretions vested in the Trustee by these rules {which includes the Trustee's powers of investment] as and when it shall see fit upon such terms and conditions and under such regulations (including the power to sub-delegate) as the Trustee may think fit ...". Presently, this clause only permits the delegation of such powers to the Trust Committee. If it is considered appropriate to delegate those powers not to the Trust Committee but to certain specified Council officers then it will be first necessary to alter clause 4.8(a) to permit this to occur.
22. Under clause 5.9 of the Trust Deed the Council as Trustee is granted the power to "open bank accounts or other accounts with any bank firm company or person and for such purpose to delegate the right to operate on any such account to any person or persons ...". By resolution dated 25 February 1999 the Council granted authority to certain elected members and officers to act as signatories of the Trust's bank account. This authority needs to be updated to reflect the current operational structure of the Council organisation.

Have you considered the legal implications of the issue under consideration?

23. Yes – see above discussion.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

24. Yes

Do the recommendations of this report support a level of service or project in the 2006-16 LTCCP?

25. Yes

ALIGNMENT WITH STRATEGIES

26. Strengthening Communities Strategy

Do the recommendations align with the Council's strategies?

27. Yes

CONSULTATION FULFILMENT

28. Not applicable

STAFF RECOMMENDATION

It is recommended that the Council as Trustee of the Mayor's Welfare Fund Charitable Trust, and with effect from the date of this resolution, resolves:

- (a) That pursuant to clause 12 of the Mayor's Welfare Fund Charitable Trust Deed dated 7 September 1992 that the said Trust Deed be altered as follows:
 - (i) By deleting in clause 4.8(a)(ii) the words "the Mayor of Christchurch City for the time being" and substituting them with the words "the Mayor of the City of Christchurch for the time being, or where the Mayor declines to accept such appointment or wishes to discontinue such appointment, such other person as shall be appointed by the Christchurch City Council PROVIDED THAT where the Christchurch City Council shall appoint such other person as aforesaid that person shall hold office as a member of the Committee at the pleasure of the Christchurch City Council, but shall in any event vacate office upon the expiry date of the term of office of the Christchurch City Council which appointed that nominee"; and
 - (ii) By deleting in clause 4.8A.4(a) the words "The chairperson of the Committee shall be the Mayor of Christchurch ex officio" and substituting them with the words "The chairperson of the Committee shall be the Mayor of the City of Christchurch for the time being ex officio or where the Mayor declines to accept such appointment or wishes to discontinue such appointment then the chairperson of the Committee shall be that person appointed by the Christchurch City Council as a member of the Committee in the Mayor's place pursuant to clause 4.8(a)(ii) of this Deed and that person shall hold office as chairperson of the Committee for so long as that person shall hold office as a member of the Committee".
 - (iii) By adding in clause 4.8A.4(b) the words "or the chairperson appointed pursuant to clause 4.8A.4(a)" after the word "Mayor".
 - (iv) By deleting in clause 4.8(a)(i) the word "welfare" where ever it appears in that clause.
 - (v) By adding in the first line of clause 4.8(a) the words "or to any officer or employee of the Trustee" after the word "Committee".
 - (vi) By deleting clause 15.

- (b) That pursuant to clause 4.8(a)(i) of the Mayor's Welfare Fund Charitable Trust Deed dated 7 September 1992 (as amended as above) that the following groups be selected to nominate from time to time one person each as a member of the Mayor's Welfare Fund Charitable Trust Committee:

- Age Concern
- Salvation Army
- Catholic Social Services
- Christchurch City Mission
- Home and Family Christchurch Inc
- Barnardos
- Methodist Mission
- Ministry of Social Development – Work and Income
- Prisoners Aid and Rehabilitation
- Refugee and Migrant Community
- Presbyterian Support
- St Vincent de Paul
- Maori Community
- Pacific Community

- (c) That pursuant to clause 4.8(a) of the Mayor's Welfare Fund Charitable Trust Deed dated 7 September 1992 (as amended above) the Council's powers under clauses 4.1 to 4.6 inclusive be delegated to any two of the persons as shall hold from time to time the following Council officer positions:

General Manager Corporate Services
Corporate Finance Unit Manager
Senior Financial Accountant
Financial Accountant

- (d) That pursuant to clause 5.9 of the Mayor's Welfare Fund Charitable Trust Deed dated 7 September 1992 the persons holding the following Mayor's Welfare Fund Charitable Trust and Council elected and officer positions from time to time be formally granted delegated authority and authorised to be signatories of the Mayor's Welfare Fund Charitable Trust's bank account:

- Mayor of the City of Christchurch
- Chairperson of the Mayor's Welfare Fund Charitable Trust Committee
- General Manager Community Services
- Community Support Unit Manager
- Community Development Manager
- Assistant Management Accountant
- Team Leader Community Grants Funding

PROVIDED THAT the signatures of any two of the above persons shall be required to operate the Mayor's Welfare Fund Charitable Trust's bank account.

- (e) That all previous authorities in respect of the Mayor's Welfare Fund Charitable Trust's bank account are hereby cancelled.

BACKGROUND

29. The Council is the sole Trustee of the Mayor's Welfare Fund Charitable Trust established by Deed of Trust dated 7 September 1992.
30. The Trust Deed establishes a committee comprised of the Mayor of the City of Christchurch, one councillor of the Christchurch City Council and one nominee from each of the welfare groups listed in the Trust Deed.
31. The current powers of the Committee as delegated to it by the Council as trustee are limited to the power to set the grant criteria, to make grants and to sub-delegate grant decisions to the Mayor's Welfare Fund Charitable Trust administrators. The Committee has no other powers.
32. The Mayor's Welfare Fund Charitable Trust was originally established in 1897 as 'The Mayor's Coal and Blanket Fund'.
33. A bequest of \$556,000.00 was received from the estate of Mr Harry Philpott who died in 1949. In his will Mr Philpott left his Okuku farm to the children of his son, Douglas, subject to a life interest in favour of Douglas Philpott. The will also provided that if Douglas Philpott died without leaving children that the capital of the estate was to be gifted to the Coal and Blanket Fund operated by the Mayor of Christchurch. As Douglas Philpott died in 1994 without leaving children the capital of the estate accordingly passed to the Mayor's Welfare Fund Charitable Trust.
34. Following the Philpott bequest, the Mayor's Welfare Fund Charitable Trust was formally established to provide last resort relief funding to Christchurch citizens when all other alternatives for funding have been exhausted. Applicants to the fund must meet the criteria for the fund which is determined by the Mayor's Welfare Fund Charitable Trust Committee. The Mayor's Welfare Fund office is open 9am–3.30pm daily and is staffed by an administrator.
35. The Council as trustee resolved on 25 September 1996 that the capital sum of the Philpott Bequest of \$556,000 be retained on investment to provide an ongoing income for the Mayor's Welfare Fund Charitable Trust, with provision for access to the capital by the Mayor's Welfare Fund Charitable Trust provided it is first approved by the Council. The Mayor's Welfare Fund Charitable Trust relies on interest from the Philpott Bequest and grants from the Council and other organisations. Council staff currently reinvest half of the interest received from the Philpott Bequest fund annually in order to grow the capital base of the Trust. The Philpott Bequest fund balance at 31 December 2007 is \$598,688.
36. The Mayor's Welfare Fund currently receives the following annual grants:
 - \$50,000 from Christchurch City Council
 - \$20,000 from The Community Trust
 - \$12,000 from Meridian Energy
 - \$20,000 from AFW and JM Jones Foundation
37. A Statement of financial performance for the six months 1 July 2007 to 31 December 2007 is attached to this report.
38. In the 2007 calendar year 1,604 people visited the Mayor's Welfare Fund office for assistance, and 1,167 people were assisted with a grant.