

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	COUNCIL	17 JULY 2017	11

CHARITY OF LAWRENCE HENRY CLEGG FOR THE POOR

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

The Charity of Lawrence Henry Clegg for the Poor is moribund, having no remaining trustees. Though the council has power to appoint new trustees, it would be more beneficial and a better use of the funds to wind up the charity and transfer its assets to another active charity that meets the criteria in the conditions of the Trust. The report proposes that trustees are appointed to the Clegg charity for the purposes of undertaking the administrative acts needed to close the charity.

RECOMMENDATION

Appoint the Leader of the Council and a senior officer as trustees of the Lawrence Henry Clegg Charity for the Poor with the intention that the trustees will pass a resolution under section 282 of the Charities Act to release the endowment capital of the charity for expenditure, transfer the assets of the charity as direct donations to a charity or charities which have similar objects to those of the Lawrence Henry Clegg Charity for the Poor, and take any other administrative action necessary to close the charity.

SUMMARY OF PREVIOUS DECISIONS

Council (Lytham St Annes Borough Council), 29 April 1963 and 26 July 1965: Appointed John Hewitson, Percy Nicoll and Frank Pickles as trustees.

Council, 21 May 1979: Appointed councillors Alice Middleton, Percy Nicoll and John Tavernor as trustees for a period of four years from 21 May 1979

CORPORATE PRIORITIES

Spending your money in the most efficient way to achieve excellent services (Value for Money)	√
Delivering the services that customers expect of an excellent council (Clean and Green)	
Working with all partners (Vibrant Economy)	
To make sure Fylde continues to be one of the most desirable places to live (A Great Place to Live)	
Promoting Fylde as a great destination to visit (A Great Place to Visit)	

REPORT

THE CHARITY

1. The Charity of Lawrence Henry Clegg for the Poor is a registered charity whose activities are to “*help poor and needy in the Fylde area of Lancashire*”¹. It has a permanent endowment in the region of £30,000, and, when it was active, used income from that permanent endowment to make gifts of up to £75 each year to individuals. The last gifts appear to have been made in 2013.
2. The governing document of the charity gives responsibility for appointing new trustees to Fylde Borough Council, as successor to the former Borough of Lytham St Annes:

“The body of trustees shall consist when complete of three competent persons appointed by the Council of the Borough of Lytham St Annes. Each appointment shall be made for the term of four years at a meeting convened and held according to the ordinary practice of the Council. The Chairman of the meeting shall cause the name of each person appointed to be notified forthwith to the Trustees or their clerk. The person appointed may but need not be a member of the Council.”

3. Until 1986, the charity appears to have been administered at least in part by the council. The council made appointments of trustees in line with the governing document, trustee meetings were held in the Town Hall and the chief executive or equivalent acted as honorary secretary to the trustees.
4. After 1986, the trust appears to have been run independently of the council, save that the trustees included councillors or former councillors. New trustee appointments seem to have been made by the trustees themselves (despite the governing document), trustee meetings were held in the home of one of the trustees and one of the trustees acted as secretary.
5. Two of the last trustees of the charity have resigned and the remaining trustee subsequently passed away, so there are no trustees. The council now holds the books and papers of the charity. (The daughter of one of the trustees who resigned passed them to officers).

AVAILABLE OPTIONS

6. The options available to the council are to appoint trustees to run the charity, or to close the charity and transfer its assets to another charity with compatible objectives.
7. If the council appointed trustees to run the charity, those individuals would be required to take upon themselves the significant administrative and compliance responsibilities required of trustees. The charity's Income and expenditure for the last five years for which records are available² is set out below:

Financial year end (FYE)	Income	Spending
31 Dec 2013	£3,193	£2,645
31 Dec 2012	£2,663	£2,645
31 Dec 2011	£2,641	£2,045
31 Dec 2010	£3,415	£1,510
31 Dec 2009	£1,513	£1,010

Members may feel that the commitments which would be required of new trustees would be disproportionate to the scale of the charity, and that the aims of the charity would be best served by closing it and transferring its assets to another compatible charity i.e. one that serves the ‘poor and needy in the Fylde area of Lancashire’. The council could find itself in the same position in future if the trustees resign or pass away.

¹ Taken from the Charity Commission website listing for the charity.

² Taken from the Charity Commission website listing for the charity.

CLOSING THE CHARITY

8. Officers have sought advice from the Charity Commission about closing the charity. The Commission has advised that the council would need to appoint two or more trustees to undertake the administrative actions necessary to close the charity and transfer its assets. The appointments would be limited to taking only those actions. The actions are the passing of a resolution under section 282 of the Charities Act 2011 and sending a copy to the Commission, transferring the charity's assets to another charity or charities and completing a declaration of the closure of the charity.
9. The trustees appointed to close the charity would be required to decide which other charity or charities the assets of the Lawrence Henry Clegg charity would be transferred to. The activities of any transferee charity would need to be similar to those of the Clegg charity. The trustees may carry out local consultation about appropriate transferee charities, but the legal responsibility for the decision would rest with the trustees.
10. Appointing the Leader of the Council and a senior council officer to be the trustees tasked with closing the charity would enable the administrative tasks required in closing the charity to be taken, while maintaining member oversight.

IMPLICATIONS	
Finance	There are no implications to the Council's finances arising from this report. The funds held by the charity are separate to those of the Council.
Legal	The closure of the charity would be in accordance with the Charity Act 2011 and guidance from the Charity Commission.
Community Safety	None arising from this report.
Human Rights and Equalities	None arising from this report.
Sustainability and Environmental Impact	None arising from this report.
Health & Safety and Risk Management	None arising from this report.

LEAD AUTHOR	CONTACT DETAILS	DATE
Ian Curtis	01253 658506	May 2017

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Minute and account books of the Lawrence Henry Clegg Charity for the Poor	1966 onward	Town Hall, Lytham St Annes
Correspondence with the Charity Commission	July – August 2015	Town Hall, Lytham St Annes

