

**Report of Director of City Development**

**Report to Executive Board**

**Date: 27 July 2016**

**Subject: Transfer of Hurst bequest to Leeds Art Fund**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**Summary of main issues**

1. In 2011 the Council received the sum of £1,571,464.10 by way of a bequest from the late Mrs Patricia Hurst of Harrogate, to be used to purchase “an object of beauty” in memory of Mrs Hurst and her late husband, Lieutenant Colonel Henry Hurst.
2. With the agreement of the niece of the late Lieutenant Colonel and Mrs Hurst, various items have since been acquired for the city’s collection as part of a dedicated Hurst Collection.
3. In September 2015, the Leader of the Council was contacted by Mrs Hurst’s niece expressing her concern that better investment use was not being made of the bequest. In particular, she was concerned that the money was not being invested in such a way so as to earn a substantial amount of interest to allow for the purchase of more items in memory of her aunt and uncle.
4. The Council is restricted in its ability to invest the bequest in a way which could produce higher rates of interest, and officers have therefore considered alternative approaches in discussion with finance and legal teams and with Mrs Hurst’s niece.
5. As a result of these discussions an established charity – Leeds Art Collections Fund trading as Leeds Art Fund (LAF) – has been identified as a more appropriate home for the bequest. The LAF has significant experience in investing bequest funds to maximise their benefit whilst safeguarding the benefactor’s wishes.

6. This report seeks approval subject to an appropriate agreement being entered into with Lieutenant Colonel and Mrs Hurst's niece and the LAF, to transfer the balance of the bequest to the LAF.

## **Recommendations**

7. Executive Board is recommended that:
- i) Subject to an appropriate agreement being entered into with the niece of the late Lieutenant Colonel and Mrs Hurst and Leeds Art Fund, the balance of the bequest be transferred to the Leeds Art Fund;
  - ii) Approval of the terms of the above agreement be delegated to the Chief Officer, Culture and Sport, in consultation with the Chief Officer – Financial Services and the City Solicitor, such agreement to address, amongst other things, the following issues:
    - the Council being released from any ongoing obligations in respect of the management of the bequest;
    - the use of the bequest by the Leeds Art Fund going forward; and
    - ownership being retained by the Council of the objects which have already been acquired using the bequest.

## **1 Purpose of this report**

- 1.1 To gain approval to the transfer of the balance of the Hurst bequest to the Leeds Art Fund subject to agreement being reached between Lieutenant Colonel and Mrs Hurst's niece and Leeds Art Fund.

## **2 Background information**

- 2.1 In 2011 the Council received the sum of £1,571,464.10 by way of a bequest from the late Mrs Patricia Hurst of Harrogate, to be used to purchase "an object of beauty" in memory of Mrs Hurst and her late husband, Lieutenant Colonel Henry Hurst.
- 2.2 In legal terms this created what is known as "a non-charitable purpose trust" which means that the Council could only ever use the money in accordance with the terms of the bequest and not for any other purpose. In addition, the Council could only invest the money in accordance with the Council's Treasury Management Strategy.
- 2.3 In 2012, with the agreement of Lieutenant Colonel and Mrs Hurst's niece, the Council used the bequest to purchase an Elizabethan silver cup (then known as the Morgan Cup but now known as the Hurst Cup) for £250,000. This is currently on display at Temple Newsam. Subsequently the bequest has been used to part fund the purchase a number of smaller items as below.
- George II Silver Basket - £34,000.
  - George IV Wooden Work Box - £6,000.

- Richard Paley Portrait - £1,867.50.
- Mirror/Cupboard - £8,840.
- Wyndham Lewis Watercolour - £5,000.
- Cotman Watercolour - £35,000.
- Anne, Viscountess Irwin portrait £8,000.

Decisions on which pieces to acquire have been made in line with the service's approved Collections Development Policy and the terms of the bequest that required it to be used to purchase 'an object of beauty'. Any donation or potential purchase is championed by a specific curator who presents the case to a panel of curators and conservators chaired by the Head of Service or Head of Collections and Programming. They assess its relevance, its condition, costs of future care and storage as well as advising on potential sources of funding, its display potential and any commercial or learning potential. In future the Panel will then recommend acquisition to the LAF Committee for ratification and implementation. Future acquisitions supported by the legacy will be owned by and become part of the city's collections.

- 2.4 In September 2015, the Leader of the Council was contacted by Mrs Hurst's niece expressing her concern that better investment use was not being made of the bequest. In particular, she was concerned that the money was not being invested in such a way so as to earn a substantial amount of interest to allow for the purchase of more items in memory of her aunt and uncle.
- 2.5 Given the nature of the bequest the Council is restricted legally in its ability to invest the bequest in a way which could produce higher rates of interest, and officers have therefore considered alternative approaches in discussion with finance and legal teams and with Mrs Hurst's niece.
- 2.6 The Council's investment criteria are outlined in section 7 and 8 of the Council Treasury Management Policy statement. This statement was approved on 10th February 2016 as part of the Treasury Management Strategy 2016/17 report to Executive Board. The Council only invests in those counterparties that are on the approved list as per the investment criteria outline in section 7 of the Policy statement. This list effectively limits investments to the very best credit rated financial organisations that typically deal in values of £5m or above. Investments made on behalf of Charities/Trust funds are subject to the same criteria unless there is specific Charity/Trust fund approval in place to invest in lower credit quality financial organisations as detailed in section 8 of the policy statement. Where specific charity/board approval is in place the investment will be invested at the risk of the charity or trust fund.
- 2.7 As at 30 June 2016, the balance of the bequest stood at £1,261,877.51, including earned interest over the period of £39,120.91. As detailed above, because of the nature of the bequest, the Council is limited as to purposes for which it can use the money for and how it can invest it and following discussions with Colonel and Mrs Hurst's niece and representatives of Leeds Art Fund it is felt that better use could be made of the bequest if the remaining balance was transferred to Leeds Art Fund for them to manage and administer.

- 2.8 The Leeds Art Fund (formerly the Leeds Art Collections Fund) was founded as a charity in 1912. Its aims were:
1. to raise by subscriptions and donations a fund for the purchase of works of art to be held by the society for exhibition and to be available for ultimate presentation to the City of Leeds City Council;
  2. to encourage private donors to offer gifts to the society and to afford expert advice and guidance as to the nature of the gifts which would be most acceptable; and
  3. To organise from time to time the loan exhibitions of works of art.
- 2.9 The Fund has successfully supported developing the collections in the century since. Indeed until 1936 it was the sole source of funding for acquisitions to the city's collections. From 1936-2015 the Council provided a small amount of funding annually to continue to develop the collections. Going forward the generosity of the Hurst bequest will allow the art collections to continue to develop and grow through investment of the bequest to provide an ongoing fund towards future acquisitions and the development of a collection commemorating Lieutenant Colonel Henry and Mrs Patricia Hurst which would form part of the city's wider collections held within the Leeds Museums and Galleries service.
- 2.10 Leeds Museums and Galleries (LMG) exist to collect, preserve and interpret historic, scientific and cultural collections and historic sites and use them as inspiration for educating, entertaining and informing the people of Leeds as well as visitors to the city. It provides unique learning environments through the maintenance of these sites, their collections and through the operation of high quality, welcoming visitor attractions with associated commercial activity.
- 2.11 LMG is one of the UK's premier museum and gallery services managing nine sites across the City of Leeds, comprising: Abbey House Museum, Kirkstall Abbey, Leeds Art Gallery, Leeds City Museum, Leeds Industrial Museum at Armley Mills and Thwaite Mills, Leeds Museum Discovery Centre, Lotherton Hall and Temple Newsam House.
- 2.12 Core to the service are the collections; an estimated 1.3 million individual objects across a vast range of disciplines. The collections derive from locations across the world, across cultures and time – spanning some 5 billion years of Earth history and 300,000 years of human civilisation. There is a distinct Leeds flavour in that through the collections we celebrate the people, culture and natural environment of our city and its environs, but it is in no way restricted to a local focus.
- 2.13 Four of our collections are Designated; recognised as being pre-eminent collections of national and international importance under the Arts Council England Designation Scheme and have an international reputation for their quality, depth and unique nature. These are Decorative Arts, Fine Arts, Industrial History and Natural Sciences.
- 2.14 Our collections are by no means static: we are actively developing them and moving forward. A vibrant programme of collecting is ongoing and is conducted through various means including; purchase, gift, community projects, transfers,

bequests and commissions. We have mature relationships with national funding bodies and our local supporting organisations and have a strategic approach to collecting. As a result our collections are among the best in the UK in terms of quality and range but also in how they are being shaped by the communities with whom we engage.

- 2.15 With the support of the Leeds Art Fund and other supporting groups we have been able to develop the collections and as a result the City now boasts some of the finest fine and decorative art collections in the Country housed across Leeds Museums and Galleries.
- 2.16 Since 1912 the Leeds Art Fund has directly acquired or supported the acquisition of over 460 works of art. These include works by Henry Moore, Barbara Hepworth, Walter Sickert, Pierre Auguste Renoir, Patrick Heron, Alexander Calder, Francis Bacon, Andy Warhol, Stanley Spencer, Terry Frost and Thomas Hearne, Thomas Chippendale, J.M.W. Turner, John Sell Cotman, John Atkinson Grimshaw, Stass Paraskos, Paula Rego, Bridget Riley, Grayson Perry and Auguste Rodin amongst others. As a charity Leeds Art Fund has significant experience in investing bequest funds to maximise their benefit whilst safeguarding the benefactor's wishes.
- 2.17 The Council also look after a number of other much smaller legacy/bequest funds on behalf of the museums and galleries service including :
- Sir Alvary Gascoigne bequest which formed part of the Deed of Gift of the Lotherton estate in 1968. Its use is limited to using the interest raised to support the purchase of works of art for the Gascoigne Collection at Lotherton and fixtures and fittings to display the collection.
  - The Fulford Endowment established in 1984 for the enrichment, display and research in respect of Temple Newsam House.
  - The Harding bequest relates to the collections donated to the gallery by one of the Victorian founding fathers of the Gallery.

### **3 Main issues**

- 3.1 Given the restrictions to which the Council's management of the bequest is subject, Leeds Art Fund will be better able to invest the bequest in order to accrue higher interest. That interest can then be used to acquire artworks for the city's collections for many decades to come and ensure the legacy of Colonel and Mrs Hurst.
- 3.2 To safeguard all parties an appropriate agreement will need to be entered into with Lieutenant Colonel and Mrs Hurst's niece and the Leeds Art Fund prior to the balance of the bequest being transferred to the Leeds Art Fund.
- 3.3 This agreement will release the Council from any ongoing obligations in respect of the management of the bequest, agree the use of the bequest by Leeds Art Fund going forward and record the ownership of the objects which have already been acquired or will be acquired using the bequest .

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

4.1.1 The Executive Member for Economy and Culture has been consulted and is supportive of the proposed approach.

4.1.2 Lieutenant Colonel and Mrs Hurst's niece and the Leeds Art Fund have also been consulted and agreed the proposed approach.

### **4.2 Equality and diversity/cohesion and integration**

4.2.1 There is no expected impact on the protected equality characteristics and, therefore, it is not applicable for an EIA or screening form to be completed at this time.

### **4.3 Council policies and best council plan**

4.3.1 This approach will maximise the impact of the generous Hurst bequest allowing it to support the future development of the city's collections helping to maintain their pre-eminence as designated Collections of national or international importance which will assist with the 2023 Capital of Culture bid.

4.3.2 The service contributes to both a strong economy and to a compassionate city by making Leeds a more attractive place to invest but also a better place to live and the Best Council priority of maximising the impact of our cultural infrastructure.

### **4.4 Resources and Value for Money**

4.4.1 The approach will allow the bequest to be potentially more beneficially invested than it has been previously with interest from the investment used to support further acquisitions to the city's collections as part of a dedicated Hurst collection. This will ensure support to develop the collections for decades to come.

4.4.2 The LAF's experience in investing bequest funds to maximise their benefit whilst safeguarding the benefactor's wishes is crucial. This is experience which is not readily available within the Council.

4.4.3 The transfer will allow maximum benefit to be obtained from the bequest.

### **4.5 Legal Implications, access to information and call-in**

4.5.1 As the sole trustee of the bequest, the Council has the power pursuant to Section 40 of the Trustee Act 1925 to vest the residue of the bequest in the Leeds Art Fund.

4.5.2 The agreement to be entered into with the Leeds Art Fund will release the Council from its obligations as regards the management and administration of the bequest. Leeds Art Fund will also indemnify the Council in respect of the management and administration of the bequest from the date of the agreement.

- 4.5.3 The objects which have already been acquired by the Council using the bequest will remain the property of the Council.
- 4.5.4 Legal Services has been consulted as to the proposals set out in this report and are currently negotiating the terms of any potential agreement with the Leeds Art Fund and its solicitors.
- 4.5.5 The decisions sought from Executive Board are not subject to call-in as they are decisions which are required to be made on behalf of the Council as the trustee of the bequest rather than in pursuance of the Council's powers as a statutory authority.

## **4.6 Risk Management**

- 4.6.1 The only obvious risk is that the investments do not provide as successful a return as hoped resulting in less funds to support acquisitions going forward.

## **5 Conclusions**

- 5.1 That the Hurst bequest be transferred to the Leeds Art Fund subject to an appropriate agreement being reached between Lieutenant Colonel and Mrs Hurst's niece, Leeds Art Fund and the Council.

## **6 Recommendations**

- 6.1 Executive Board is therefore recommended that:

- i) Subject to an appropriate agreement being entered into with the niece of the late Lieutenant Colonel and Mrs Hurst and Leeds Art Fund, the balance of the bequest be transferred to Leeds Art Fund;
- ii) approval of the terms of the above agreement be delegated to the Chief Officer, Culture and Sport, in consultation with the Chief Officer Financial Services and the City Solicitor, such agreement to address, amongst other things, the following issues:
  - the Council being released from any ongoing obligations in respect of the management of the bequest;
  - the use of the bequest by Leeds Art Fund going forward; and
  - ownership being retained by the Council of the objects which have already been acquired using the bequest.

## **7. Background documents<sup>1</sup>**

- 7.1 None.

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.