

Finance, Administration & Resources Committee

Terms of Loan from Land Purchase Fund (LPF) to fund work on Private Bill

14 December 2023

Background

The purpose of this paper is primarily to set out the background for funding the planned new Act of Parliament to update the Trust's governance. It sets out information about the Land Purchase Fund and the decision making process in relation to funding the Bill by way of a loan from that Fund. A loan agreement is in the process of drafting and the current version is attached.

Land Purchase (1992) Fund (LPF)

A land exchange took place in 1992, and the Trust was paid £600,000 as equality money (money to compensate for a difference in value). The 1930 Act, which permits such exchanges, specifies (s8) that all such money received has to be paid into a special fund and applied in the purchase of other land.

The money received and gains from its investment have been used to purchase various parcels of land since receipt and the balance remaining as at October 2023 was approximately £721k, invested in 3 tranches following the decision of the Board in January 2023.

The LPF money is effectively held by the trustees of MHT on a separate trust for the purposes set out in the Act (to purchase land) as part of the Trust's wider charitable objects.

The Trust borrowed money from the LPF to part fund the cost of the 1995 Act and has resolved to do the same again to fund the Private Bill.

Relevant meetings

Paper A2 and minutes Board meeting 9 November 2021

Paper A2 FAR meeting 8 December 2022

Minutes of Board meeting 19 January 2023

Paper B (confidential) and minutes Board meeting 11 May 2023

Paper G and minutes Board meeting 12 July 2023

Paper D and minutes Board meeting 3 August 2023

Summary

1. The Board resolved in November 2021 that the cost of funding work on a Private Bill should be met from a loan from the LPF. At that time it was estimated that the total budget would be £350,000 and the balance on the LPF was £932,000. Additional land has been purchased since then.
2. In anticipation of requiring access to part of the LPF, the Board resolved to move some funds to lower risk investments. At that time the LPF was invested at RBC Brewin Dolphin's Risk Level 6. £200,000 was moved from the main fund to a

separate lower risk investment account (called no 2 account in the RBC Brewin Dolphin Report) invested at Risk Level 4. In addition £150,000 was moved to the Flagstone investment platform to be invested in short term interest accounts. This was done in early 2023.

3. The Board set a total budget of £410,000 for work on the Bill at its meeting on 11 May 2023 (legal costs, plus staff costs, cost of running a consultation etc).
4. The Board identified £34,899 in a designated fund which had been set aside for the cost of the s73 Charities Act scheme, and resolved that subject to s74 Charities Act consent being received, it should be redesignated to part fund work on the private bill.
5. The Charity Commission gave consent in August for using Charity Funds to pay the costs of preparing and promoting a Private Bill but capped the expenditure on legal costs and disbursements at £306,000. Expenditure on other associated costs (additional staff costs, consultation etc) is a matter for the Board.
6. The Charity Commission set a condition that either the Trust confirmed that it had been advised that it could borrow from the LPF without a separate Charity Commission consent or that it obtained Charity Commission consent, including agreement of an approved repayment plan.

Loan from Land Purchase Fund

There is no express power to borrow from the Land Purchase Fund, (nor to borrow at all for the purpose of a Private Bill) and it is therefore appropriate that Charity Commission consent be obtained.

s 105 Charities Act 2011

(1) Subject to the provisions of this section, where it appears to the Commission that any action proposed or contemplated in the administration of a charity is expedient in the interests of the charity, the Commission may by order sanction that action, whether or not it would otherwise be within the powers exercisable by the charity trustees in the administration of the charity.

(2) Anything done under the authority of an order under this section is to be treated as properly done in the exercise of those powers.

It was agreed at the meeting of 3 August 2023 that the Board should apply for s105 consent.

- a) That the maximum amount of the loan from Land Purchase Fund should be £350,000
- b) The term of the loan should be 25 years
- c) The loan will be at a fixed rate of interest of 6 %
- d) Repayments will be of capital and interest of the same amount throughout the term
- e) The Land Purchase Fund will be compensated for any loss of return during the period whilst part of the fund is invested in lower risk investments, but prior to the loan being drawn down.

Budget proposal

Currently it is contemplated that the loan from Land Purchase Fund will be for £306,000. This raises the question of whether to leave the balance of £44,000 invested in the lower risk investments or whether to move that balance back to be invested with the main part of the fund invested at Risk Level 6.

It is very difficult to predict what the legal costs for the Private Bill will be. Much depends on the actions of others – whether there are petitions against the Bill etc. The estimate of £306,000 is a best guess. If more money might be required on a possible 4 year time scale, the advice from RBC Brewin Dolphin is to leave that balance in the lower risk investments until the passage of the Bill is completed.

Repayments

VWV propose each tranche of drawdown is treated as a separate loan.

They have proposed repayment of capital is made on the basis of 1/25 of the loan each year together with an annualised calculation of all the interest which will be payable over the term of the loan (which is not strictly in accordance with the resolution but achieves the aim of equalised payments).

In addition there needs to be provision for a compensation payment to cover the loss (if any) to the LPF resulting from £350,000 being moved to lower risk investments, but prior to them being drawn down as part of the loan arrangement.

Actions required

Once the draft is finalised it will be sent to the Charity Commission with the s 105 application, and if that application is granted, the loan agreement will be put to the Board for approval and signature.

Recommendation

To recommend to the Board that the full amount of £350,000 remains invested in the Risk Level 4 portfolio and through the Flagstone Platform until further decision of the Board).

Susan Satchell
Secretary to the Board
10 December 2023