

Report – Port Health and Environmental Services Committee

Signor Favale's Marriage Portions Charity

To be presented on Thursday, 10th October 2019

*To the Right Honourable The Lord Mayor, Aldermen and Commons
of the City of London in Common Council assembled.*

SUMMARY

The Signor Favale Marriage Portions Charity (206949) (the Favale Charity) was established in 1882 by the Will of Italian-born Pasquale Favale, with the intent of funding dowries for 'poor, honest young women', aged 16-25, who were born in the City of London and who had recently been, or were about to be, married. The Port Health and Environmental Services Committee has, for some time, been responsible for administering the Favale Charity.

The objects of this very small charity are now considered to be outmoded and [most likely discriminatory, with the costs of administration significantly disproportionate to the funds available for distribution. Furthermore, the Charity Commission has written to the City Corporation, under its Revitalising Trusts Programme, to remind the City Corporation of its legal obligations to ensure that, as Trustee, it is administering the Charity and spending its funds effectively, or otherwise to consider transferring its funds or updating its objects.

Having considered this matter, your Port Health and Environmental Services Committee now **recommends** the Court of Common Council acting as Trustee of Favale Charity resolves to close the Charity by updating the objects to reflect those of the receiving charity, by releasing the restrictions on expenditure of the permanent endowment, and then transferring the charity's funds free of restrictions to the City of London Corporation Combined Relief of Poverty Charity (1073660), subject to Charity Commission consent. The Community and Children's Services Committee acting for the City Corporation as Trustee of that charity has subsequently resolved that it was in that charity's interests for it to take receipt of the funds on the basis proposed. The Court of Common Council is now being asked to take the necessary decisions to close the Favale Charity as it allows for the most effective use of the charitable funds.

RECOMMENDATION

The Court of Common Council, acting as Trustee of the Signor Favale's Marriage Portions Charity (206949), is recommended to:

1. Resolve to exercise the applicable statutory powers contained in the Charities Act 2011 (as outlined below) to close the Signor Favale's Marriage Portions Charity (206949) by resolving to amend the Charity's objects to reflect those of

the City of London Corporation Combined Relief of Poverty Charity (1073660), to release the restrictions on the permanent endowment funds held, and to transfer all the Charity's funds free of any restrictions to the City of London Corporation Combined Relief of Poverty Charity (1073660) with an expression of wish that Signor Favale's name be retained in some way in future grant-giving, subject to Charity Commission consent.

2. Authorise the Town Clerk to undertake any actions, to take any decisions and sign any documents required to make such arrangements as may be required for the closure of the Signor Favale's Marriage Portions Charity (206949) and seeking Charity Commission consent to the resolutions and transfer of its funds to the City of London Corporation Combined Relief of Poverty Charity (1073660).

Main Report

Background

1. The Signor Favale's Marriage Portions Charity (the Favale Charity) was established in 1882 by the Will of Italian-born Pasquale Favale. The modest funds, valued at approximately £720 at the time, were given in perpetuity, with the income to be applied to fund three dowries to be given to three 'poor, honest young women', aged 16-25, who were born in the City of London and who had recently been or were about to be, married. The Port Health and Environmental Services Committee has for some time been responsible for Signor Pasquale Favale's Bequest. The charity's governing documents and objects have been modified at various times, and were more substantially updated in 2000 and are now:

"to apply the yearly income of the Charity in awarding yearly Marriage Portions to poor honest women who were born within the City of London or have resided therein for the period of at least one year, and who either have been married within the period of twelve calendar months next preceding the date of award or who are about to be married".

Current Position

2. The Charity Commission has written to the City Corporation, under its Revitalising Trusts Programme, to remind the City Corporation of its legal obligations to ensure that, as Trustee, it is administering the Favale Charity and spending its funds effectively for the public benefit; and has advised *inter alia* that the Trustee should consider transferring the Charity's funds or updating its objects. The Charity Commission has asked to be updated after the City Corporation has given this matter further consideration.
3. Trustees are required to act only in the best interests of their charity. Consequently, they should consider the objects of their charity from time-to-time and to make sure that the objects are fit for purpose and provide an effective use for the charity's funds. The Favale Charity's objects are at the very least out-moded, if not in contravention of the Equality Act 2000 (gender and marital status both being protected characteristics under the Act) and it is difficult to bring the current restrictions within the relevant exceptions in that Act.

Furthermore, the very small grants currently awarded are unlikely to have meaningful impact or provide for the effective use of the charitable funds.

4. The Charities Act 2011 contains powers for small charities to resolve in certain circumstances, to change the objects of the charity, release endowment and/or transfer the charity's funds to another charity and close the charity, subject to Charity Commission consent. These powers are all available for the Favale Charity.

Proposal and Financial Considerations

5. Your Port Health and Environmental Services Committee, having considered the matter at its 23 July 2019 meeting, has recommended to the Court of Common Council that the Charity be closed and its funds transferred, subject to Charity Commission consent, to the City of London Corporation Combined Relief of Poverty Charity (1073660) (the Relief of Poverty Charity) another charity with compatible purposes operating for the relief of need and/or poverty. The transfer is recommended to be free of restrictions but with an expression of wish that Signor Favale's name be retained in some way in future grant-giving.
6. On 13 September 2019, the Community and Children's Services Committee, which administers the Combined Poverty Charity for the City Corporation as Trustee, agreed to accept the transfer of funds on the terms proposed as being in the best interests of that charity. That Committee also resolved to delegate authority to the Director of the Community and Children's Services Department, in consultation with the Chairman and Deputy Chairman, to undertake any actions, to take any decisions and sign any documents required to effect the transfer of funds to the Combined Poverty Charity.
7. The Signor Favale Charity has very limited assets of approximately £15,000; less than £10,000 of which is permanent endowment capital and the balance held as unrestricted income funds. Less than £500 in income is generated each year. No 'Marriage Portions' (of £150 each) were paid in the last financial year 2018/19 (or in 2014/15, 2015/16 or 2016/17), although a number were paid in 2017/18.
8. The costs of administering the Charity have been borne by the City Corporation from City's Cash although this on-going subsidy is not guaranteed. In this case where City's Cash funds are being applied to meet or subsidise the costs of administering and managing the various charities for which the City Corporation is Trustee the most efficient and effective approach for the administration of the charitable funds, as is proposed through the closure of the Favale Charity, would also be in keeping with the objectives of the corporate Fundamental Review to ensure the effective use of corporate resources. Should the Charity be required to meet the costs of administration from its own funds, estimated to be at least £1,500 p.a. (excluding the costs of audit), the Charity's funds would soon be exhausted. The City Corporation has also recently agreed to undertake a Review of the City Corporation's charities, and the Signor Favale Charity would form part of that review.

9. In the last financial year, the Combined Poverty Charity benefited from a significant increase of approximately £370,000 in its funds, with the closure of the Corporation of London Benevolent Association and the transfer of that charity's assets to the Combined Poverty Charity. The Combined Poverty Charity's assets are now around £520,000, with approximately £110,000 held as endowment funds.
10. The Combined Poverty Charity's funds are administered as part of the Central Grants Programme (CGP) under the "Stronger Communities" Theme (one of four Themes set by Policy & Resources Committee), led by the Community and Children's Services Department. Grants under the CGP are administered by the Central Grants Unit co-located with the City Bridge Trust Team in the Town Clerk's Department, and oversight of the effectiveness of the CGP is overseen by the Finance Grants Scrutiny and Oversight (Finance Committee) Sub-Committee. The policy to guide how the Combined Poverty Charity's funds will be applied is currently being reviewed so the proposed transfer is timely.
11. Closing the Favale Charity requires the City Corporation acting by the Common Council as Trustee of the charity to take a number of decisions in the best interests of the Charity and having regard to its legal obligations as Trustee.
12. First, if it thinks fit, as the Charity *inter alia* had an income of less than £10,000 in its last financial year, the City Corporation, as Trustee may exercise its the power contained in s. 275 of the Charities Act 2011 (the 2011 Act) to resolve to update the Charity's objects to reflect those of the receiving charity. In order to exercise this power, the City Corporation as Trustee must be satisfied that it is expedient in the interests of the Charity for the objects to be replaced and that the new objects are, as far as *is reasonably practicable*, similar to the old objects, which is considered to be the case here and the City Corporation must seek Charity Commission consent. The objects of the Combined Poverty Charity are for the public benefit:

The relief of those in need by reason of poverty, old-age, ill-health, accident or infirmity who are either the widow, widower or child of a Freeman of the City of London or who reside in the City of London or the London Boroughs by the provision of grants, items and services or such other support as the trustee determines.

13. Secondly, where a charity holds permanent endowment (regardless of size), as is the case with the Favale Charity, if the City Corporation as Trustee is satisfied that the charity's (new) purposes can be carried out more effectively if the capital of the fund could be expended, the City Corporation may resolve to exercise the power contained in s. 282 of the 2011 Act to remove the restrictions on the expenditure of the capital, subject to Charity Commission consent.
14. Finally, as the Charity *inter alia* has an income of less than £10,000 in the last financial year, the City Corporation as Trustee may resolve to exercise the power contained in s. 268 of the 2011 Act, if it is satisfied that it is expedient and in the interest of furthering the Favale Charity's (new) purposes (i.e. having

first amended the Charity's objects using s275) to transfer all the Favale Charity's property to the Combined Poverty Charity. (ss. 267-270 of the 2011 Act), subject to Charity Commission consent.

15. These powers may be exercised in the same set of resolutions.

Conclusion

16. Your Port Health and Environmental Services and Community and Children's Services Committees have each agreed as relevant to their responsibilities as being in the best interests of the charity for which they are each responsible, to transfer the funds of the Favale Charity, free of any restrictions, to the Combined Poverty Charity (1073660), with an expression of wish that Signor Favale's name be retained in some ways in future grant-giving, subject to the Charity Commission's consent. This option would allow the City Corporation to effectively meet its charity trustee obligations.

All of which we submit to the judgement of this Honourable Court.

DATED this 23rd day of July, 2019.

SIGNED on behalf of the Committee.

Jeremy Lewis Simons

Chairman, Port Health and Environmental Services Committee