

58827 Lauriston Castle Trust Legal and Other Professional Advice, Transparency and Accountability Request for Accounting

Please provide the following information, supported by full documentation, communications and any other evidence covering the period from 1930 to the present day:

Professional Advice

What legal or other professional advice has been sought in relation to the Trust's management since its establishment in 1930?

On what legal basis was this advice withheld from beneficiaries?

[Legal advice has been received by the Council on this subject; however, the contents of that advice are legally privileged.](#)

Please provide copies of all communications to and from the professional adviser including OSCR.

[Please see '50356' on our Disclosure Log.](#)

What steps did trustees take to test or challenge the advice they received before acting upon it?

How did trustees reconcile reliance on advice with their duty to act independently and prudently?

How did trustees reassure themselves that advice was appropriate and in the best interests of beneficiaries?"

Were trustees aware of the limits of the advice? Please provide evidence

What mechanisms did trustees use to reassure themselves that advice was sound

Please demonstrate that their actions directly followed the advice given.

What actions diverged from advice, what justification was recorded

Were there instances where advice was ignored or selectively applied? Please provide evidence.

How has the nature of advice sought changed over time (legal, financial, heritage management)?

Were there periods where advice was not sought, and if so, why?"

[Information not held.](#)

Did trustees seek second opinions where advice was unclear or potentially conflicted? Please provide evidence.

[Information not held. This situation did not arise.](#)

Did trustees ever revisit past advice to ensure it remained valid as circumstances changed?

[External advice has been sought throughout on this matter.](#)

Please provide evidence of collective Trustee communications in response to all professional advice

How often did trustees report back to beneficiaries on the advice they relied upon?

Based on the wording of these questions, we have been unable to identify specific recorded information. However, we can advise that legal advice will not have been provided to external parties because any advice received is subject to legal professional privilege.

Closed-Door Discussions

Why were discussions about the Trust's management and future plans held privately without beneficiary involvement or being informed what was discussed and decisions?

It is unclear about which discussions you are referring to. However, as per the [Finance and Resources Committee meeting minutes of 25/04/23](#), the Committee in terms of Section 50(A)(4) of the Local Government (Scotland) Act 1973 excluded the public from the meeting during consideration of the following item of business, for the reason that it involved the likely disclosure of exempt information as defined in Paragraphs 8, 9 and 12 of Part 1 of Schedule 7A of the Act.

Please provide full disclosure and provide copies of recorded discussions and all communications presented

The discussions you are referring to were a 'B' agenda item and therefore, considered in private. Any reports or minutes of these discussions are exempt from release due to s50(A)(4) Local Government (Scotland) Act 1973. Where consideration and discussion have occurred, this discussion is not filmed.

What consideration was given to consulting beneficiaries before making decisions?

How did trustees ensure beneficiaries' interests are represented if they are excluded from discussions?

Information not held.

Fiduciary Duties and Accountability

How did trustees demonstrate that they were acting in the best interests of beneficiaries when excluding them from information?

How do trustees measure whether their decisions align with the original purposes of the Trust as established in 1930?

The Council as sole trustee is aware and fulfils its obligations in line with the Charities and Trustee Investment (Scotland) Act 2005.

What safeguards exist to prevent conflicts of interest in trustee decision-making?

All Councillors who are involved in the Finance and Resources Committee are subject to the [Scottish Government Code of Conduct for Councillors](#).

Reporting and Oversight

What mechanisms existed for beneficiaries to scrutinize trustee decisions?

The Trust will consult with beneficiaries regarding actions it intends to take where appropriate, as it can with any other stakeholder, but there is no requirement on the Trust to do so.

Have trustees sought guidance from OSCR regarding beneficiary engagement and transparency? Please provide copies of all communications to and from.

Please see '50356' on our [Disclosure Log](#), and the attached email provides more recent correspondence between the Council and OSCR. Third-party personal information has been redacted from the document provided.

How did trustees justify secrecy in light of modern standards of charity governance?

How did trustees reconcile secrecy with their fiduciary duty of accountability?

The Council considers where decisions or information is heard under B Agenda at committee, the public are excluded because information considered is exempt from public disclosure, this is usually done under Section 50(A)(4) of the Local Government (Scotland) Act 1973. Committee minutes will outline what the basis of exempt information is as provided for in Part 1 of Schedule 7A of this same Act.

How do trustees demonstrate that their decisions align with the original purposes of the Trust?

Trustees fulfil their duties required under Charities and Trustee Investment (Scotland) Act 2005. In doing so, they ensure decisions reached regarding the Trust are in keeping with the original charitable purpose set out in the Trust deed.

Conflict of Interest

In the Court of Session Petition CoS-P565-25 it was stated that the Finance and Resources Committee had applied conflicts of Interest:

“have a duty to obtain best value and to minimise their expenditure in the public interest. It is in that capacity that Finance and Resources Committee and ultimately the petitioner decides on the level of support for Trust which gives rise to a conflict of interest in accordance with the 2005 Act”

please identify all Conflicts of Interests that occurred, providing evidence

The Council instructed a review of Lauriston Castle Trust governance arrangements that began in 2021. Please see '32434' on our [Disclosure Log](#).

This review highlighted that the governance arrangements at that time gave rise to potential conflict of interest, in that there was little distinction between the Council as a local authority and the Council as trustee of Lauriston Castle Trust. Following this review, it was considered that transferring ownership of Trust assets while protecting the purposes of the Trust would resolve the conflict issues.

What safeguards exist to prevent conflicts of interest in trustee decision-making?

What conflicts of interest were declared, and how were they managed?

The Council is in the process of winding up the Trust. Each Councillor is required to have made a declaration of interest, and this can be viewed on the Council's website by selecting a Councillor and viewing their [registration of interest](#).

Were any trust assets used for purposes outside the original charitable objectives? Please provide full details and evidence.

The Council is not aware of any such use.