



Our ref: DHS/20/07120
Your ref: 8413469

Ms Nat Cook MP
Member for Hurtle Vale
PO Box 158
WOODCROFT SA 5162

Office of the Chief Executive
Level 8 North
Riverside Building
North Terrace
Adelaide SA 5000

GPO Box 292
Adelaide SA 5001

DX115

Tel: 08 8413 9050
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ABN 11 525 031 744

Sent by email: shadowhumanservices@parliament.sa.gov.au

Dear Ms Cook

I refer to your application under the *Freedom of Information Act 1991* (the Act), received by the Department of Human Services (DHS) on 3 July 2020, seeking access to:

[A] *copy of the Governing Documents of the 'The Home for Incurables Trust'*.

Unfortunately, DHS was unable to make a determination on your application within the 30 days, therefore it is considered to be a 'deemed refusal' under section 19(2)(b) of the Act. However, DHS has continued to process your application outside of this timeframe. Section 19(2)(a) of the Act provides that an agency can release documents outside of the thirty-day timeframe, and this is still taken to be a determination under the Act.

Four documents were located that fit within the scope of your request and I have determined to release three documents in full and one document in part.

Document 3 contains information subject to legal professional privilege and I have determined this to be exempt pursuant to clause 10(1) of Schedule 1 of the Act. In accordance with section 20(4) of the Act, I consider that you would wish for access to the rest of the document after exempt information is removed so the document is being released to you in part.

Please find enclosed a copy of the documents released, and a document schedule containing a brief description of each document and determination in summary form.

If you are dissatisfied with my determination, you can seek an internal review by writing to the Chief Executive, DHS, as the Principal Officer of the agency. Your request should be sent within 30 days of your receipt of this letter.

In accordance with the requirements of Premier and Cabinet Circular PC045, details of your FOI application, and the documents to which you are given access, will be published on the agency's disclosure log. A copy of PC045 can be found at <http://dpc.sa.gov.au/what-we-do/services-for-government/premier-and-cabinet-circulars>.

If you have any questions in relation to this matter, please contact Fiona Braendler, Senior FOI Officer, on telephone 8413 9094 or by email at DHSFreedomofInformation@sa.gov.au. If you disagree with publication, you will need to advise the Senior FOI Officer within two weeks of the date of this determination.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Sally McInnes', is positioned below the closing text.

Sally McInnes
ACCREDITED FOI OFFICER

16/09/2020

SCHEDULE OF DOCUMENTS – DHS/20/07120

Freedom of information application from Nat Cook MP seeking access to a *copy of the Governing Documents of the 'The Home for Incurables Trust'*.

No	Date	Description of document	Determination	Exemptions
1.	27/06/1879	The Home for Incurables Trust – Deed	Released in full	No exempt material
2.	26/06/2007	The Home for Incurables Trust – Deed of Appointment and Retirement of Trustee	Released in full	No exempt material
3.	15/07/2019	The Home for Incurables Trust – Financial Authorisation Instrument	Released in part	Clause 10(1) – legal professional privilege
4.	20/08/2019	The Home for Incurables Trust – South Australian Government Financing Authority Authorities	Released in full	No exempt material

RULES

1. The object of the Institution is the Establishment of a Home or Homes for incurables.
2. For the purposes of the Institution it shall be lawful for the Trustees or for the Institution in its corporate capacity if and when the Institution may or shall be incorporated under "The Associations Incorporation Act 1858" to purchase and hold as well the lands and premises mentioned in the above Declaration of Trust as any other lands tenements and hereditaments and at any time or times to sell all or any lands tenements or hereditaments or to exchange the same for other lands tenements and hereditaments or to let the same on Lease or Mortgage the same for the purposes of the said Institution Provided that no letting for more than three years and that no sale exchange or Mortgage of all or any of the lands tenements and hereditaments of or belonging to the said Institution may be effected without the consent of a majority of subscribers present at a Special General Meeting to be called for the purpose of considering such proposed dealing with such lands tenements and hereditaments and such special meeting shall be convened by circular marked special having upon it a full statement of the business intended to be considered at such special meeting and a copy of such circular shall be posted at the General Post Office Adelaide fourteen clear days at least before the day appointed for such Meeting addressed to each Subscriber at his or her registered address.
3. Applicants for admission to the home must bring a Certificate from a legally qualified Medical Practitioner stating the grounds on which admission is sought.
4. For all business done at any meeting of subscribers an annual subscription of 21s shall entitle the subscriber to one vote and every additional one pound and one shilling to another vote up to five votes which shall be the limit.
5. The homes and the general affairs of the Institution shall be under the management of a Committee consisting of the Treasurer Secretary and eighteen other subscribers - five to form a quorum - who shall have power to frame Regulations and who shall be and constitute the Committee of Management.
6. The Committee of Management and the Treasurer and Secretary shall be elected annually by the Subscribers at the General Meeting but shall be considered in Office until their successors are appointed Any casual vacancy occurring in the Committee may be filled up by the remaining members of the Committee.

7. The Committee of Management shall present an annual Report of the progress of the Institution to the General Meeting of subscribers to be held in the first half of each year.
8. Any Special General Meeting of subscribers convened as provided in Rule 2 shall have power to rescind add to or alter any of the Rules of the Institution provided that all such proposed alterations shall have been previously submitted to the Committee.
9. The Committee of Management may meet together for the dispatch of business adjourn and otherwise regulate their Meetings as they think fit and may elect a Chairman of their Meetings who shall sign the Minutes transacted at each Meeting Questions arising of any Meeting shall be decided by a majority of votes In case of equality of votes the Chairman shall have a second or casting vote Any five of the Committee may at any time summon a Meeting of the Committee.
10. The Committee may whenever they think fit convene a Special General Meeting of subscribers; and shall do so on a written requisition from 20 subscribers.
11. The Committee shall have power to appoint remove and fix the salaries of all Officers and Servants.
12. Votes at any meeting of subscribers must be given personally.
13. The Subscribers present at any Meeting may appoint a Chairman of such Meeting and the minutes taking at such meeting when signed by the Chairman shall be conclusive evidence as to the business done at such Meeting.
14. The Financial Year shall commence on the first day of January.
15. There shall be kept in one or more books a Register of the Subscribers and there shall be entered therein the following particulars: (1) the names and addresses of the Subscribers (2) The amount of yearly subscription or donation.
16. No persons shall be entitled to vote at any Meeting of Subscribers unless her or his subscription for the current year has been paid.

Witness

CB Hardy

William Gosse

GW Hawkes

A Macgeorge

Dated 27th June 1879

Dr. W^m Gosse MD GW Hawkes Esq. ^{2^a}
LM and A Macgeorge Esq. ^{2^a}

to

The Subscribers of the Association for
Establishment of a Home or Homes for
Incurable persons.

*Declaration of Trust
and Rules*

To all to whom these presents shall come

William Gosse of Adelaide in the Province of South Australia in Doctor of Medicine
George Wright Hawkes of Adelaide aforesaid Esquire and Alexander Macgeorge of Adelaide aforesaid
Esquire send greeting *Whereas* under and by virtue of Certificate of Title Register Book Volume CCXLIII
folio 5 the said William Gosse George Wright Hawkes and Alexander Macgeorge are seized of an Estate
in fee simple (subject to Memorandum of Mortgage No. 97668) in *that* piece of land situated in the
Hundred of Adelaide County of Adelaide comprising the Allotments Nos. 17 and 21 of the Section 252
laid out as "Fullarton" and bounded as appears in the plan in the margin of the said Certificate of Title and
therein coloured green which said piece of land contains nine acres or thereabouts and measures as well
and the Northerly side next a private road Seven hundred and fifty three feet nine inches or thereabouts as
on the Southerly side next part of the Section 251 Seven hundred and fifty five feet nine inches or
thereabouts and as well on the easterly side next the Allotment 13 as on the Westerly side next other part
of the said Section 252 Five hundred and nineteen feet nine inches or thereabouts the said Easterly side
being distant from the Government Road forming the Easterly boundary of the said Section 252 One
thousand five hundred and ninety two feet or thereabouts *and whereas* the said William Gosse George
Wright Hawkes and Alexander Macgeorge are desirous of declaring the trusts upon which they hold the
said lands *from* know ye that the said William Gosse George Wright Hawkes and Alexander Macgeorge
do and each of them doth hereby testify and declare that the said William Gosse George Wright Hawkes
and Alexander Macgeorge hold the said lands upon trust for an Association formed for the purpose of
providing and erecting thereon a home or homes for incurable persons in the province of South Australia
aforesaid as may from time to time be decided upon by the Committee of Management hereinafter
mentioned or referred to and for no other purpose or intent whatsoever but subject nevertheless to the
Rules hereunder written which said rules it is hereby declared it shall be within the power of the Members
or Subscribers to the said Association for the time being wholly or in part to alter add to vary or rescind as
mentioned in the said Rules And every Amended or substituted or added Rule or Rules shall in every
respect be taken to be as binding as if originally included in these presents ALSO that if the said William
Gosse George Wright Hawkes and Alexander Macgeorge or either of them or any future Trustee or
Trustees to be appointed as hereinafter is provided shall happen to die or cease to reside in the said
Province or decline refuse or become unwilling or incapable to act in the execution of the Trusts hereby
declared it shall be lawful for the Committee referred to in the said Rules by any writing under their or his
hands or hand to nominate constitute and appoint any other person or persons to be trustees or a Trustee
under these presents And thereupon the said trust estate shall be so transferred that the same may vest in
such New trustees or trustee jointly with the continuing trustees or trustee or solely as the case may be *In*
Witness whereby we have hereunto set our hands and seals this twenty seventh day of June in the year of
our Lord One thousand eight hundred and seventy nine.

Signed Sealed and Delivered

by the said William Gosse George Wyatt and
Alexander Macgeorge
in the presence of

William Gosse
GW Hawkes
A Macgeorge

CB Hardy
Sol

**Deed of Appointment and
Retirement of Trustee –
The Home for Incurables
Trust**

Julia Farr Services

and

Minister for Disability

Finlaysons

81 Flinders Street

Adelaide 5000 Australia

Telephone +618 8235 7400

Facsimile +618 8232 2944

Our Ref 336508/15

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Date

26 June 2007

Parties

1. **Julia Farr Services** of Fisher Street, Fullarton, South Australia (*JFS*).
2. **Minister for Disability** (*Minister*).

Recitals

- A The Trust in accordance with the Trust Deed on 27 June 1879.
- B Julia Farr Centre Inc (formerly the Home for Incurables Inc) became trustee of the Trust in 1886 when the Trust Property was vested in it.
- C On 28 June 1984 Julia Farr Centre was proclaimed as an incorporated health centre under section 48 of the *South Australian Health Commission Act 1982* (SA). In accordance with section 48 Julia Farr Centre took over all of the real and personal property and rights and liabilities of Julia Farr Centre Inc and Julia Farr Centre Inc was dissolved.
- D In 1995 Julia Farr Centre's name was changed by proclamation to Julia Farr Services.
- E On 7 November 1997 the terms of the Trust were varied in accordance with the order of Justice DeBelle in the Matter of the Trust of the Property of Julia Farr Services between JFS and the Attorney-General for the State of South Australia.
- F As part of wide ranging disability reform in South Australia, the Board of JFS has now resolved to transfer part of its property including the Trust Property, to the Minister, and to dissolve subsequent to those transfers, upon certain conditions.
- G The terms of the Trust provide that if any trustee shall happen to refuse or become unwilling or incapable to act in the execution of the Trust then it shall be lawful for the committee of JFS to nominate and appoint any other person to be trustee.
- H In view of the pending dissolution JFS will be incapable of acting in the execution of the Trust. Accordingly the Board has resolved to resign as trustee of the Trust and to nominate and appoint the Minister as trustee of the Trust by resolution dated 2006.

- | | |
|---|---|
| I | In order to ensure that the Trust Property continues to be put to use in the furtherance of the purposes of the Trust, JFS and the Minister have agreed that JFS will retire as trustee and the Minister will be appointed as trustee of the Trust in accordance with the terms of the Trust. |
|---|---|

It is agreed as follows.

1. Preliminary

1.1. Definitions

In this deed:

Board means the members of the board of JFS as at the date of this Deed.

Trust Deed means the declaration of the Trust and Rules dated 27 June 1879 by Doctor William Gosse, George Wright Hawkes and Alexander Macgeorge and as varied by Supreme Court order dated 7 November 1997.

Trust means the Home for Incurables Trust established pursuant to the Trust Deed. *that piece of land being Allotment 73 in DP 74086 being portion of the*

Trust Property means the land at 103 Fisher Street Fullarton, originally allotments 17 and 21 of Certificate of Title Volume CCXLII, now *the whole of the land in Certificate of Title Volume 5978 Folio 319*

1.2. Interpretation

In this deed, unless it is stated to the contrary;

- (a) the singular includes the plural and conversely;
- (b) a gender includes all genders;
- (c) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them;
- (e) a reference to a clause, schedule or annexure is a reference to a clause of, or a schedule or annexure to, this deed;
- (f) a reference to an agreement or document (including this agreement) is to the agreement or document as amended, varied, supplemented, novated or replaced, except to the extent prohibited by this deed or that other agreement or document;
- (g) a reference to **writing** includes any method of representing or reproducing words, figures, drawings, or symbols in a visible form but excludes any communication using electronic mail;
- (h) a reference to a party to this deed or another agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives);

- (i) a reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it;
- (j) a reference to conduct includes, an omission, statement or undertaking, whether or not in writing;
- (k) a reference to an **agreement** includes any undertaking, deed, agreement and legally enforceable arrangement, whether or not in writing;
- (l) a reference to a document includes an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind;
- (m) a reference to **dollars** and **\$** is to Australian currency;
- (n) a reference to a right or obligation of any two or more persons confers that right, or imposes that obligation, as the case may be, jointly and severally;
- (o) the meaning of general words is not limited by specific examples introduced by **including**, or **for example**, or similar expressions;
- (p) references to **agree**, **approve** or **consent** are references to agreement, approval or consent (as the case may be) in writing; and
- (q) nothing in this deed is to be interpreted against a party solely on the ground that the party put forward this agreement or any part of it.

1.3. Headings

Headings do not affect the interpretation of this deed.

2. Retirement of Trustee

JFS hereby retires as the trustee of the Trust with immediate effect.

3. Appointment of Trustee

3.1. Appointment

Pursuant to the resolution of the Board on the 26th day of June 2006 JFS hereby appoints the Minister as the trustee of the Trust with immediate effect and the Minister accepts the appointment as trustee of the Trust with immediate effect.

3.2. Corpus and Income

The Minister shall acquire all of the corpus and income of the Trust on and subject to the powers and trusts thereof and the parties acknowledge that the Trust and the Trust Property shall vest in the Minister with immediate effect.

3.3. Assurances

JFS shall execute all documents and do all things necessary to vest and assure in the Minister the corpus and income of the Trust.

4. Undertakings

4.1. Trust Duties

The Minister hereby undertakes to JFS:

- (a) to perform its duties as trustee honestly and in good faith with all the skill and care, prudence and diligence expected of a professional trustee; and
- (b) to deal with the Trust Property expressly in furtherance of the purposes of the Trust;

with the knowledge that if the Minister should fail to do so it would adversely impact on the work of disability service providers in South Australia and the Minister acknowledges that disability service providers have an express interest in the furtherance of the purposes of the Trust.

5. General Provisions

5.1. Entire agreement

This deed contains the entire agreement between the parties with respect to its subject matter and supersedes all prior agreements and understandings between the parties in connection with it.

5.2. Amendment

No amendment or variation of this deed is valid or binding on a party unless made in writing executed by all parties.

5.3. No waiver

- (a) No failure to exercise nor any delay in exercising any right, power or remedy by a party operates as a waiver.
- (b) A single or partial exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy.
- (c) A waiver is not valid or binding on the party granting that waiver unless made in writing.

5.4. Further assurances

Each party agrees to do all things and sign all documents necessary or desirable to give full effect to the provisions of this deed and the transactions contemplated by it.

5.5. Costs and stamp duty

- (a) The costs, charges and expenses of, and in connection with, the retirement of JFS and appointment of the Minister, including the costs of preparation of this deed and any stamp duty chargeable on it, or on the vesting of the Trust and the Trust Property in the Minister, shall be paid by the Minister.
- (b) Such costs, charges and expenses shall not be paid out of the income or corpus of the Trust.

5.6. Governing law and jurisdiction


- (a) This deed is governed by the laws of South Australia.
- (b) Each party submits to the non-exclusive jurisdiction of courts exercising jurisdiction there in connection with matters concerning this deed.

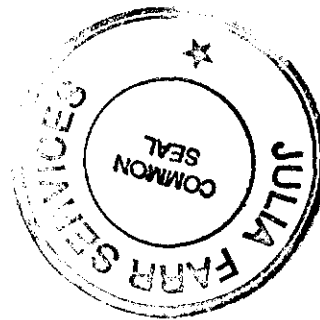
5.7. Counterparts

- (a) This deed may be executed in any number of counterparts.
- (b) All counterparts when exchanged will be taken to constitute one document.

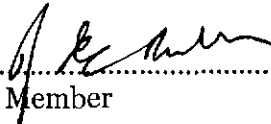
Executed in Adelaide.

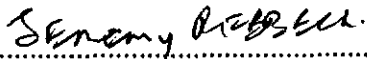
The Common Seal of Julia Farr Services was affixed to this Deed in the presence of:


)
 Board Member)



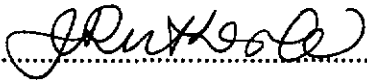

)
 Name of Board Member (Block Letters))


)
 Board Member)


)
 Name of Board Member (Block Letters))

**The Common Seal of the
Minister for Disability**)
was affixed to this deed in the)
presence of:)




.....
Signature of witness



JILL RUTHERFORD
.....
Name of witness
(BLOCK LETTERS)

19TDHS/863



Government of South Australia

Department of Human Services

**HOME FOR INCURABLES TRUST
FINANCIAL AUTHORISATION INSTRUMENT**

I, **HON MICHELLE LENSINK MLC, MINISTER FOR HUMAN SERVICES**, a body corporate pursuant to section 7 of the *Administrative Arrangement Act 1994* as trustee of Home for Incurables (HFI) Trust administered by the Department of Human Services (DHS), **HEREBY AUTHORISE**, the persons occupying the DHS positions listed on my behalf:

SCHEDULE 1

Authorisation Amount (GST inclusive)	Position Title	Position Number
Up to \$20,000	Chief Executive	M10284
	Deputy Chief Executive	P01186
	Chief Financial Officer	M10377
	Group Executive Director, Disability and Reform Services	M09351
	Executive Director, Accommodation Services	P19261
	Director, Finance – Disability and Reform	M13780
	Principal Management Accountant	M12016
	Director, Infrastructure	M14041

The expenditure of the HFI Trust and subject to the following:

1. Expenditure must be used for the purposes described in the Supreme Court Trust Variation Scheme (Schedule 2 below)
2. Expenditure must be made in accordance with relevant departmental policies and/or procedures
3. Amounts over \$20,000 (GST inclusive) must be referred to the Minister for Human Services for approval
4. Must not exceed the HFI Trust balance.

SCHEDULE 2

Clause 10(1) - Legal professional privilege

The role of the Trust is "...to apply property vested in it for the purpose of providing for persons whose ability to live independently is temporarily or permanently impaired or in jeopardy as a consequence of an acquired brain injury of degenerative neurological condition or a physical condition resulting in disability including but not limiting the foregoing in any way whatsoever, the following services and facilities;

(a) by providing for them, in a variety of residential, centre and community based settings

- (i) accommodation
- (ii) nursing, medical, allied health and attendant care service
- (iii) personal and community support services
- (iv) technical and personal support aids
- (v) rehabilitation, respite and recreational services
- (vi) out patient and day care services
- (vii) measures and services to enhance their quality of life;

(b) by providing facilities for education research with respect to such persons; and

(c) by providing any services and facilities ancillary or in relation to the foregoing or by providing additional services and facilities that may be appropriate from time to time."

The authorities apply from the date of the signed authorisation and supersedes all previous authorities.

Dated this 15th day of July 2019

THE COMMON SEAL of the
MINISTER FOR HUMAN SERVICES

Was hereto affixed in the presence of:



.....
Joanne M. S.

Witness
Print Name: Joanne M. S.



Finance and Business Services

Quality Assurance, Risk and
Business Improvement

Plaza Level North East

Riverside Building

North Terrace

Adelaide SA 5000

South Australian Government Financing Authority
5th Floor, State Administration Centre
200 Victoria Square
Adelaide SA 5000

To the Manager, Client & Advisory Services

RE: Bank account and Authorised Officer details – Home for Incurables (HFI) Trust

From time to time, the Department of Human Services will request SAFA to provide financial services in respect of our operations that will require us to transact various forms of financial related transactions; such as short term deposit facility, long term investment facility or foreign exchange facility (Transactions).

1. Authorisation

We hereby authorise SAFA:

- (a) To accept the following persons (and their respective signatures) as our Authorised Officers for the purposes of the Transactions, who have been authorised, on the terms and in the manner specified below, to give instructions, notices and communications, request and undertake Transactions and otherwise transact and deal with Transactions (both oral and written) on our behalf.
- (b) To accept the following bank account details as our standard and sole settlement account, and payment instruction to SAFA, for all payments to be made by SAFA to us in respect of the Transactions.

2. Standard Settlement Account

The standard settlement account for the payment of all amounts to us in respect of a Transaction:

Account Name	BSB	Account Number
DHS Operating Account – Commonwealth Bank	065 266	10001453

3. Authorised Officers

The following officers of our organisation are authorised on our behalf (both oral and written) to:

- (a) give instructions and notices, request information and otherwise undertake communications with respect to transactions; and
- (b) request and undertake Transactions and otherwise transact and deal with Transactions,

and for such purposes are our Authorised Officers.

Name	Position Number	Position Title*	Signature
Andrew Thompson	M10377	Chief Financial Officer	
Jonathan Boyd	M10349	Director, Quality Assurance Risk and Business Improvement	
Daniel Green	M13780	Director, Finance – Disability and Reform	
Linda Houston	M09413	Manager, Financial Compliance and Accounting Services	

The following officers of our organisation are authorised on our behalf to request information and make enquiries in respect of the Transactions (both oral and written), but are not authorised to request and undertake Transactions, and for such purposes only are our Requesting Officers.

Name	Position Number	Position Title	Contact Details	Signature
Murray Yee	M12268	Management Accountant	Phone: 8415 4424 Email: Murray.Yee@sa.gov.au	

**Position titles are subject to changes throughout the year*

Yours sincerely



Tony Harrison
Chief Executive
Department of Human Services

20 / 8 / 2019