

UTR 7.330 – The Duncan Leary Bequest

Background

- A. The University of Melbourne (**University**) received the sum of \$15,768,963.53 (**Gift**) from Duncan Elphinstone McBryde Leary (**Donor**) pursuant to the Will of the Donor dated 23 June 1995.
- B. It is anticipated that additional monies will be received by the University upon the resolution of the balance of the Donor's estate.
- C. It is a term of the Will of the Donor that the Gift be divided into four equal parts to be held on the following trusts:
 - a. *Three such parts to The Faculty of Medicine of the said University of Melbourne for its general purposes;*
 - b. *The remaining one such part to the Faculty of Arts of the said University of Melbourne AND IT IS MY EXPRESS WISH that the said part be used in conjunction with the Department of Linguistics toward the furtherance of the study of Aboriginal Languages."*
- D. The Faculty of Medicine at the University is now known as the Faculty of Medicine Dentistry and Health Sciences.
- E. Of the part of the Gift due to the Faculty of Medicine Dentistry and Health Sciences the University elected to:
 - a. use \$9,479,753.75 (**Capital Sum**) to establish in perpetuity the Duncan Leary Bequest (**Fund**) within the Faculty of Medicine Dentistry and Health Sciences (**Faculty**) for its general purposes. (**Purpose**).
 - b. apply \$2,346,968.00 for the Purpose without being held subject to trust.
- F. The part of the Gift for the benefit of the Faculty of Arts is held in The Leary Trust for Australian Indigenous Languages which is currently governed by UTR 7.329.
- G. The Donor Duncan Elphinstone McBryde Leary (1918–2009) was born in Sandringham, Victoria, to a prominent Melbourne family. His father, Thomas Garnet Stirling Leary (1879–1954) was a well-known physician, and his maternal grandfather, Duncan Elphinstone McBryde (1853–1920), businessman and politician, was one of the founders of BHP. Sent to board at Geelong Grammar School from the age of 13, Duncan left school early and achieved his Leaving Certificate in German and Italian at Commercial College in Melbourne; however, preparations for war interrupted his studies. During World War II Duncan served first with the 5th Battalion (Victorian Scottish Regiment), and then with the RAAF. Rejected for aircrew due to poor eyesight, he joined the ground staff and was stationed in northern Queensland for much of the War, continuing with his studies through the RAAF educational service. After the War he commenced studying at the University of Melbourne, graduating with a Bachelor of Arts, majoring in languages, in 1955. After completing his degree, Duncan left Melbourne to live in Europe, where he met his life partner, Ernest Lanz, a chef, in Geneva. In the

1960s, Duncan and Ernest returned permanently to Melbourne, where Ernest established the Little Swiss Café, one of the first Continental restaurants in the city. A man of tremendous erudition and gifted linguist, Duncan spoke five languages in addition to English, and was fluent in Russian. Duncan maintained a strong association with the University for the rest of his life, studying many subjects through Melbourne's continuing education program, including a number in the fields of Aboriginal history and culture.

H. This University Trust Record is the means by which the University records:

- (1) the trusts upon which the University holds trust property, including the capital sum; and
- (2) the administrative arrangements for the implementation and ongoing performance of those trusts from time to time.

The trust terms and administrative arrangements in respect to the Fund are as follows:

Trust terms

1. A perpetual trust was established for the Purpose on receipt by the University of the Capital Sum and the University is the trustee of that trust.
2. The University must invest and preserve the Capital Sum and any accumulations and additions to the Capital Sum and apply only the net annual income arising from the Fund to support the Purpose.
3. Any unexpended income in any year may be;
 - a. retained as income in which case it will be available in any subsequent year to be applied for the Purpose; or
 - b. added to the capital sum represented by the Fund in which case that unexpended income will be forever regarded as capital and will therefore be preserved in the same manner as the capital sum represented by the Fund.
4. Further donations may be made to the Fund including donations by bequest. The further additions or donations may be added to capital or be expendable as specified at the time of contribution.

Administrative arrangements

In order to implement the trust terms, the University has determined that:

1. The Capital Sum and any further donations received by the University, excluding any further donations which are specified as expendable, are to be transferred to the University's long-term investment common fund at the end of the quarter following receipt by the University and remain there until Council otherwise directs.

2. The University Council may on the recommendation of the Dean of the Faculty direct that capital of the Fund be resorted to for the Purpose.
3. The Dean of the Faculty or its successor is to authorise expenditure from the Fund on behalf of the University.

[New UTR certified 3 July 2019]