



Do you know how your grants are being used?

Complying with the law and
regulation of churches



Stewardship Briefing Paper

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1 A rich tradition and a real tension

Ever since Jesus uttered the words of the Great Commission recorded in Matthew's gospel, Christians have been working across the UK and further afield seeking to share the Gospel, bring social justice, and raise the prominence of cultural and social issues. Sometimes churches and charities are directly involved in this work themselves, but often they will make use of individuals or organisations with specific experience and expertise working on the ground; partnering with others who have a local, and more complete, understanding of what is required. This is a rich and highly prized tradition and one that has changed for the better the lives of many.

However, charities, including churches, are subject to UK charity tax, and in some cases company laws and in recent months we have seen first HMRC concerns raised about the charitable nature of some grants and, more recently, the Charity Commission following suit. Whilst this has for some time been recognised as an issue when paying grants overseas (see our briefing paper [guide to churches making payments overseas](#), the Charity Commission has taken the opportunity in a recent regulatory alert¹ to broaden this and to remind charity trustees that their responsibilities extend to making grants to UK organisations, whether charities or not.

At Stewardship, we recognise the tension that sometimes exists between wanting to be generous but working within a regulatory environment. We want to help churches meet their legal responsibilities without dampening their enthusiasm to provide help for what are often a community's most marginalised people wherever the need is greatest. Understanding the reason for which you are providing the grant and knowing that the grant you have provided is properly used sits squarely at the heart of reconciling these two purposes.

This briefing paper sets out our perspective on how the Commission's regulatory alert might play out in a church context, providing trustees with some issues to consider both before and after making a grant. As we already have a briefing paper looking at the issues of overseas grants, we will predominantly focus here on grants made to UK organisations (charities or otherwise).

2 So, what can you give grants for?

Using a partner organisation, whether a charity or not, can often be an appropriate and an effective way for a church to further its own charitable purposes, and therein lies the key. The reason for providing the grant must be that its use will further the purposes of the church making it. So the way it is spent and the purposes of the donor church should be aligned. Sometimes this is obvious; sometimes less so.

For example, most churches have charitable purposes which include the advancement of the Christian faith and often the relief of those in poverty. So providing a grant to another church charity in the UK that has the same, or similar, purposes is fine. The purposes of the donor church are aligned with how the grant will be spent.

¹ Regulatory alert – 3 March 2015 - <https://www.gov.uk/government/news/funding-of-non-charitable-organisations>

What might for example be less clear is a church providing a grant to a non charity lobby group that desires to see social change which may be considered to have political overtones. Would this type of grant further the purposes of the donor church? Will the grant be spent in accordance with those purposes? Well, possibly. It will depend first and foremost on what the grant is spent on, but may also require a level of judgement and interpretation on the part of the trustees (of which more later).

Failure on the part of the trustees to ensure charitable funds are properly used to further their own charitable purposes would give rise to regulatory concerns and may result in the Charity Commission becoming involved. The following scenarios are cited by the Commission as ones which would cause concern (*italics added by us*):

- A charity funds activities that are either not charitable or not capable of furthering the charity's specific purposes (purposes). For example, grants provided by a church to support an animal charity are generally unlikely to further its charitable purposes.
- Trustees do not undertake:
 - Appropriate due diligence or;
 - Adequately ring-fence grants in the hands of the recipient or;
 - Have not taken adequate steps to protect the charity's position and ensure proper use of the charity's funds.
- Trustees risk their charity's (*and in our case God's*) reputation by making grants without fulfilling their legal duties – *the regulatory alert goes on to say that "trustees must be clear about what their charity hopes to achieve and how funding a certain organisation will help them achieve that."*
- Trustees fail to take adequate steps to monitor the use of funding their charity has provided.

We explore the second and third of these points below under the heading 'What should trustees consider before making a grant' and expand a little on the fourth point in 'What should trustees consider once a grant is made'.

3 What should trustees consider before making a grant?

The primary consideration is that the grant made must be used to further the charitable purposes of the donor church or charity. In situations where this is perhaps not straightforward, trustees must:

- Make reasonable judgement
- Undertake appropriate due diligence
- Consider ring-fencing

4 What might reasonably be considered to further a church's charitable purposes?

Churches get involved in all manner of issues, not necessarily restricted to the purely theological but spilling over into social and cultural, as well as lifestyle. Whether a grant can be considered to further a church's charitable purposes will depend upon its specific purposes and the trustees' interpretation of how the grant will be used to meet those purposes.

In cases where decisions have the potential to be contentious, it is important for trustees to clearly demonstrate and document the deliberations that have allowed them to reach their conclusion.

Some of the more contentious areas that recipient organisations may be involved in include:

- Abortion and pro-life agendas
- Sexual orientation and gay marriage
- End-of-life
- Immigration and asylum
- The influence of other religions
- Political influence and change, particularly anything considered to constitute campaigning or considered to be party political in other ways. The Charity Commission offers guidance on campaigning and political activity by charities which can be found [here](#).

Individual churches may not take a consistent stance on all these issues, and in many cases will stand against popular wisdom and perhaps even current legislation. Whilst this is perfectly acceptable, churches must understand that it is these areas that are most likely to come under scrutiny and the validity of their judgement questioned.

For example, a church which provides a grant to an organisation that counsels drug addicts but that is also prominent in lobbying the government for changes to alcohol tax and drug reclassification **is unlikely** to be considered acceptable.

On the other hand, we consider that providing a grant for an organisation that does not engage in political campaigning but exists to promote pro-life as a positive choice using a poster campaign or mail drop, **is likely** to be considered acceptable.

5 Undertake appropriate due diligence

So what is appropriate due diligence? It is due diligence that is sufficient, in the circumstances, to give the trustees comfort that any grant will be spent on activities that will further its own charitable purposes.

Due diligence is therefore not a 'one size fits all'. What might be sufficient in one set of circumstances may be highly inappropriate in another set. Trustees should consider the risk factors (see some examples below) associated with the recipient organisation and increase or decrease their level of due diligence accordingly. Some risk factors to take into account include:

- Consideration of any existing relationship. Is the recipient organisation well known or well recommended to the donor church or is the relationship a more distant one?
- The activities of the recipient organisation, especially where they are not an established charity; where they operate overseas; or where only some of their activities would further the charitable purposes of the church. It is in such cases that 'ring-fencing' grants might be appropriate (see below).
- The Charity Commission has identified community development and the promotion of human rights as two areas that are difficult to interpret, recognising that some aspects of both activities may fall within charity donors' charitable purposes, but also pointing out that certain aspects may not.
- The size of the grant. Although the Charity Commission notes that terrorist financing requires relatively little funding, larger grants undoubtedly attract greater risk.

More particularly for organisations that are based or that operate overseas:

- The location of the beneficiary or the location of where the grant is proposed to be spent. An organisation called Transparency International compiles each year a corruption index which highlights those countries and regions in which corruption occurs more readily. Parts of Africa, Asia, South America and Eastern Europe all score highly on that index and more care is required for grants made to organisations in these regions. Transparency International's website can be located [here](#).
- The regulatory environment in which the recipient organisation operates. For example, in many parts of Europe and the United States, the regulatory environment for charities and not-for-profit organisations is well-developed. Organisations will be expected to have governing documents; some form of internal oversight; and will be expected to provide annual accounts detailing sources of income and the nature of expenditure. In other countries this regulatory environment is less well developed and the associated controls may not therefore exist.

The more of these factors that apply; the greater will be the level of due diligence required.

6 What might due diligence look like?

For grants of a modest size to UK organisations (charities or otherwise) the following may be considered appropriate:

- Personal knowledge, recommendation and endorsement of the recipient organisation;
- Where the recipient is a charity, a review of their governing documents including their purposes and any formal status they may have with a regulator; For example, are their accounts filed with the charity regulator up to date?

- Clarity on the proposed use of the funds, e.g. a statement made by the donor church clearly setting out what the grant must be used for;
- Agreement that future follow-up might be required.

For larger grants, these checks might be further enhanced by:

- More formal communication with the organisation's key operational or governance personnel;
- Formal minutes setting out the reasons why the trustees have reached their conclusion. For very large grants, this may be a formal, legally binding agreement;
- Main terms of the grant documented and confirmed by the beneficiary;
- A site visit to view the organisation's operations.

Where beneficiaries operate in parts of the world where the regulatory environment is less well developed and formal NGO status is not necessarily recognised, trustees of donor churches must think of other ways to achieve the same level of assurance. Our associated briefing paper [A guide to churches making payments overseas](#) provides more details, supported by examples, of what trustees making grant payments abroad ought to consider.

7 Ring-fencing

One area of concern highlighted by the Charity Commission is where donor churches fail to adequately ring-fence grants in the hands of the recipient organisation. This is particularly important where only some of the activities of the recipient are capable of furthering the donor's charitable purposes or where the regulatory regime is not considered strong enough for the trustees to be confident that any grant would be spent in line with UK charity law.

Ring-fencing is a way for the donor to restrict the use of the grant in the hands of the recipient. Donors should stipulate that grants can only be used for specific activities and once the grant is of a significant size (e.g. greater than £5,000 – depending on the context) a written confirmation from the recipient that this is understood. It does not of itself prove what actually happens to the grant, but does provide evidence of intention.

For example, a church providing a grant to an organisation that operates widely across the Middle East may choose to ring-fence its grant so that it can only be used as part of a feeding programme. The feeding programme is considered to further its charitable purposes, whereas some of the other activities associated with the organisation may not. Closer to home, trustees may wish to ring-fence grants made to non-charitable UK organisations to ensure that they will be used in accordance with the charitable purposes of the donor church.



8 What should trustees consider once the grant is made?

Even with the best of intentions, an assurance received that a grant will be properly applied is no guarantee that it actually will. The Charity Commission makes it clear that the trustees' responsibilities do not stop with good intentions, but extend through to the ultimate use of the grant. Although the Commission do not specify grant amounts, it appears unreasonable to expect churches to monitor the use of small grants say up to the value of £1,000.

Churches making grants to UK organisations should expect:

- To receive an acknowledgement confirming the amount and how it is intended to be used;
- Where grants are for specific items or activities, the trustees should expect to see invoices or receipts;
- For larger grants (say over £5,000), the trustees may wish to see progress reports.

Again, this might become more difficult where the recipient organisation is based overseas especially where that beneficiary is based in a country where the regulatory regime is less developed and accounting rules are less sophisticated. What might be considered reasonable and appropriate in these circumstances?

In an ideal world, receipts and invoices would verify how the grant was used. More realistically in many countries, the best that can be hoped for is some form of analysis provided by the recipient of how the funds were used perhaps combined with some form of photographic evidence that a funded project or activity is advancing. Again this is covered more fully in the [associated paper](#) referred to earlier.

Conclusion

Trustees should not regard this regulatory alert as a reason to stop that much prized tradition of supporting and providing grants to organisations on the ground and the combination of a good heart and a wise head should be sufficient to satisfy whoever becomes interested.