Stewardship
Active generosity

Church: a family, a charity or both?

What that means when giving gifts to members

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About Stewardship

Stewardship serves Christian donors, workers, charities and churches in the UK and beyond called to faithfully steward their resources for God's glory.

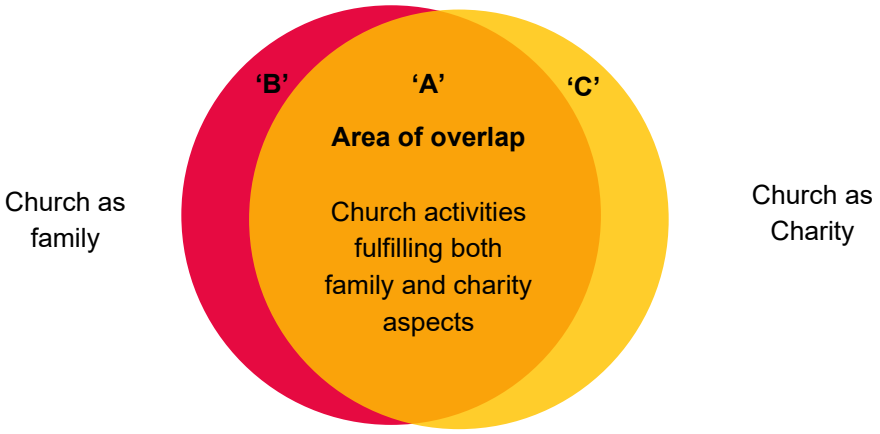
We have been working with generous Christians and the ministries they support for over a century. Today, we help over 30,000 donors discover the joy of generosity as they give more than £110 million every year to over 12,000 church, charity and individual partners. Our professional services also equip, grow and strengthen those partners so they can create more impact for God’s Kingdom.

1 Introduction

Church can mean different things to different people, but it seems to us that right at its heart is the desire for God's people to meet the biblical demand to love others, whether they are in some way associated with the church or not. At its very best, church is highly relational and is often rightly compared to a family in which we share good and bad; walk with and support those going through tough times and rejoice with those enjoying good times. This is church as family and is to be strongly encouraged (see the early church in Acts).

In the UK, church is also normally structured as a charity and all charities (not just churches) are governed by charity law. Their purposes must be wholly charitable and their activities must be undertaken wholly (that is, only) in pursuance of their charitable purposes. For churches the primary purpose is normally "advancing the Christian faith", often supplemented by "the relief of poverty". This is church operating as a charity.

For much of the time these two aspects of church—family and charity—overlap, with the church pursuing activities which further its charitable purposes and which also build family. See the diagram below.



By law, the church charity can undertake activities that fall within segments 'A & C' but cannot undertake activities within segment 'B' as these, good as they may be in their own right, are not charitable in the eyes of the law.

In drawing this distinction between family and charity, we are aware that there can be real benefit in the mutual support of people within a church, and that strengthening church relationships can be considered part of 'advancing the Christian faith'.

As the New Testament outlines (especially in Paul's epistles to the Ephesians, Colossians, Romans, and John's epistles to the wider church), there is considerable value in church relationships being genuine, deep and supportive. These relationships build the framework of the church and provide evangelistic opportunities as the church shows itself as a community of genuine and practical love and support.

We are therefore aware that there are good reasons why support of those linked with the church can be seen as advancing the church's charitable aims for the public benefit and therefore falling within the area of overlap 'A'.

However, there are also perfectly legitimate times when the church wants to act as family out of a sense of friendship, but in so doing, their actions are not fulfilling their charitable purposes (segment 'B'); church as family and church as charity no longer overlap.

In this paper, we are looking to be practical and also to draw out what might be the perception of those outside of the church, both the regulators and the general public. Our aim is to help the church to understand the issue, to make appropriate and sensible judgements, and to draw distinctions where necessary so that the church can continue to build family, but as a charity to operate wholly under charity law.

We need to recognise right from the outset that there will be times when drawing a distinction between church acting on a friendship basis within segment 'B' and church acting to achieve its charitable objectives is a tricky judgement call. Typically, but not always, where churches do operate out of friendship, it will be because they already know the person/people they are interacting with. It is less likely that a church will act on a friendship basis to a person or group with which it has no previous relationship.

However, as the church charity must always act in ways that achieve its charitable purposes, the closeness of any relationship between the church and the recipient may influence any assessment but will not be decisive.

Just because this assessment is not straightforward does not mean that churches can bury their heads in the sand, look the other way, or confine the issue to the 'too difficult' pile.

2 When might church as family not overlap church as charity?

Churches can sometimes operate on more of a family basis when activities and expenditure have more to do with friendship than they have to do with charitable purpose. Some examples where this might occur, and which we will explore later, include gifts given by a church in recognition of a celebration (marriage, birthday and so on), gifts given by way of appreciation as a 'thank you' for service in the church, or other activities that have friendship as their core motive.

Whilst some churches may not identify the family/charity distinction, for others the issue might appear to be trivial or pedantic, and for others still, the demarcation line between family and charity is blurred. The consequences for churches that use charity funds to support activities that are predominantly friendship-based can be serious, as the accounting and tax treatment that applies to funds used in this way is significantly different from those used for church as charity.

3 Why might this be an issue?

The issue does not stem from the intention or the desire for the church to act as family; it comes from the application of charity law. Charity funds used primarily for reasons of friendship and that do not further the charitable purposes of the church are not by definition charitable. As such, this type of expenditure should not be conducted from inside the charity at all.

Before exploring a potential model for churches to deal with the issue, let's take a look at a few areas where church as family and church as charity may not overlap. The first is one common to many churches and one that blurs the line between church as family and church as charity.

4 An area where family and charity may overlap

4.1 Fellowship or hardship fund

Where a fellowship or hardship fund exists to provide support for people in the community (whether church attendees or not) who are going through particularly difficult times, expenditure incurred can often meet both the criteria of church as family and as charity. For example, where the church makes a payment from a fellowship fund to support a connected family who have limited means and who have recently seen their house flooded, this would most likely satisfy the church's charitable purposes and would also be seen as an act of friendship.

The same may be true where a church attendee (who is not otherwise wealthy) is made redundant and is suddenly struggling to pay their rent or mortgage[1]. Support in this instance must be limited and reasonable and cannot run on indefinitely, but again may well meet the dual aspects of church as family and church as charity.

However, even where the dual aspects of family and charity can be met, such funds are not without their potential controversies, particularly where they are used predominantly or exclusively to help out those considered as being in some way connected to the church. Church leaders who operate a fellowship or hardship fund in this way need to consider whether it sends out the right message to the world at large or may give the impression that the church is simply looking after their own.

On a practical level, decisions to support a person or group of people should be made in accordance with any policy set by the trustees. Where the funding is going to be significant, or may be considered to be contentious, the decision should be agreed by the trustees, with the supporting reasoning recorded in the meeting's minutes.

Where churches operate fellowship or hardship funds, we suggest that policies and procedures are put in place (including financial limits, the use of loans where appropriate, and other guidelines) that ensure that such funds are used properly; are administered well; and ensure that certain people, families or issues are not being unjustifiably favoured and others inadvertently overlooked.

Any fund used to meet the charitable purposes of the church:

- can operate from inside the charity
- can make use of money donated to the church (on which Gift Aid can be claimed)
- is able to reclaim Gift Aid on specific restricted donations
- will be included in the statutory accounts of the church charity

[1] It is unlikely that any repayment of the capital element of a mortgage would be similarly viewed, as this would be seen as helping the recipient to acquire a personal asset.

5 Some areas where family and charity may not overlap

5.1 Celebratory or anniversary gifts

Celebrating birthdays, anniversaries and other significant events is an important aspect for all families, church or otherwise. The desire for a church to want to celebrate is an understandable and legitimate one, but before this type of celebration can be paid for by the church charity, the church leaders must be sure that **the primary purpose** of such expenditure is to further the charitable purpose of the church and not to celebrate with friends.

A simple straightforward celebratory gift (for example, a birthday present) is unlikely to meet the criteria for charitable expenditure and as such gifts that solely or primarily reflect an act of family celebration should not be paid for by the charity. However, there may be cases (see below) when a celebratory gift does meet the charitable purpose criteria and incidentally also the family aspect of church. Where this judgement is made, these gifts can legitimately be paid for from church funds and so will be accounted for inside the church charity.

An example of an event that might meet this criteria is a celebratory birthday or anniversary meal provided by the church for the family and friends of a church attendee where the primary purpose of the event is in accordance with the charity objectives. Examples may include promoting partner charities which carry out activities in line with the church's own objectives (perhaps the relief of poverty) or advancing the Christian faith through an opportunity to preach the Gospel.

If the **primary purpose** for the event was in accordance with the church's charitable purposes and the birthday was the incidental vehicle used to deliver it, then this should be acceptable. The charitable purposes of the church are being met and so, incidentally, is the more relational family aspect. On the other hand, if the **primary purpose** is the birthday celebration, and the charitable purpose is an 'add-on', then this event is likely to fall the other side of the judgemental line and is unlikely to be considered as charitable expenditure.

When assessing the primary purpose of the event, one aspect that the authorities might take into consideration is what the participants thought they were being invited to. Were they made aware in advance that there would be a Christian message or the promotion of another charity, or were they of the understanding that they were simply attending a birthday or other celebratory get together?

As that simple example demonstrates, there will not always be an obvious demarcation line and church leaders and trustees will have to exercise reasonable judgement. Whilst some events and activities will have a clear charitable purpose, for others this will not be so obvious. It is for the church leaders and trustees to decide where an action or activity properly sits, recognising that where such expenditure is accounted for inside the church charity, this may be subject to challenge from either HMRC or the Charity Commission.

Strictly, the value of the gift is irrelevant, but very small non-monetary gifts (for example, a birthday or anniversary card) are unlikely to cause a problem.

5.2 Thank-you gifts

Saying thank you and recognising the time and effort of people is important. We would argue that very often recognition is not best served by the church giving a gift of money or of monetary value. Recognition can take many other forms and a simple private (or in some cases more public) thank you will often mean more than any gift.

Thank-you gifts (monetary or of monetary value) given to volunteers are fraught with all kinds of potential dangers including:

a) exhibiting fairness across all volunteer groups
b) the requirement that expenditure should be in pursuit of charitable activities
c) the danger that inadvertently you are allowing volunteers to 'morph' into workers
d) using thank-you gifts as a substitute for volunteers claiming proper and valid expenses

Also bear in mind that regular (for example, annual) 'thank-you' gifts to the same person take on a different character from an ex-gratia gift. At some point, they create a sense of expectation that is open to challenge by the relevant authorities.

a) Exhibiting fairness

Whilst the church is clearly described in both Romans 12 and 1 Corinthians 12 as a body with all parts essential and praiseworthy, the reality is that many churches tend to value certain volunteers above others. This might be because of a volunteer's perceived gifts and talents; it might be because of the more 'up-front' nature of the ministry that they perform; it might be because they are more vocal than others; it might simply be that they are better liked.

Whatever the motive or good intention that lies behind a gift, it is very easy to cause unintended resentment among volunteers if some receive a thank-you gift and others not. While this is not a legal issue or matter of charity law, it can cause significant resentment and result in pastoral issues.

b) Expenditure in pursuit of charitable purpose

All the same issues regarding expenditure and charitable purpose apply here as those that we have already discussed. Are the trustees clear how the payment of a thank-you gift furthers the purpose of the church, or is it more an act of church as family?

c) Volunteers morphing into workers

While a single small one-off, or even annual, thank you gift is unlikely to turn your volunteers into workers, it is most definitely an unhelpful step in that direction. Volunteers are allowed to claim back proper expenses incurred in pursuit of their volunteering (see below) but being paid an allowance or a thank-you gift may be considered as a payment for services provided and may be a factor when considering if church volunteers are really employees, with all the very significant legal and tax ramifications that brings.

d) As a substitute for expenses

Volunteers will often incur expenses whilst carrying out their volunteering. Whilst volunteers are perfectly entitled to claim back those expenses, many churches will recognise that volunteers are

often reluctant to do that and so in an attempt to 'even things up', the church pays them a thank-you gift by way of compensation.

Volunteers should be actively encouraged to claim back proper expenses, not only because this is the most appropriate way to move forward (such expenditure clearly being in pursuit of the charitable purpose of the church) but also because it helps identify the true cost of providing the activities and ministries. Church leaders and treasurers should do all that they can to encourage volunteers to reclaim expenses, recognising in the end that they can't force people to do so.

Emphasising a 'please claim all expenses' policy from the start of the volunteering relationship may just help to remove any embarrassment and reluctance on the part of the volunteer to make proper claims. Remember, it is always open to the recipient to gift back some or all of their expenses payment and where they do so, the church may be able to Gift Aid!

Thank-you gifts should not be used as a substitute for proper expenses.

We are not advising that a church should never consider occasional small thank-you gifts. If the trustees think a small, token, non-monetary gift to, for example, departing members who have served is a tangible expression of Christian gratitude for people's contribution to the church, that could be acceptable. We would recommend having a formal policy around it, cap the amount, monitor the total amount given every year, and ensure it is consistently applied – so you don't risk accusations of bias or favouritism. If these are small and only very occasional, it is unlikely there is much of a risk of creating an expectation or an employment relationship.

If the gift is to a trustee, then there are specific considerations, where the Charity Commission does allow for small gifts for retiring trustees but emphasises that the value should be 'minimal'.

5.3 Entertaining

Perhaps the most contentious area of all relates to expenditure on entertaining. Entertaining can take many forms with perhaps the most usual being making use of coffee shops, pubs and restaurants as places for holding meetings and using church money to purchase food and drink for those in attendance.

We recognise that there are times when it might be more appropriate to hold a meeting in a venue away from the church in an environment that may encourage a different level and tone of conversation. Making use of a public venue as opposed to a private one may actually be a safeguarding issue (for example, a youth leader meeting a young person, a pastor meeting a member of the opposite sex).

However, before church money is used in this way, leaders should consider why an alternative venue is appropriate (not simply because it is a little more comfortable) and be confident that any money spent is both proportionate and in line with the church's charitable purpose. Once again, what is appropriate, fair and proportionate is a matter of judgement for the trustees.

A strategic meeting considering the forthcoming emphasis and activities of the church will be in accordance with the church's charitable activities. However, before using church funds to buy the food and drink, the trustees will need to consider:

- whether it is appropriate to hold such a meeting in a venue away from church

- whether it is right for the church to be paying for the food and drink
- whether the amount spent is considered to be proportionate

These are all matters of judgement and should be considered in any policy document agreed by the trustees.

But what about entertaining on church premises - is that any different? By and large, the same rules and considerations apply, with the charitable purpose test being met where the provision of food and drink is considered 'incidental to the charitable purpose'. Many churches ask for contributions towards the catering costs of these events from those attending. This reduces the overall cost impact.

There are a number of examples where entertaining in this way on church premises may well meet the dual aspects of church as family and church as charity:

- Meals that are provided as a prelude to attending an 'Alpha' or other evangelistic talk or meeting. The primary purpose of the meeting is clearly the promotion of the Christian faith, with the food and drink provided by the church being incidental to that.
- Food and drink served before or after church services to encourage attendance at special services or to facilitate deeper relationships between attendees.
- Food and drink provided by a church to deepen relationships, build trust and to strengthen church community regardless of who attends (members, attendees or others).

Where churches do see such entertaining as valid charitable expenditure, it would be wise to have a policy in place both to avoid misunderstanding and to ensure that levels do not get out of hand. Perhaps without going as far as creating a hospitality register (although some churches may choose to do this), the church trustees and other leaders should be aware of general levels of entertaining so as to satisfy themselves that such expenditure is appropriate, and also to ensure that certain individuals are not being unjustifiably favoured.

In the same way as for 'thank-you' gifts, the perception that entertaining is not being applied in an even-handed way brings with it real potential for resentment and disgruntlement, which for any church is, at best, unhelpful.

5.4 Member loans at beneficial interest rates

Recognising that it may not be right for all churches, if a church has excess funds (reserves), and is not prohibited from doing so by its governing document, it may be legally entitled to lend out some of those funds. Although this use of funds may appear attractive to trustees, particularly in times of low interest rates, it is a course of action that is littered with potential pitfalls.

While (depending upon the commerciality of the interest rate used) determining whether funds have been properly used remains important, it may not be the most pressing issue as there are plenty of other issues for trustees to consider including:

- determining an appropriate interest rate to charge
- deciding what security (type and value) will be required
- ensuring that they do not take undue risk with the charity's assets
- constructing a suitable and fair application process
- deciding which applicants will be successful
- administering the loan
- managing the debt and dealing with people falling behind on repayment

These are all reasons why trustees should be very careful before proceeding down this path. Churches that want to make these types of loans should operate a clear and transparent policy and maintain good, clear and accurate records. In cases where secured loans are regularly made, other charity law and financial services regulations could come into play.

6 What might be some options for church leaders to consider?

As we have sought to emphasise throughout this paper (and hopefully the examples have served to demonstrate), making a judgement about the nature of some types of expenditure is not always straightforward. However, there are likely to be times when a legitimate desire for the church to act as a family will not overlap with church operating as a charity.

There are different possibilities, and which may be the best will depend on the circumstances and what is wanted. There are three types of options set out below:

- Quick and informal for small amounts funded by those who are close friends.
- Wider and looking to raise potentially large amounts for a particular situation.
- More established and looking to have developed funding with greater formality and accountability.

Where the church family want to get together to contribute to something relatively small and quick, such as an anniversary gift, a personal event or a small financial need that they want to support as friends, then a trusted individual can act as a collecting point; often in a personal bank account which they have. Those that contribute will often know the person handling the collection and the recipient will also be aware that this is from a wider ‘friendship group’.

Where the need is for something wider and larger, crowd funding platforms (such as ‘GoFundMe’ or ‘Collctiv’) can be used. This enables people to give an on-line explanation of the need and people giving can do so with confidence into a more established process. The question of privacy does need to be considered and there are normally options which do not allow public search and should only be visible to those with whom the fundraiser link has been shared. However, please keep in mind that, very often, if your fundraiser's direct link is posted on social media accounts, such as Facebook, anyone who clicks on the fundraiser link may well be able to access the fundraiser information.

If there is the intention to build up funds so that they are available for decisions made by a form of ‘funding committee’, then a separate fund that is managed outside and clearly separate from the charity could be established. Because such a fund would not be part of the charity, its income and expenditure would not form part of the charity’s accounts, and the fund would not be able to claim Gift Aid on donations. However, our understanding is that such a fund would require registration with the

HMRC 'Trust Registration Service' and so we would suggest that a solicitor was involved when it is being established.

In order to avoid any confusion with the church charity, if such a fund was established, it is important that it:

- has its own bank account
- has authorised signatories who are not substantially the same group as for the church charity accounts
- is given a name that is distinct and different from anything that could be associated with the church charity
- is set up in a different bank to that used for church banking or, if the same bank is used, the bank is clear that it does not form part of the church charity
- is clear to all who contribute to it that this is a private arrangement and not in any way a part of the church charity. Contributors need to make contributions with their 'eyes open'.

Where this type of arrangement is set up, the fund must **not** reclaim Gift Aid (or any other form of charitable tax relief) on any donations that it receives directly and must **not** be topped up from church charity funds.

We also believe that it should still be subject to a good level of accountability and transparency, agreed with those that contribute to it. There is a natural caution around church leaders, or others, setting up funds that are outside of the normal levels of accountability that are built into charity structures which churches and their members tend to take for granted. Also, other issues about fairness and process still remain and, even though the fund is not part of the church charity, we would continue to strongly advocate good operating controls, and sensible policies and procedures are put in place.

7 Conclusions

The highly desirable, heightened relational family aspect of church may make it appear to be different from other charities and while this might be true at a human level, as an operating charity it remains subject to charity law in just the same way as any other charity.

Churches that want to bless people, predominantly out of a sense of family or friendship, should carefully consider whether it is right to do this with charity funds. It may be more appropriate, with all the potential regulatory and reputational issues, to do so with funds that do not form part of the church charity. We consider this review and judgemental decision-making process to be an important step to ensure that the trustees meet the demands placed on them by charity law and to protect the church charity from using funds improperly.

Church as family is wonderful, but trustees and other church leaders must also hold in balance the governance requirements of a charity and act accordingly.

Appendix 1: what to think about when writing a church policy

Largely, because this is an area that relies heavily on the judgement of the trustees and church leaders, policies in this area will differ from church to church and so we have not included a sample policy template in this paper. However, the list below sets out some areas to consider when drafting a suitable policy:

- Recognise that there are times when a church may want to act as a family but where such actions do not overlap with the church operating as a charity.

- The operation of a fellowship or hardship fund:
    - Who makes up the potential beneficiary universe? Is the fund only for use with those associated with the church and, if so, on what basis?
    - How is the existence and use of the fund made known?
    - How are potential recipients identified and assessed?
        - The level of accountability applied
        - Verification of the underlying facts
    - Do you see a difference between assessing people and situations associated with the church and those that are not?
    - Who oversees the use of the fund and signs off expenditure and hold the records?

- Specifically address the issues of celebratory and ‘thank-you’ gifts:
    - What is considered acceptable and what is not?
    - How are potential recipients assessed?
    - Who is able to sign off expenditure and holds the records?

- Re-enforce the policy of encouraging volunteers to fully claim all legitimate expenses.

- Address the issues of entertaining:
    - When is it right for the church to pay or contribute towards the cost of meetings held away from church?
    - Provide expenditure guidelines for food and drink in particular.
    - Consider establishing a hospitality register making all ‘entertaining’ open to scrutiny by church leaders and trustees alike.

- In cases where loans to members are considered:
    - How is the appropriate interest rate determined?
    - What security (type and value) is required?
    - Explain a suitable and fair application process.
    - Set criteria to determine which applicants will be successful.
    - Set out the administering process, including managing default situations.

Even where a separate fund outside of the church charity is established, we would still advocate that a proper operating policy is established, drawing on many of the considerations set out above.