Managing Charitable Trusts

A Guide for Local Councils

Definition

2006

CA 2006 pt 1 & 2

- “Any body or trust established for charitable purposes”

2010

FA 2010 sch 6 Para 1

- “Established for charitable purpose, jurisdiction, registration, management – condition”

Nov. 2016

https://www.gov.uk/government/publications/charity-reporting-and-accounting-the-essentials-november-2016-cc15d/charity-reporting-and-accounting-the-essentials-november-2016-cc15d--2

Accounting & Reporting

All charities (whether registered with the Commission or not) must prepare accounts and make them available on request.

Trustees' annual reports preparation: all registered charities must prepare a trustees' annual report and make it available on request.

Accounting & Reporting

Annual return form: all charitable incorporated organisations and all other registered charities whose gross income in the financial year exceeds £10,000 must complete and file an annual return with the Commission.

File with the Commission online within 10 months of the end of their financial year

Accounting & Reporting

Up to £5k income – no registration, receipts and payments accounts only

£5k – £10k Register with Charities Commission, receipts and payments accounts only – update online details

£10k to £25k Annual return instead of update

£25k to £250k Annual return, trustee annual report, accounts & independent examiner's report

£250k + Accruals accounts

Statutory Audit

CARRIED OUT BY A REGISTERED ACCOUNTANT

INCOME LESS THAN £250K – GROSS ASSETS GREATER THAN £3.26M –

INCOME GREATER THAN £1M

IN ADDITION TO STATUTORY THRESHOLDS, THE GOVERNING DOCUMENT OF ANY CHARITY MAY CONTAIN SPECIFIC PROVISIONS ABOUT THE EXTERNAL SCRUTINY OF THE CHARITY'S ACCOUNTS.

Independent Examination

income over £250,000. The trustees must appoint an examiner who is a member of one of the accountancy bodies

income £250,000 or less The trustees are not required to appoint an examiner who is a member of one of the accountancy bodies.

In all cases the examiner will need to demonstrate sufficient financial awareness, numeracy skills and relevant experience to carry out the work and make the judgements required

https://www.gov.uk/government/publications/independent-examination-of-charity-accounts-trustees-cc31/independent-examination-of-charity-accounts-trustees

Charities & Tax

No general exemption from taxation

If a Charitable trust – subject to income tax

If a Charitable company – subject to corporation tax

Charities can be subject to VAT

What income is not exempt

Trading Income outside statutory exemptions

Income assessable under Sch D Case VI (Income not taxable under any other case or schedule)

Exemptions

Income from land – so far as applied for a charitable purpose only

Bank interest, gift aid and other annual payments – applied for charitable purposes

Trading income – the profits are exempt provided trade is exercised in the course of carrying out of a primary purpose

Primary Purpose Trade

Is one that is exercised in the course of the actual carrying out of the primary purpose or charitable objects of the charity. (As identified from the charity's trust deed or other governing documents)

Primary Purpose Trades

Provision of educational services by a school in return for fees

Sale of tickets for an exhibition staged by a theatre

Badges of Trade

- 9 of them
  - Profit Motive
  - Existing trade connections
  - Repetition
  - Financing
  - Timing – between purchase and sale
  - Selling Organisation
  - Method of acquisition – donation ?
  - Work done on asset before sale
  - Nature of asset

Small Trading Exemption

- Only if all other exemptions have been considered.
- ITA 2007 s.526 & CTA 2010 s.480
  - Limit is greater of
  - £5k; <u>and</u>
  - the lesser of £50,000 and 2.5% of charities gross income

Charity Shops

Sale of donated goods – not trade just realisation of a gift.

Washing, sorting – subjecting to a process – badge of trade.

Charities and VAT

Complex !!

Must register for VAT – if it makes taxable supplies

<u>NOT AUTOMATICALLY EXEMPTED FROM VAT</u>

Charity VAT

Does charity make a supply

back to basic rules – something for money

Badges of trade

Grant income

Generally outside scope

Specific purpose

Third Party consideration.

Donation Income – sponsorship ?

Charity VAT

Exempt - fundraising

- Must be advertised as a fundraiser eg
  - Dinners, balls and discos
  - Fairs, Films
  - Garden shows

Zero

- Advertising
- Sale of donated goods

Charity Buildings

May obtain zero rated construction for a building which it intends to use for a non business purpose.

- 5% rule wef 1/7/10 (was 10%)
- 95% of time available for use
- 95% of floor space
- 95% people using

Problem – commercial or trading activities

Governance & Compliance

As a trustee, you must run your charity in a way that complies with your charity's governing document and the law.

This includes making sure your charity achieves its purposes.

Every trustee is responsible for this. Even if certain tasks are done by individual trustees, employees or volunteers, all trustees are responsible

Governance & Compliance

Public benefit is what makes charities different from other organisations.

It is about providing a clear benefit for a wide enough section of the public when delivering your charity's purposes.

You must run your charity for the public benefit.

Governance & Compliance

As trustees, you need to work together to make the best decisions you can for your charity

act within your powers

act honestly and with good intentions, and only in your charity's interests

be sufficiently informed, taking any advice you need

take account of all relevant factors

ignore irrelevant factors

manage conflicts of interest

make a decision that is within a range of decisions that a reasonable body of trustees could make

Record Keeping

- Record in your meeting minutes or separately:
  - meeting dates and who attended
  - any conflicts of interest – who they affected and how you handled them
  - what information and advice you used, and how you used it
  - options you considered and the main reasons for your decision
  - any disagreements worth noting
  - the results of any vote
  - Check that this is happening so that you can show that you have acted properly.

Record Keeping

Set a budget and follow it - By checking how much your charity receives and spends against the budget, you can identify problems in good time and agree what to do about them

Make sure that your charity keeps records to show all the money coming into your charity and the money it spends to help it meet its aims.

Check that your charity has adequate records :

for example bank statements and minutes of any meetings where significant decisions were taken

the charity's assets and liabilities

You must ensure that your charity keeps accounting records for:

6 years for a charity that is not a company

3 years for a company charity

Meetings

You must usually make your decisions at meetings. Follow your governing document on when to call and hold meetings, and how to run them.

At the beginning of your trustee meeting ask about conflicts of interest.

Meetings & Costs

Ensure that you have enough money to settle bills as they fall due. Act quickly if there is a significant change in the amount of money coming into or going out from your charity

All trustees can claim expenses - As a trustee you cannot receive any other payments or benefits from your charity unless the charity's governing document allows it

Meetings & Costs

Manage & Identify conflicts of interest

There are 2 common types of conflict of interest:

financial conflicts and

loyalty conflicts.

Conflicts can affect all types of charities. But you must identify and deal with them properly

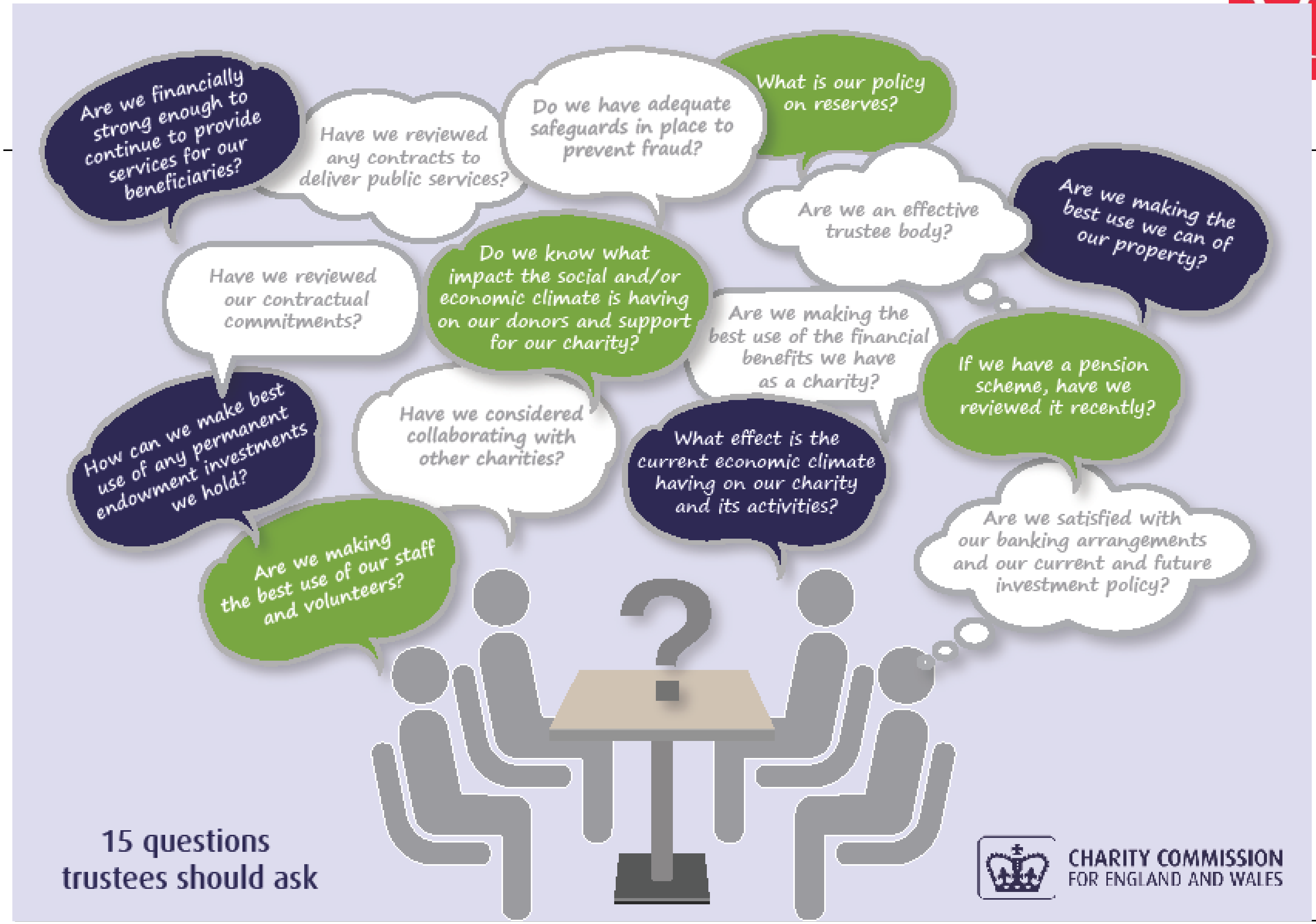
Managing Conflicts

DECLARE CONFLICTS OF INTEREST

CONSIDER REMOVING CONFLICTS OF INTEREST

MANAGE CONFLICTS OF INTEREST

KEEP A RECORD OF CONFLICTS OF INTEREST


Are we financially strong enough to continue to provide services for our beneficiaries?
Have we reviewed any contracts to deliver public services?
Do we have adequate safeguards in place to prevent fraud?
What is our policy on reserves?
Are we an effective trustee body?
Are we making the best use we can of our property?
Have we reviewed our contractual commitments?
Do we know what impact the social and/or economic climate is having on our donors and support for our charity?
Are we making the best use of the financial benefits we have as a charity?
If we have a pension scheme, have we reviewed it recently?
How can we make best use of any permanent endowment investments we hold?
Have we considered collaborating with other charities?
What effect is the current economic climate having on our charity and its activities?
Are we satisfied with our banking arrangements and our current and future investment policy?
Are we making the best use of our staff and volunteers?
15 questions trustees should ask
CHARITY COMMISSION FOR ENGLAND AND WALES