

Unlocking charitable funds

In our focus on the challenges of financial governance for charity leaders, we start with a recent initiative that encourages charities to revitalise dormant or inactive funds.

Laura Soley and Charlotte Blackburn explain how charities can respond.



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Laura has a broad practice covering general charity law and governance matters, with a particular focus on dealing with technical charity law issues and structures.

Laura regularly advises on charitable trusts, restricted funds and endowments, including setting up new endowments and releasing out-of-date funds.



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Charlotte is a newly-qualified solicitor in our Public and Regulatory department. She completed her training contract with Bates Wells and has a broad range of experience across our practice areas.

As many will be aware, the Charity Commission, teaming up with the Department for Digital, Culture, Media and Sport and United Kingdom Community Foundations (a registered charity), embarked on a programme last year, the 'Revitalising Trusts Programme', targeting charities with small levels of expenditure.

The aim is to encourage 'dormant, ineffective or inactive' charities to close down or revitalise – the concern being that there are substantial charitable funds held by these charities that are not currently being spent on charitable activities.

The project is contacting those charities which, in the last five years, have spent less than 30% of their income, or have not spent any money at all. It encourages them to consider transferring their funds to a Community Foundation, wind up or revitalise the charity's activities by changing its purposes.

There are of course many reasons why charities may not be spending all of their income in any given year. These include difficulty identifying appropriate beneficiaries, trouble finding the time and resources to devote to administering the funds or being hampered by out-of-date purposes. We still come across many charities which have purposes that are archaic ('relief of distressed gentlewomen') or unworkable (relief of poverty of employees of a company that no longer exists) or are otherwise in urgent need of modernising or updating. The commission recognises these issues, but warns that it may take regulatory action against trustees who do not engage with the programme; we are aware that the commission has been actively following up with charities contacted under the project.

The problems identified by the Charity Commission can apply equally to charities holding restricted and endowment funds that they are struggling to spend.

What can you do to revitalise dormant or inactive charitable trusts or restricted funds?

There are different ways that trustees can seek to unlock charitable funds. One option is to transfer the funds to another charity, such as a Community Foundation.

But there are other ways forward. The legal powers contained in the Charities Act 2011 empower the trustees of small charitable trusts and trustees of charities that hold smaller restricted and endowment funds to make changes to those funds to enable more effective use.

Where the charity's income (or, in relation to a restricted/endowment fund, the income of the restricted fund) was £10,000 or less in the last financial year and certain conditions are met, the trustees – subject to Charity Commission consent – can use these statutory powers to:

- resolve to change the purposes of the charity; and/or
- resolve to transfer the funds to another charity and wind up.

Regardless of the size of the charity/restricted fund, there are also powers for trustees to decide – again, if certain conditions are met – to spend permanent endowment. Charity Commission consent is only needed for larger permanent endowment funds (broadly, where the fund is worth more than £10,000 and its annual income exceeds £1,000).

If these powers are not available for any reason, there are other routes available to help you.

A way forward

We have helped numerous clients to revitalise and unlock their charity's funds, including restricted funds and endowments. Please feel free to get in touch if you are facing any of these issues and would like advice on your options.