

# Grant funding basics

Guidance for charitable funders/charities looking to make grants

**Produced in partnership with Unbound Philanthropy**



# Using this guidance

Making grants can be a useful way of furthering your charity's purposes, either on a regular basis or for a one-off programme or project, provided grant-making is managed properly and the legal considerations applying to charity grant making is understood. This guidance aims to set out what charities need to think about when considering making grants.

This guidance will be most useful to your charity if it specialises in grant-making, but the principles will also be helpful for any charity looking to fund other organisations on a one-off/infrequent basis. The principles set out in this guidance will also be helpful for your organisation's general funding decisions.

Where this guidance refers to a "funder" it assumes that the funder is itself a registered charity. However, some of the legal and regulatory issues covered in this guidance will also be relevant to non-charitable funders.

This guidance is split into five short parts:

1. **Grant-making basics**
2. **Funding other charities**
3. **Funding non-charities**
4. **Funding overseas activity**
5. **Steps before making a grant (with a template checklist your charity can use before funding campaigning activity)**

## 1. Grant-making basics

Charities can further their purposes (i.e. the charitable aims they were set up to achieve) by making grants to other organisations. Charity Commission guidance expressly accepts that "*grant-funding can create opportunities for charities to further their purposes by reaching individuals or communities that they might not otherwise be able to reach. It can benefit causes or groups which may otherwise struggle to obtain the support they need.*"

Before making a grant, the charity's trustees must be confident that:

- Funding the activity is within the funder's own charitable purposes, for the public benefit
- The funder's governing documents do not prevent the giving of money to another charity (this would be unusual and should not be the case for any charity whose core activity is grant making)
- Appropriate monitoring arrangements are in place to check that the funds are used as expected by the organisation that is being funded

- Overall, giving the grant is in the charity's best interests
- The decision to make the grant is recorded (in the minutes of a trustees' meeting, for example, though you may need to document more detail about your assessment of the risks involved – see part 5 of this guidance).

The Charity Commission provides further detail in its guidance for charities working with other charities, available [here](#), and provides further information applying generally to trustee decision making, including decisions to make grants, in its guidance note '[cc27](#)'.

### Trustee decision making

Broadly, when your charity's trustees are making any decision, including deciding to make grants, they need to:

- act within their powers;
- act in good faith and only in the interests of the charity;
- make sure they are sufficiently informed;
- take account of all relevant factors;
- ignore any irrelevant factors;
- manage conflicts of interest; and
- make decisions that are within the range of decisions that a reasonable trustee body could make

## 2. Funding charities

If your charity is going to provide a grant to a registered charity, you will need to consider whether the charitable purposes of the intended grant recipient are compatible with those of your own charity. If the grant recipient's purposes are the same or narrower than your charity's objects then you can provide unrestricted funding to the recipient. This basically means that you can give a grant to the charity without restrictions on what it can or cannot spend the money on.

*Example: You are a charity with the charitable purpose of advancing health in Manchester. You want to campaign against a change in policy that will stop a particularly effective diabetes control medicine being available on the NHS in a Manchester. Another charity with a good profile in Manchester has a heavily resourced campaigning team and its own bespoke campaigning platform, so your charity's trustees decide that it is in its best interests to make a grant to the other charity to undertake the campaign. The charity you want to make the grant to has charitable purposes to advance health across the UK and Europe and to relieve poverty. Because the charity's purposes are wider than yours, you will need to make sure that the charity only spends your grant on activities that support your narrower charitable purposes – so you would have to make the terms of the grant stipulate that the grant recipient could only use the money on a campaign to advance health in Manchester (for example, by campaigning against the policy change to stop providing the diabetes medicine in your charity's area of benefit).*

If the intended recipient's purposes are wider than your charity's then you can only provide restricted funding to the recipient. Your charity would need to restrict use of the grant by the recipient to advance one or more of your charity's purposes. The charity that you make the grant to would have to account for the funding as a restricted fund, and only deduct general, core costs from that fund to the extent that they can be attributed to the recipient's work furthering your charity's purposes/the restricted terms of the grant.

*Example: You are a charity with the charitable purpose of advancing health in Manchester. You want to campaign against a change in policy that will stop a particularly effective diabetes control medicine being available on the NHS in a Manchester. Another charity with a good profile in Manchester has a heavily resourced campaigning team and its own bespoke campaigning platform, so your charity's trustees decide that it is in its best interests to make a grant to the other charity to undertake the campaign. The charity you want to make the grant to has charitable purposes to advance health across the UK and Europe and to relieve poverty. Because the charity's purposes are wider than yours, you will need to make sure that the charity only spends your grant on activities that support your narrower charitable purposes – so you would have to make the terms of the grant stipulate that the grant recipient could only use the money on a campaign to advance health in Manchester (for example, by campaigning against the policy change to stop providing the diabetes medicine in your charity's area of benefit).*

If your charity's purposes are entirely different from those of the funder, the funder cannot fund that charity.

*Example: You are the same charity as above, with the charitable purpose of advancing health in Manchester. The campaigning charity that you were going to fund to campaign against the policy change in your charity's area of benefit has gotten into financial difficulties, so your charity's trustees decide not to go ahead with the grant. You have found another organisation that recently undertook an effective campaign against cuts to the number of teaching assistant positions in local schools. You check and the organisation is a registered charity. However, its only charitable purpose is to advance education. Your charity cannot provide a grant to the educational charity, because your charitable purposes are completely different.*

### 3. Funding non-charities

Sometimes a funder will want to provide funding to an organisation that is not a charity. This may be because the funder believes the non-charity is best placed to achieve the charitable impact that the funder wishes to fund, such as because:

- an overseas organisation is considered to have local knowledge, experience and contacts which make it best able to deliver charitable activity the funder wishes to support; or
- a UK organisation has been structured as a non-charity because its purposes are not exclusively charitable, but it has some planned activities which would advance the funder's charitable purposes.

Charities are able to fund non-charities, in these circumstances and others, as long as the charity's trustees are confident that the funds will be used only to further the charity's purposes. As the recipient will not itself be a registered charity, its activities will not be constrained by charity law or regulated by the Charity Commission, meaning that the trustees will need to take additional steps to assure themselves the funds will only be used charitably.

The Charity Commission has issued specific [guidance](#) for charities on grant funding an organisation that is not a charity, setting out the Commission's view of the additional steps that should be taken by charitable funders in these circumstances. To summarise:

- The Commission accepts that non-charitable campaigning organisations can be recipients of charitable grant funding, as can commercial companies, public sector bodies and organisations based overseas.
- Grants can be for specific activities or services or, in some cases, to develop the organisation's capacity to deliver activities or outcomes that will further the charity's own purposes.
- The Commission recognises that "All grant-making involves a degree of measured risk-taking. For example, any grant may fail to deliver the intended outcome" and "It is impossible to eliminate all risk". It accepts that the trustees are responsible for deciding what level of risk-taking is appropriate, responsible and reasonable for your charity in the circumstances.
- However, trustees should avoid exposing the charity to undue risk, meaning that it is important to carry out an appropriate risk assessment before committing to make a grant.
- Before deciding to make a grant to an organisation that is not a charity, the trustees must be able to justify the decision as being in the charity's best interests. This includes ensuring that:
  - reasonable steps have been taken to assess risks;
  - appropriate checks have been carried out on the recipient to ensure that it is a suitable organisation for the charity to work with;
  - the grant is only for activities, services or outcomes that will further the funder's purposes for public benefit;
  - any funding of support costs is limited to the specified activities, services or outcomes;
  - the terms of the grant require the recipient to comply with these restrictions; and
  - the grant does not give rise to more than incidental private benefit.

The Charity Commission believes that particular care is required when a funder is proposing to fund more complex charitable purposes, such as the promotion of community development or human rights. In these cases specific Charity Commission guidance applies<sup>1</sup> and the funder should consider taking appropriate advice.

In addition, the Charity Commission has published guidance on charities working with non-charities more generally, available [here](#).

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<sup>1</sup> <https://www.gov.uk/government/publications/promotion-of-rural-and-urban-regeneration-rr2> and <https://www.gov.uk/government/publications/the-promotion-of-human-rights-rr12>

## 4. Funding Overseas Activity

Particular Charity Commission and HMRC guidance applies where a charity will be funding overseas activity.

The test used by HMRC in relation to payments to overseas bodies is that:

*“A charitable payment made to a body outside the UK will only be charitable expenditure for UK tax purposes by the charity provided the charity can clearly demonstrate to the Commissioners for HMRC that it has taken steps that the Commissioners consider are reasonable in the circumstances to ensure that the payment is applied for charitable purposes. If that condition isn’t met, the payment is treated as non-charitable expenditure by the charity for UK tax purposes”.*

HMRC considers a number of factors when deciding whether trustees have taken reasonable steps to ensure payments made overseas are applied for charitable purposes. The charity may be required to provide:

- information and/or supporting documentation about the recipient of the funding;
- the specific charitable purpose for which the payment was given, how the decision to provide the payment was arrived at and what guarantees/ assurances were given in relation to these;
- the steps the funder took to ensure the payment will in fact be applied for charitable purposes (such as review of financial controls, record keeping and monitoring); and
- the follow-up action taken by the funder to confirm that payments were applied properly.

HMRC guidance states that the nature of the steps that should be taken in this area will depend on the scale of operations, the size of the sums involved and the relevant circumstances and gives some illustrative examples:

- For medium to large grants or grants as part of an ongoing commitment (HMRC give an example of a £10,000 grant) detailed due diligence is required, together with a legally binding agreement being put in place to ensure the funds will be used charitably and appropriate reporting/ verification of how a payment has been applied takes place.
- For larger sums of money and/or a long term commitment (HMRC give an example of £250,000 staged funding for an 18 month school building project) HMRC would expect to see comprehensive evidence of the trustees’ considerations, such as a detailed project plan, a formal funding application and records of the evaluation and decision-making procedures of the trustees. HMRC would also expect an agreement to be in place providing for staged payments, a clear set of monitoring/evaluation provisions and claw back provisions should the project fail or the building not be used as intended.
- HMRC give a further example of a £1 million endowment for charitable purposes. HMRC would expect the charity’s trustees to be able to demonstrate robust audit trails in support of their decision and obtain detailed and binding assurances from the recipient that the funds will be applied for charitable purposes (under English law).

Where a funder intends to fund activity in a high-risk area overseas, other areas of law may apply. In particular, charities may need to consider: anti-bribery, anti-fraud law and counter-terrorism law.

## 5. Steps before making a grant

It is important to ensure that your charity can demonstrate that it has followed the right process in approving a grant. Although funding other organisations' activities can be an effective way to advance your charity's purposes, there can be risks (and if you are funding political activity, as described in part 1 of our guidance on charity campaigning, then the arrangement may attract particular scrutiny).

Whenever a charity gives a grant it should:

- Carry out appropriate due diligence on the proposed recipient, and keep records of:
  - Whether or not it is a charity
  - Why it is considered to be a suitable recipient of funding
  - Why it is expected to deliver the grant objectives effectively
- Agree appropriate terms and conditions with the recipient, generally through a formal grant agreement (see below)
- Put appropriate monitoring arrangements in place (again generally through within a grant agreement) and ensure they are followed in practice
- Ensure grants are authorised by the trustees, or within a framework of delegation that ensures appropriate oversight and scrutiny
- Know what to do if things go wrong, which might include:
  - suspending, withdrawing or requiring repayment of funding;
  - planning how the recipient will respond to questions from staff, volunteers, members, donors, the public or the media; and
  - reporting a serious incident to the Charity Commission where necessary.

### Entering into a grant agreement

It will generally be appropriate for your charity to enter into a grant agreement with organisations it wants to fund. Taking account of relevant Charity Commission guidance, this agreement should generally include:

- How the grant can be spent, in line with your charity's purposes
- The time period for the delivery of the activities or outcomes that you are funding



- Other appropriate terms and conditions, depending on the value of the grant and your charity's trustees' assessment of the risks, such as:
  - requirements for receiving interim and/or final reports from the recipient on how they have spent the grant
  - monitoring arrangements which will enable the trustees to be satisfied that the grant is actually used for the agreed purpose
  - what will happen if the terms and conditions can no longer be complied with or are breached
  - appropriate protection of the funder's intellectual property rights and reputation

In the case of a small, low-risk grant, the Commission accepts that a letter or short agreement may be sufficient. In other cases, your charity may need a more detailed agreement and you should consider taking professional advice.

### Proving good practice

It is important not just to follow good practice in the provision of grant funding, but also to be able to prove that you have done so.

The decision to make a grant should be recorded, together with the basis on which it has been decided that doing so is in the best interests of the charity. Often it will be prudent for this to take the form of minutes of a trustees' meeting. To help with this, we have included a checklist of the questions that should be asked and answered by the trustees in the course of their decision making (set out on the next page of this guidance).

Your charity's trustees should also be confident that their decision is made on the basis of credible evidence, including evidence that the funded activity can reasonably be expected to advance the funder's purposes. To assist with this, you might ask the grant recipient to complete a matrix similar to the example we have provided in section 1 of the toolkit to our guidance on charity campaigning, which can be used to help both the grant recipient and the funder to justify their application of charitable resources to the proposed activity.

## Checklist for making grants

1. Are the funder's trustees confident that the funds will be used only for purposes which fall within the funder's charitable purposes, for public benefit?
2. Are appropriate procedures in place to ensure that the funds are only used as agreed by the funder?
3. Do the funder's governing documents prevent the giving of money to the recipient?
4. Is the recipient a charity?
5. Where the proposed recipient is not a charity, has funder ensured that:



- (a) reasonable steps have been taken to assess risks?
  - (b) appropriate checks have been undertaken on the recipient to ensure that it is a suitable organisation for the charity to work with?
  - (c) any funding of support costs is limited to the specified activities, services or outcomes?
  - (d) the terms of the grant require the recipient to comply with these restrictions?
  - (e) the grant does not give rise to more than incidental personal benefit?
6. Is the recipient based overseas? If so, will the funder be able to provide HMRC on request with:
- (a) information and/or supporting documentation about the recipient of the funding?
  - (b) the specific charitable purpose for which the payment was given, how the decision to provide the payment was arrived at and what guarantees/ assurances were given in relation to these?
  - (c) the steps the funder took to ensure the payment will in fact be applied for charitable purposes (such as review of financial controls, record keeping and monitoring)?
  - (d) the follow-up action taken by the funder to confirm that payments were applied properly?
7. Has a formal grant agreement been entered into?
8. What monitoring arrangements are in place, and will they be followed in practice?
9. What would the funder do if things go wrong? Will it be able to:
- (a) Suspend, withdraw or require repayment of the funding?
  - (b) Respond to questions from staff, volunteers, members, donors, the public or the media?
  - (c) Report a [serious incident] to the Charity Commission where necessary?
10. Overall, can the trustees justify the grant as being in the funder's best interests?
11. If and when the decision to fund the recipient is made, has it been recorded in the minutes of a trustees' meeting of the funder (or where appropriate in light of the scale of the proposed grant and the risk involved)?

## Further Resources

Charity Commission guidance on working with other charities:

<https://www.gov.uk/guidance/work-with-other-charities>

Charity Commission guidance on funding non-charities:

<https://www.gov.uk/guidance/draft-guidance-grant-funding-an-organisation-that-isnt-a-charity>

Charity Commission guidance on charities with connections with non-charities:

<https://www.gov.uk/guidance/guidance-for-charities-with-a-connection-to-a-non-charity>

Charity Commission guidance on trustee decision making:

<https://www.gov.uk/government/publications/its-your-decision-charity-trustees-and-decision-making>

Charity Commission guidance on reporting serious incidents:

<https://www.gov.uk/guidance/how-to-report-a-serious-incident-in-your-charity>

Charity Commission guidance on campaigning:

<https://www.gov.uk/government/publications/speaking-out-guidance-on-campaigning-and-political-activity-by-charities-cc9>

Charity Commission guidance on overseas funding – due diligence, monitoring and verifying the end use of charitable funds:

<https://www.gov.uk/government/publications/charities-due-diligence-checks-and-monitoring-end-use-of-funds>