

UNITED GRAND LODGE OF ENGLAND

CHARITIES ACTS

Purpose of guidance

This guidance is intended for Brethren who find themselves responsible for charity funds. It is prompted by recent changes in the law. The primary current legislation is the Charities Act 1993 and the Charities Act 2006.

Although some advice is given in this guidance, Brethren running charities are personally responsible for ensuring that they comply with all the statutory and other legal requirements. The Charity Commission itself publishes more detailed guidance, available in hard copy or on-line (www.charity-commission.gov.uk/). If any Brother is still concerned, he should ask the Charity Commission or seek legal advice.

Brethren are reminded that failure to comply with the law relating to charities may bring Freemasonry into disrepute. In addition, H.M. Revenue & Customs may disallow claims for tax relief if payments are made for objects that are not charitable.

Charity trustees

Various duties and responsibilities are placed on charity trustees. Anyone who has the general control and management of the administration of a charity is a charity trustee. He may be called something else – a member of the management or executive committee, a governor, a director, or some other title. He may not have been appointed in a formal document: a resolution in Lodge may do. Whatever he is called and however appointed, if he is a member of the board or committee with overall responsibility for a charity, he is a charity trustee.

Some people are disqualified from being charity trustees. They include:

- Anyone convicted of offences involving of dishonesty or deception; and
- An undischarged bankrupt.

Duties of charity trustees

The trustees of any charity must register it with the Charity Commission unless its gross income is not more than a set figure, £5,000 a year at the date of this guidance. Most small Masonic charity funds will therefore fall within the exception, though there is nothing to stop them registering.

Brethren should understand that a charity is not a registered charity simply because it has a governing document and claims tax relief from H.M. Revenue & Customs. It has to be registered with the Charity Commission itself, when it will be given a registration number.

Charity trustees have other duties. Whether or not the charity is registered, they must:

- Keep financial records;
- Prepare accounts;
- Have the accounts audited or examined, in the case of larger charities; and
- Report to the Charity Commission (though only if asked, when the charity is small).

There is a parallel duty to prepare accounts and have them audited under rule 153 of the Book of Constitutions.

What a charity is

The definition of a charity in the legal sense is not the same as the popular one. A charity need not be an organisation: there may be nothing more than a fund in the bank. What determines whether a fund is, or is not, a charity is whether it has to be applied exclusively for certain particular purposes. The purposes must be one or more of those listed in the legislation, which are:

- Preventing or relieving poverty;
- Relieving those in need because of youth, age, ill-health, disability, financial hardship or other disadvantage;
- Advancing various things, namely
 - education;
 - religion;
 - health or the saving of lives;
 - citizenship or community development;
 - the arts, culture, heritage or science;
 - amateur sport;
 - human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity;
 - environmental protection or improvement; and
 - animal welfare;
- Promoting the efficiency of the armed forces of the Crown, the police, fire and rescue services or the ambulance services; and
- Other similar purposes.

In every case the purpose must also be for the “public benefit”, a test introduced by the 2006 Act. So not all benevolent and unselfish purposes are necessarily charity purposes in law. But a fund which is stated to be “for charitable purposes only” will qualify: there is no need to be more precise.

There will usually be a governing document, which is often a trust deed but may be called “rules”, “by-laws”, a “constitution” or even “articles of association”. It is that document which will identify the purposes of the fund and which will state whether or

not it can be used solely for charity purposes. What a fund is called – e.g. “Benevolent Fund” – is not conclusive and may be misleading: a fund called a Benevolent Fund may or may not turn out to be a charity when the governing document is checked.

Lodges which are uncertain about the purposes of a fund, or whether it is a charity, may need to take legal advice or study the information available on the Charity Commission’s website. If they apply to register, and the Charity Commission does register the fund as a charity, then it is automatically a charity. A useful test (short of registration) is whether H.M. Revenue & Customs allow it tax relief, either by repaying income tax on donations or by allowing deposit account interest earned at a bank or building society to be paid gross. But Brethren should bear in mind that a fund may be a charity even if no claim for tax relief has been made.

No Lodge is itself a charity, even though it raises money for charity.

Use of charity money

Where a fund is a charity, it can be used only for charity purposes – and only for those specified in the governing document. Money can be given to other charities with suitable purposes: it does not have to be spent directly on relieving poverty and so on. Registered charities are listed on the Charity Commission’s website.

Providing “Christmas boxes” for the widows of deceased Brethren (unless the particular widow is truly in need) or flowers at funerals, though in the best Masonic tradition, are not charity purposes in law. They must not be paid for out of any charity fund. But such expenditure can be met out of the general funds of a Lodge or out of a non-charity fund or from collections (e.g. at table) which are not designated for a charity fund.

Because of the restrictions placed on the use of charitable funds it is important that Lodges clearly identify the use to which the proceeds of any collection are intended to be put (just as when a raffle is held the object to which the proceeds are to be applied must be clearly stated before any tickets are sold). Thus it will usually be the responsibility of the Master, if a collection is taken in Lodge, or perhaps the Almoner or Charity Steward if a collection is taken during or after the dinner, to make a clear announcement that the proceeds are to go to a named charity, or to the Lodge’s charity fund, or to provide Christmas gifts to widows, or to a Lodge fund which is to be used for purposes that are benevolent, but not in law charitable. It is important that such funds are kept separate and distinct.

Relief Chest Scheme

The Relief Chest Scheme was set up by the Grand Charity (itself a registered charity) in 1986. The Scheme is specifically designed to relieve Lodges (and other Masonic units) of the administrative burdens of charity funds, while leaving them in complete control of the use of the money, as long as it is paid for charity purposes only. Lodges’ contributions are held as individual “Relief Chests” within the Scheme.

The Scheme is described in a leaflet and operating manual available from the Relief Chest Scheme office. Under it the Grand Charity does all the routine administration of receipts, covenants, reclaiming tax and investment. It makes donations as and when required by the Lodge (or other Masonic unit). It also produces annual accounts and complies with all the requirements of H.M. Revenue & Customs and the Charity Commission. All this is done free of charge to the Lodge, as a service to Freemasonry. Lodges have no need to register their own Relief Chests, since they are already part of a registered charity.

The Relief Chest Scheme is an ideal way for most Lodges to gain the tax advantages of having a charity, and a good rate of interest, while avoiding the complicated administration required by the legislation.

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