

Government response to 'Technical Issues in Charity Law' report

The Department for Digital, Culture, Media & Sport has issued its response to the Law Commission's report "Technical Issues in Charity Law", which followed up on a number of issues originally raised in Lord Hodgson's 2012 review of the Charities Act.

The Minister for Civil Society confirms that the majority (but not all) of the report's 43 findings are accepted and will be implemented in due course.

We will not list all recommendations here, but some of the suggestions include:

- Periodic review of financial thresholds in the Charities Act with a view to increasing them in line with inflation. The Government agree that a review should be made at least every 10 years, with the next review being in 2022.
- Simplification of the processes to amend a charity's governing document and align them across different types of charity. This would make the Charity Commission's (CC) decisions on such changes simpler.
- Some relaxation to the rules for failed fundraising appeals. Sometimes the proceeds of fundraising appeals raise too much or too little and under current legislation, the charity needs to contact donors to offer to return their donation if the fundraising target is not met. The Law Commission has suggested a threshold (£120) below which charities would not be required to contact a donor if a fundraising appeal failed to meet the target (unless the donor had given specific stipulations to the contrary). Where proceeds of a failed appeal are in excess of £1,000, CC agreement is required before the funds are diverted.
- Simplifications to the rules surrounding the purchase, sale and mortgage of charity land have been suggested to include amongst other things, a widening of the category of designated advisers on land transactions.



- A simplification to the definition of permanent endowment to give greater clarity; removal of the current exclusion for corporate charities to release restrictions on permanent endowment; and to allow a statutory power to borrow up to a set limit from permanent endowment as long as it is recouped within a stated number of years.
- Changes to the powers to remunerate trustees. Under the 2011 Charities Act Trustees may be remunerated for the supply of services but not for goods. It is proposed that the power be extended to cover both services and goods. The CC should have the power to authorise a trustee to be remunerated where work has been undertaken for the charity and it would be inequitable for the trustee not to be remunerated.
- Ex gratia payments made from charity funds. “Ex gratia” payments out of charity funds are ones that the trustees feel morally obliged to make but they have no legal power to do so. This can sometimes arise when administering wills if a change is made to include a payment to a family member. Currently, CC permission must be sought for any ex gratia payments and this can be time consuming and cause delays. The Government agrees that small ex gratia payments should be permissible without CC approval on a sliding scale as follows:
 - Up to £1,000 for a charity with gross income in the prior year of < £25,000
 - Up to £2,500 for a charity with gross income in the prior year of > £25,000, <£250,000
 - Up to £10,000 for a charity with gross income in the prior year of > £250,000, < £1m
 - Up to £20,000 for a charity with gross income in the prior year of > £1m
- The CC’s power to require a charity to change its name. The CC would have the power to require a charity to stop using a working name (and reject a formal name) where the name is too similar to another existing charity or if the name is inappropriate/offensive. The CC would also be within its right to delay entering a charity into the register.



The full document can be accessed [here](#).



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