



THE CNWL  
NHS FOUNDATION TRUST  
CHARITABLE FUND

Registered Charity Number 1082989

# **INTRODUCTION TO CHARITABLE FUNDS**

## **CF-0001**



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## CF-0001 Introduction to Charitable Funds

### S1. Introduction

Central and North West London NHS Foundation Trust (The Trust), along with most other NHS organisations has an established Charity which receives donations and pays out grants which benefit the patients, service users and carers that use its services.

However, all NHS charities differ in their structure, beneficiaries, funds that are available, policies and procedures. Therefore, even if you have experience of charitable funds, it is worth familiarising yourself with this and other documents, so that you understand how things operate here.

### S2. Governance

Central and North West London NHS Foundation Trust Charitable Fund (The Charity), is a charity registered with the Charity Commission for England and Wales – Registration Number 1082989.

Despite its name, the charity benefits a number of NHS organisations. The Charity holds funds which directly benefit:

- Central and North West London NHS Foundation Trust
- Camden and Islington NHS Foundation Trust
- NHS England (London)

The Charity is controlled by a Corporate Trustee – namely the Board of The Trust. What this means is that the members of the Board of the Trust automatically become a member of the body that has responsibility for the funds held and administered by The Charity. However it is important to recognise that they are not appointed individual Trustees, but take on collective responsibility, this means that any role they may hold within the Trust is not recognised by the charity, and whenever the individual leaves the board of The Trust, they no longer have the right to participate in the running of the charity.

The Corporate Trustee meets, when required, at the same meetings as the Board of The Trust – but at a different time and with a separate agenda/ minutes.

Oversight and decision making by the Corporate Trustee is undertaken by the Charitable Funds Committee (CFC). The CFC meets every two months. The CFC is chaired by a Non-Executive Director, and the decision making is made up of Executive and Non-Executive Directors of The Trust. The CFC is supported by the Associate Director of Charity Development, the Director of the Scholl Fund, and representatives of Camden and Islington NHS Foundation Trust and NHS England (London)



Day to day management of the Charity is invested by the Corporate Trustee in the Associate Director of Charity Development, who can be contacted by:

E-mail – [andrew.machin@nhs.net](mailto:andrew.machin@nhs.net)  
Mobile – 07702119041  
Post – Associate Director of charity Development  
Central and North West London NHS Foundation Trust  
Finance Department  
350 Euston Road  
Regents Place  
London  
NW1 3AX

The Charity is required to follow the Standing Financial Instructions of The Trust, except where the Corporate Trustee has explicitly adopted an alternative policy or procedure

### **S3. Objects**

Expenditure is only charitable if it can be demonstrated that it is both legal and fulfils the objects of the charity. The object of The Charity are defined in the Trust Deed, (as adjusted by a supplemental amendment) as:

“For charitable purposes relating to the general, or any specific purposes of the Central and North West London NHS Foundation Trust or to purposes relating to the health service.”

### **S4. Beneficiaries**

This object is broad, and in effect covers (nearly) all activities that The Trust, and the NHS may undertake. However there is a misconception throughout the NHS as to who the beneficiaries of charitable expenditure are

The question of defining who the beneficiaries of NHS Charitable Funds are, was clarified through legal advice received from Alison Paines at Withers LLP, Honorary Legal Advisor to the Association of NHS Charities on 25<sup>th</sup> February 2016. This advice explains that the Charity Commission recognises in its NHS charity guidance that the principle beneficiaries of an NHS charities unrestricted or general purpose funds are the patients and service users of NHS services. This does not exclude Staff benefiting directly from these funds – however, the Corporate Trustee must be assured that patient and service users will benefit from this expenditure.

The CFC has adopted the criteria that any expenditure from charitable funds must be able to demonstrate either direct or indirect benefit to patients, service users and carers, Charitable Expenditure which only benefits staff will not be regarded as charitable, and will not be met by The Charity

## S5. Impact

The CFC are concerned not only with who benefits from charitable expenditure, but what long term benefit the beneficiary receives from the expenditure - this is "Impact".

Impact is concerned with what short or long term change beneficiaries experience in terms of care or opportunities. It is not "How many have benefitted", nor "How much was spent/ provided". Impact can be difficult to measure – it is often subjective, but it can be recorded in terms of "stories" For example

"The charity spent £1,000 upgrading the Occupational Therapy Kitchen on "X" Ward – one impact was that long term patient "A" who uses a wheelchair, was able for the first time to learn to store food, cook, wash up – all skills that meant that for the first time she was able to move off of the ward and to live in supported accommodation"

The charity strongly encourages staff to record and forward these stories to the Associate Director of Charity Development. If photos can support the story, then they are welcome also

## S6. Types of Charitable Fund

Charities have a unique way of describing the money they hold. To understand why, it is useful to consider the differences between a "commercial" transaction, and a "Charitable" one

A commercial transaction is one where there is a two way transfer of benefit. The purchaser gives money to the commercial entity in exchange for an item or service. Not only this, the purchaser is protected by a raft of commercial law before, during and after the transaction, so that if the goods are not fit for purpose, then the purchaser can seek redress from the commercial entity.

A charitable transaction is one where there is a one way transfer of benefit. The donor gives money or other assets to the charity, and the charity gives nothing, or something of immaterial value (such as a letter of thanks). As a consequence the donor is not protected by commercial law, and if they are unhappy with how the donation has been used, they cannot seek redress. The donation cannot even be repaid (except in exceptional circumstances) as the act of donating removes from the donor all moral and legal rights to the funds.

Therefore, to provide protection to the donor a separate body of charity law has been created. This law rests on placing on the charity a legal obligation to fulfil any restrictions imposed on the donation by either the donor or the charity themselves

This gives rise to a simple division into which any donation can be met:

- a. Unrestricted (General purpose) Funds – Neither the donor or the charity have placed a restriction on the donation. The donation can be used for any purpose which:

- a. Is legal
  - b. Meets the charities objects
- b. Restricted Funds – Either the donor or the charity has imposed a restriction on how the donation can be used. The charity is therefore legally obliged to use the donation in a way which:
- a. Is legal
  - b. Meets the charities objects
  - c. Meets the restriction imposed on the donation

A further subdivision can be made to each of the above Funds:

- a. Designated Funds – This is a form of Unrestricted Fund, where the trustees have ring fenced funds for a particular role, purpose, service, or geographical area. The funds remain Unrestricted, but can be managed separately. However, they can, if unused by merged back into the Unrestricted Fund. Many service/ team funds are designated rather than Restricted, as the donors instruction are in the form of a “wish” rather than an “obligation”.
- b. Endowment – a specialist form of Restricted Fund, where the donor donates a sum (the original Capital) which cannot be spent. The sum is invested, and the resulting income/ gain (depending on the policy adopted by the Corporate trustee) can be used to meet the restricted purpose

## **S7. Oversight and Regulators**

The Charity is required to meet all laws and obligations imposed on it as a result of its residence in the United Kingdom and the activities it undertakes (tax/ health and safety/ GDPR etc).

In addition the activities of the Charity are regulated by two specialist regulators:

- The Charity Commission for England and Wales. (CNWL Charity is registered)
- Fundraising Regulator (CNWL Charity is not registered)

An important obligation that the charity is required to fulfil each year as part of public oversight and regulatory scrutiny, is the preparation and audit of a set on annual accounts and Trustees report (as at the 31<sup>st</sup> March each year) In addition the charity must submit to the Charity Commission an annual return in a proscribed format. Within 10 months of the end of the previous Financial year (by 31<sup>st</sup> January the following year).