



Case Report

Cowbridge Comprehensive School Trust (525559)

About the charity

The charity had previously provided a site for a school in Cowbridge in the Vale of Glamorgan. The site has since been sold and the charity uses the income from its endowment in accordance with its object to 'augment the existing funds of the Sir Thomas Mansell Franklen Trust'. The Sir Thomas Mansell Franklen Trust (linked charity number 525559-1) has objects to fund provision beyond that provided by the local authority for Cowbridge Comprehensive School and to promote education for current and former pupils of the school.

Why the Charity Commission got involved

The charity's legal adviser, acting on the instruction of the trustees, asked us for consent to remove the restriction on a part of the charity's permanent endowment under section 282 to 284 of the Charities Act 2011.

The trustees' proposal was to release a proportion of the £3 million permanent endowment to pay for the building of a new reception facility and sixth form study centre at Cowbridge Comprehensive School. They proposed that £300,000 would be released from the endowment and that it would then be paid back at a rate of £50,000 each year recouped from the annual income of the charities.

They advised us while the income of the fund amounts to around £100,000 per year, the cost of the works amounts to approximately £300,000 in total. They pointed out that they would be required to wait at least 3 years until enough income built up before the works could be commenced and paid out of income of the charity. The trustees considered this would harm the education of students at the school and that it was not necessary given the value of the endowment fund.

The action we took

We first considered the request under the provisions of S282 to 284 of the Charities Act 2011, which provides for the commission to grant permission for the trustees spend the whole or part of the endowment of a charity. However, in this case, we took the view that it should be considered under the provisions of S105 of the Charities Act 2011, which gives the commission the power to authorise dealings with charity property as the proposal was to repay the money released from the endowment.

What we found

We were satisfied that:

- the proposed works are for the benefit of pupils at the school which the charity supports as a part of its objects
- the works are not ones which the local authority is obliged to undertake
- the sum to be released represents only one tenth of the charity's permanent endowment
- the permanent endowment will be repaid within 6 years
- the charity has the income to meet the proposed repayments
- that the proposal is expedient in the interests of the charity

We therefore issued an order authorising the release of the restriction on £300,000 of the charity's permanent endowment on the terms set out.

Impact of our involvement

The charity is able to make immediate improvements for the benefit of the pupils of Cowbridge Comprehensive School which would not have taken place, for some years, without the permission granted by the commission.

Lessons for other charities

Capital held as permanent endowment cannot usually be spent, but in some circumstances the law allows charities to free up this type of capital. Charities may wish to free it up for capital projects (such as the case in this example). Our guidance '[Permanent endowment: rules for charities](#)' provides more information.

In this case, the charity opted to 'recoup' or pay back from its own income the capital that it released but needed to get our consent (under s.105 of the 2011 Act) before proceeding. We need to be satisfied that the proposals are 'expedient in the charity's interests' and will consider the sort of criteria described in this case. An alternative, where less capital is involved, is for the trustees to pass a formal resolution which is valid if filed with us and we don't object.

If trustees identify an action that they believe would be in the best interests of the charity but they do not have the power to take that action, they should first consult their own legal advisers.

If the legal advisers are of the view it is a matter which the commission could authorise they should contact us through the online form on GOV.UK setting out their arguments.

Trustees should also follow our guidance on reaching decisions in the best interests of their charity. Our guidance [The essential trustee: what you need to know, what you need to do](#) sets out the 6 key duties of trustees.