

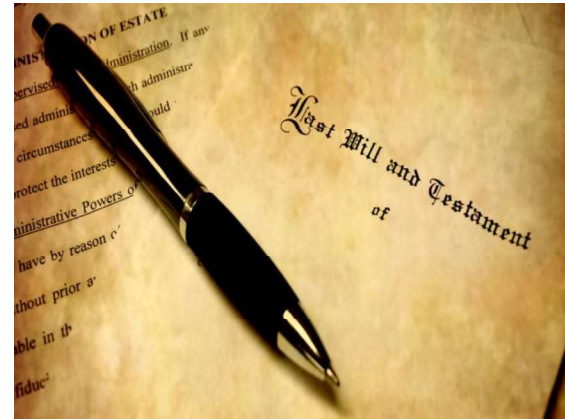
Understanding and utilising restricted funds



What is a restricted fund?

- Legal definition of a restricted (trust) fund.
- Why restricted funds are created and how.

- 1. Bequest (Will/Codicil).*
- 2. Deed of Trust.*
- 3. Special purpose appeal.*
- 4. Charity Commission Order/Scheme.*



- The importance of the 'originating' or 'governing' document.
- Accept or decline? The obligation to comply with the donor's direction.

Types of Restricted Funds



➤ Endowments:

Permanent:

'I give to Aidensfield Parochial Church Council the sum of £5,000.00 to be invested, with income to be applied towards supporting the homeless'.

Expendable:

'I give to Aidensfield Parochial Church Council the sum of £5,000.00 to be invested, with both capital and income to be applied towards supporting the homeless'.

➤ Restricted funds:

'I give to Aidensfield Parochial Church Council the sum of £1,000.00 for the purpose of improvements to the Parish Church.'

Types of Restricted Funds

➤ Designated funds:

Designated funds are not legally restricted, but internally 'ring-fenced' for a specific purpose by way of an internal resolution or other direction. Designated funds may be varied or undesignated at any time.

➤ Unrestricted funds:

Unrestricted funds may be stated '*for general/charitable purposes*', or simply without any reference to application at all.

➤ Stipendiary trust funds:

Pursuant to ss.11(2), (3) of the *Endowments and Glebe Measure 1976* (as amended by s.8 and Schedule 5 of the *Church of England (Miscellaneous Provisions) Measure 2000*), historical trust funds with a 'stipendiary' purpose are to be transferred to the Diocese general stipendiary account.

➤ Chancel repair trust funds:

Pursuant to s.52 of the *Ecclesiastical Dilapidations Measure 1923*, the Diocesan Board of Finance is the Managing Trustee of all historical Chancel Repair Funds, rather than the PCC itself. Consultation with the PCC is required.

Making the most of your restricted funds



The *Charities Act 2011* provides you with tools to maximize use of your available funds:

1. Consolidation of similar purpose trust funds (s.268 non-permanent endowment /s.273 permanent endowment):

- The gross income of the trust fund was less than £10,000 in the last financial year;
- One or all of the purpose/s of the receiving trust are substantially similar to the original restricted trust (non-permanent); or all of the purposes for permanent endowment;
- It must be in the best interests of the charity to enable the trust fund to be expended more effectively;
- The trust fund must not comprise any designated land nor constitute a company/body corporate.

2. Variation of legal restriction (s.275):

- The gross income of the trust fund was less than £10,000 in the last financial year;
- The new purpose/s are similar in nature to the original purpose/s so far as is reasonably practicable;
- The new purpose/s are charitable in nature;
- It must be in the best interests of the charity to enable the trust fund to be expended more effectively;
- The trust fund must not comprise any designated land nor constitute a company or other body corporate.

3. Variation of administrative powers (s.280):

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The Trustees may resolve that any of the powers relating to the administration of the trust fund or regulating the administration procedure may be varied.

Making the most of your restricted funds cont.

4. Release of restriction on expenditure of capital (s.281 - small funds):

- The market value of the trust fund was less than £10,000, with gross income of less than £1,000 in the last financial year;
- It must be in the best interests of the charity to enable the trust fund to be expended more effectively;
- The trust fund is not a company or body corporate.

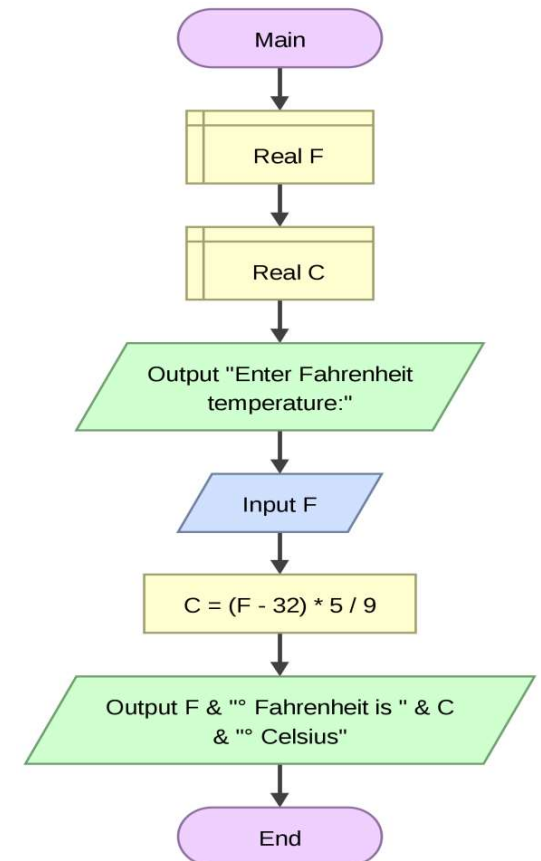
5. Release of restriction on expenditure of capital (s.282 - large funds):

- The market value of the trust fund exceeds £10,000 and gross income exceeds £1,000 in the last financial year;
- It must be in the best interests of the charity to enable the trust fund to be expended more effectively;
- The trust fund is not a company or body corporate.



Procedure

- Meeting by Trustees held to discuss/agree proposed Resolution with 2/3rds majority – Minutes.
- Resolution is signed by specified Trustees (*no statutory format*).
- Online submission of signed Resolution, Minutes and supporting information to Charity Commission for approval (*with the exception of ss. 280 and 281 resolutions*).
- Timescales for Charity Commission response:
ss. 268, 273 and 275: 60 days; s.282: 90 days.
- Template resolutions and helpful flowcharts are available from the Finance Team at Leeds Diocese.



Further information and guidance

- Parish Resources: *Managing Restricted Funds*

<https://www.parishresources.org.uk/wp-content/uploads/restrictedfunds.pdf>

- Charity Commission Guidance: *Charity Finances - trustee obligations*

<https://www.gov.uk/government/publications/managing-charity-assets-and-resources-cc25/managing-charity-assets-and-resources>

- Independent legal and/or financial advice.

