

CHARITABLE FUNDS MANAGED BY THE STATES

REPORT OF THE COMPTROLLER AND AUDITOR GENERAL

DECEMBER 2011

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Accounts of the larger charitable funds for the year ended 31 December 2010
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Introduction

1. In June 2009, I published a report entitled: 'The Lord Portsea Gift Fund and other Special Funds'.
2. In that report, I identified the fact the States' management of the investments of the charitable and other 'special' funds under its care was unsatisfactory and made the following observations and recommendations:

"The practical difficulty that has caused this state of affairs is that the Treasury and Resources Department is responsible for financial management of a large number of 'special funds' of which the Lord Portsea Gift Fund is an example . . .

Although when taken together, the total balances of these funds are substantial, individually most of the funds are small and, in some cases, very small.

This poses a substantial administrative problem for the Treasury and Resources Department. Most of the funds are too small for their investments to be actively managed independently of other funds. Accordingly, for many years, the Department has adopted the practice of holding the funds in cash. As has happened with the investments of the Lord Portsea Gift Fund, investments are held until they mature and on redemption, the redemption moneys are then held in cash.

Whilst the approach adopted minimises the cost of administration, it has the disadvantage of not realising the full potential of the money held by these funds.

Alternative approaches

An alternative approach would be:

- (1) *to group all of the cash and investments of special funds in a single investment pool. Each individual special fund would then 'own' a share of the common investment pool.*
- (2) *to arrange for the common investment pool to be professionally managed.*

Although such an approach appears simple, in practice it may be more difficult to achieve since the terms of individual funds may restrict the States' investment powers. Moreover, such a change may itself create an administrative cost if the existing investments are held in the names of the individual funds.¹ Nonetheless,

¹ The 1971 Act requires that the investments and cash deposit of the Lord Portsea Fund should be held in the joint names of the President of the Finance Committee and the Treasurer of the States, but not all funds have a similar provision.

this reorganisation would be worthwhile as otherwise the current position will continue undisturbed.

Furthermore, the States should not accept future gifts unless they are accompanied by an acceptance of common terms with regard to administration and investment powers that would ensure that the funds can be administered efficiently without undue expense.

Recommendation

On the basis of this limited review, I recommend that as soon as practicable the Treasury and Resources Department should:

- (1) reorganise the administration of special funds on the basis I have described briefly above.*
- (2) consider whether any of the smallest funds should be closed by making grants to use the whole of any remaining balance.*
- (3) introduce standard terms for the acceptance of future gifts (especially for the management of funds and their investments to avoid unnecessary administrative expense); and*
- (4) report publicly within one year on the progress of this project identifying any problems that have been encountered and the Department's proposals for their resolution."*

Subsequent action

3. Since my report was published in June 2009, the position has changed markedly as a result of action taken by the Treasury and Resources Department.
4. Perhaps most significantly, the Common Investment Fund has been established, the investment funds of the larger charitable funds have been transferred to that fund and the funds of other funds are in the process of being transferred.
5. In addition, at my insistence, the accounts of virtually all of the funds are now audited on an annual basis: indeed the funds' accounts for the year ended 31 December 2010 are being published at the same time as this report. The stages by which that has been achieved are explained in my report on those accounts which is also being published at this time.
6. Both of these developments have required considerable work by the Treasury and Resources Department's staff.

Remaining action

7. However, two recommendations set out in my report published in June 2009 have not so far been implemented.
8. Firstly, although there has been some discussion of closing the smallest funds by making grants to use the whole of any remaining balance. In practice little has been achieved. By making such grants, where the terms of the fund permit, the purposes of the funds would be served and the Treasury's administration burden would be reduced through the need to concentrate on a series of small funds. This may not be a simple matter in every case, as there may be legal formalities that should quite properly be observed and may prove onerous.
9. Secondly, the Treasury has not yet been able to introduce standard terms for the acceptance of future gifts (especially for the management of funds and their investments) to avoid unnecessary administrative expense. Again there has been some discussion of this matter, and it is understood that officials in the Treasury are engaged in preparing such terms, but a conclusion has not been reached
10. Action on this recommendation would enable one particular issue to be resolved. As the work to identify all charitable funds managed by the States has continued, it has become clear that the arrangements for governance of the funds vary considerably. Many funds are established under their own constitutional documents which have been approved by the States and provide for the fund's governance: often by a committee or board. The Lord Portsea Gift Fund is an example of this. In other cases, the fund is overseen by a committee of Jurats. In yet other cases, no specific arrangements have been made and the funds are managed either by or on behalf of the Chief Officer of the Department administering the fund (e.g. the Department of Health and Social Services) without reference to independent people acting as quasi-trustees.
11. This is unsatisfactory: especially where a number of such funds taken together are substantial. It would be wiser if the States' standard terms for the acceptance of donations or bequests should provide that, unless specific governance arrangements are to be made, the governance of any new funds should be the responsibility of a group or

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groups (which may consist of Jurats) established by individual departments or the Treasury for all funds for which specific governance arrangements have not been made :

- (1) to ensure that the funds in question are properly governed; and, in particular,
- (2) to ensure that proposed expenditure by a fund is properly approved.

12. For this reason, implementation of the second outstanding recommendation from my report published in June 2009 remains important.

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