

Royal charities did not act outside charity law

The Commission opened a case into the MWX Foundation (charity number 1185074, established by the Duke and Duchess of Sussex) in July 2020. This followed concerns about the use of funds received by MWX Foundation from the charity 'The Royal Foundation Of The Duke And Duchess Of Cambridge', formerly 'The Royal Foundation of the Duke and Duchess of Cambridge and the Duke and Duchess of Sussex ('the Royal Foundation')'.

MWX Foundation received an unrestricted grant of £145,000 from the Royal Foundation to start up the charity in 2019. A further £151,855 was received from the Royal Foundation to deliver Travalyst's sustainable travel programme, which was transferred by MWX Foundation to Travalyst. In July 2020, the trustees made the decision to wind up the MWX Foundation.

The regulator found:

- the transfer of funds to MWX was in line with the governing document of the Royal Foundation and allowed under charity law.
- the transfer of funds by MWX to Travalyst was also lawful.
- Travalyst could receive charitable funds for the promotion of sustainable travel only, which is a charitable activity in law.
- there was no evidence to suggest that any conflicts of interest between MWX and Travalyst were managed inappropriately.

The Commission has provided the charity with regulatory advice to ensure that the funds transferred to Travalyst are applied for exclusively charitable purposes, and the Commission and the charity have agreed how the charity will comply with this guidance.

The regulator also looked at MWX Foundation's expenditure, finding almost half of its funds were spent on legal and administrative costs. Trustees can legitimately use charitable funds for legal advice and other professional and administrative costs to set up and close a charity and ensure it can operate effectively.

The Commission noted that trustees took a decision to close this charity just 12 months after it was established, doing so during difficult and unexpected circumstances. It considers that the spending itself was not unreasonable given the unexpected events and unique circumstance which surrounded this charity and as such does not consider that further action is required.

However, the Commission has found that decisions on spending were not adequately documented, limiting the ability of the trustees to demonstrate the reasons behind those decisions. The failure to properly record decisions does not represent best practice and is not in line with Charity Commission

guidance.

As in this case, the Commission accepts that trustees cannot predict future events when setting up charities. However, its [general guidance](#) is that those establishing a new charity must carefully consider whether doing so is the best and most efficient way of achieving the intended charitable aims, ensuring as far as possible that initial costs are offset by the charity's longer-term impact.

Helen Earner, Director of Regulatory Services at the Charity Commission, said:

The public expects charities to make a real positive difference for the people they help or the cause they pursue. Where concerns are raised with us, whatever the charity, it's right that we examine them and consider the issues carefully.

In this case we have found that the trustees complied with their duties under charity law, and the transfers of funds between different organisations were in keeping with the charities' governing documents, with conflicts of interest being appropriately managed.

The MWX Foundation should, though, have done more to document its decisions, especially regarding the charity's expenditure on legal and administrative costs.

We also note that a substantial proportion of funds went into setting up and then winding up a charity that was active for a relatively short period of time. Trustees cannot predict future events when establishing a new charity – circumstances can change after a charity has been set up. But all trustees, before setting up a charity, should think about the longer term, and consider carefully whether a new charity is the best way of achieving the intended aims. This helps ensure that set up costs are offset by longer-term impact.

As the charity is the process of winding up, and in addition to formal advice regarding the application of the funds to Travalyst, the Commission has offered the charity general guidance regarding the dissolution process.

A separate case was opened into the Royal Foundation to investigate the decision to transfer funds to MWX Foundation. The Commission found the trustees of the Royal Foundation acted in accordance with the regulator's guidance and found no issues of concern.

Ends

Notes to Editors:

1. The Commission issued advice to MWX Foundation under section 15(2) Charities Act stipulating the remaining funds, after costs are deducted, must be applied towards other charities with similar purposes.
2. Once the liquidation of the MWX Foundation charity is complete it will be formally wound up and removed from the charity register.
3. The Commission has [guidance for trustees on things to consider when thinking about setting up a charity](#).
4. The Charity Commission is the independent, non-ministerial government department that registers and regulates charities in England and Wales. Its purpose is to ensure charity can thrive and inspire trust so that people can improve lives and strengthen society.