

## THE LIFE CYCLE OF FAMILY WEALTH

# An Introduction to Philanthropy - from vision to reality

This briefing provides an introduction to philanthropy, outlining the key issues that need to be considered for embarking on a successful charitable endeavour.

## INITIAL CONSIDERATIONS

In common with all types of endeavour, charitable output thrives on a combination of energy and focus. The big picture is an important motivator because it seeks to realise vision by projecting ideas into the future. The amount of money available is inevitably an important factor in managing and refining vision.

### Charitable themes

To that extent, the type of charitable work which is of interest to a family should be at the core of family discussions around philanthropy. It is essential for families to think carefully at the outset about key charitable themes, whether the protection of the environment, the relief of poverty or the advancement of education.

It is also important to reflect on the way in which the charity will carry out its work, whether it will be grant-making or operational, will provide targeted funds for projects or is content to give recipient charities more discretion in the use of the monies.



Apart from giving insight into social needs which are important to family members, a discussion around charitable themes will also give insight into those family members who are most likely to wish to devote time and effort to charitable projects. This, in itself, can affect future structuring.

## IT IS ESSENTIAL FOR FAMILIES TO THINK CAREFULLY AT THE OUTSET ABOUT KEY CHARITABLE THEMES

### Funding

A discussion around the funding of the charity is also crucial, including around timelines for funding and the source(s) of funding.

- Will the charity receive money as a result of the sale of family businesses?
- What form will funding take – cash, shares, or real estate?
- Will the charity be expected to hold shares in family businesses?
- Will the charity work with family businesses to raise funds, for example, by leveraging gifts through customers or employee fundraising programmes?
- How long will the charity's lifespan be?

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It is important to flesh out these issues at an early stage so as to enable the charity's structure and governance properly to reflect the fiscal backdrop. For example, if a family wishes a charity to survive a number of generations, then a trust structure may be more useful, as it allows for the preservation of the charity's capital.

Once these overarching issues have been considered, it will be easier to deal with the detail. Below are a few examples of some of the more detailed issues which will need to be considered.

### DO YOU NEED A BESPOKE CHARITY OR ARE THERE OTHER WAYS OF OPERATING?

#### Bespoke charity

A bespoke charity usually takes the form of a charitable company or a charitable trust which is registered with the Charity Commission and recognised by HMRC. Family members can form part (but not all) of the charity's board. A bespoke charity brings with it a number of obligations, including fiduciary obligations for trustees, accounting and compliance requirements with the Charity Commission and other regulators, as well as the need to ensure good governance of the charity.

#### Grants

It is not always necessary to have a bespoke charity to be able to operate an effective philanthropy programme. For example, it is possible for families to conduct a large grant-making programme (to include appropriate naming rights and recognition for capital projects) by means of grants from individuals or corporates to charities, without necessarily having established a charitable entity to make the gifts.

#### Donor advised funds

It is also possible to make use of donor advised funds. In the US and the UK, the use of donor advised funds has risen considerably in recent years as they are, in certain circumstances, capable of serving as a useful substitute for a bespoke charity.

A donor advised fund is a registered charity to which donors make donations with a request that the donor advised fund makes an onward grant in furtherance of charitable purposes. In circumstances where:

- the main philanthropic objective is the making of grants only, rather than carrying on operational charitable activity and

- the grant making itself is not complex and does not require significant contractual input; it can often be easier and more cost effective to use a donor advised fund.

#### Alternative structures

It may also be the case that the proposed charitable work does not fall neatly within established and accepted charitable purposes. To that extent, it may be necessary to consider alternative structures, to include the use, in whole or in part, of non-charitable entities and social enterprises.

### WHAT ABOUT JURISDICTION?

Generally, England and Wales is an established jurisdiction for carrying out charitable activities and the charitable sector is well regulated. Jurisdiction will need to be considered on a case by case basis in conjunction with geographical factors and regulatory requirements. Depending on family circumstances, it may be necessary to consider structuring the charitable piece in conjunction with other jurisdictions, for example, to take account of business activities or donations from corporates.

Taxation will always be a driver, with a view to maximising the amount of funds used for charitable purposes and obtaining tax relief on gifts.

The tax piece will usually be driven by a combination of residence and jurisdiction issues, as well as a comparative assessment of tax reliefs on charitable gifts in various jurisdictions.

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### AND THE ROLE OF THE FAMILY?

Family input is crucial. This will be reflected in the leadership of the charity as well as in the membership of committees and advisory boards. In considering family involvement it will be important to reflect on how the charity will be operated on a day-to-day basis, as well as looking to longer term issues, such as succession planning. Consideration will also need to be given to external input, particularly at trustee level. Finding the right people to operate the charity will be important in the long term, as it is not possible for the charity trustees to be confined to family members.

### AND FINALLY, ETHICAL ISSUES

Ethical issues have risen in significance in the charitable domain in recent years. In particular, charities and their founders are concerned with ethics in the context of the use of charitable funds, for example, a desire to ensure impact within a grant-making framework, as well as to ensure that the investment of the charity's funds reflects wider issues of sustainability against the backdrop of climate change, global poverty and inequality. These wider issues should be considered when planning charitable endeavours to ensure that the legal structuring can take account of them.



### HOW WE CAN HELP

Forsters' specialist Charities and Philanthropy team take the time to understand our clients' underlying values and wishes, in order to develop a philanthropy strategy that brings the vision to life. Our expertise in charity law, charity governance and tax enables us to advise our clients on the optimum approach to achieving their philanthropic endeavours.



### NEASA COEN

**Counsel**  
Private Client

T: +44 (0)20 7863 8587

M: +44 (0)7970 907 903

E: [neasa.coen@forsters.co.uk](mailto:neasa.coen@forsters.co.uk)

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