

Investment of Custodian Trust funds

July 2015

Introduction

The DBF acts as diocesan authority and Custodian Trustee (legal owner) of the funds for and on behalf of the PCC or the Vicar and Churchwardens (the Managing Trustees). The Managing Trustees are responsible for deciding on how the trust funds are invested. With a newly formed trust the DBF will, on receipt of funds, place them into a dedicated CBF deposit account (managed by CCLA), pending further instruction from the Managing Trustees.

The typical pattern for Custodian Trusts held by the Board of Finance (DBF) on behalf of parishes is that the capital is invested in listed securities/charitable pooled investment funds, whilst the income arising is accumulated in an associated deposit account, until required by the parish to apply the income (and capital if formally designated as “expendable”) according to the terms of the respective trust deed, or other governing document.

Duties of Custodian Trustee

The power conferred upon the DBF as diocesan authority is a fiduciary (or trustee) power, given to it to ensure the proper administration of the trust assets, and in particular to protect those assets against the possibility of a decision by the Managing Trustees which is inconsistent with their duties.

One aspect of the DBF’s role as diocesan authority is to ensure that the Managing Trustees are acting within the scope of its powers in relation to the trust property, so that it should decline to give its consent to a disposition, or to legal proceedings, by the Managing Trustees which are outside those powers.

The consent of the DBF [1] should be given (even where the DBF might itself have taken a different view of the matter) unless the Managing Trustees are acting beyond the scope of their legal powers or in bad faith, have been guilty of some procedural or other irregularity (such as basing their decision on considerations which were irrelevant) or have reached a decision which is so far beyond the range of reasonable options that no reasonable Managing Trustee should have made it.

It is recommended by the Legal Advisory Commission of the General Synod that when seeking the consent of the DBF, the Managing Trustees submit a brief written statement of its reasons for the proposed investment together with copies of all relevant resolutions passed by the Managing Trustees. This will enable the DBF to form a view as to whether, or not, there might be reasonable grounds (of the type outlined above) to refuse to give its consent.

In addition to the above matters, the DBF as Custodian Trustee, should seek assurances from the managing trustees (*Appendix 1*) that they have taken into consideration relevant published Charity Commission guidance, and in particular have read and understood the principles set out in “CC14 *Charities and Investment Matters: A guide for trustees*”

[1] After the commencement of this Measure, a council shall not acquire any interest in land (other than a short lease as hereinafter defined) or in any personal property to be held on permanent trusts, without the consent of the diocesan authority.

Duties of Managing Trustees

The purpose of financial investment is to yield the best financial return within the level of risk considered to be acceptable - this return can then be spent on the charity's aims. In order to act within the law, trustees must:

- know, and act within, their charity's powers to invest (legal requirement)
- exercise care and skill when making investment decisions (legal requirement)
- select investments that are right for their charity. This means taking account of:
 - how suitable any investment is for the charity
 - the need to diversify investments (legal requirement)
- take advice from someone experienced in investment matters unless they have good reason for not doing so (legal requirement)
- follow certain legal requirements if they are going to use someone to manage investments on their behalf (legal requirement)
- review investments from time to time (legal requirement)
- explain their investment policy (if they have one) in the trustees' annual report (legal requirement)

It is also recommended that trustees should:

- decide on the overall investment policy and objectives for the charity
- agree the balance between risk and return that is right for their charity. This may include a wide range of factors that will impact on return including environmental, social and governance factors.
- have regard to other factors that will influence the level of return, such as the environmental and social impact of the companies invested in and the quality of their governance
- be aware that some investments may have tax implications for the charity
- invest any permanently endowed funds in a way that helps them to meet their short and long-term aims
- decide whether to adopt an ethical, socially responsible or mission related approach to investment and ensure that it can be justified.

[Extract from: "CC14 Charities and Investment Matters: A guide for trustees"]

Further guidance

The full text of "CC14 Charities and Investment Matters: A guide for trustees" can be downloaded from here:

<https://www.gov.uk/government/publications/charities-and-investment-matters-a-guide-for-trustees-cc14/charities-and-investment-matters-a-guide-for-trustees>

There is also a brief guidance note, published by Archbishops' Council, which can be downloaded from:

<http://www.parishresources.org.uk/wp-content/uploads/investingreserves.pdf>

The FSCS website:

Are charities eligible for the Financial Services Compensation Scheme?

<http://www.fscs.org.uk/can-we-help/?query=are+charities+covered#>

Appendix

Investment of Custodian Trust Funds Confirmation by Managing Trustees

To: The St Albans Diocesan Board of Finance (Custodian Trustees)
From: **The Parochial Church Council / Vicar and Churchwardens (*)** of the
.....Trust
(Managing Trustees)

We attach a copy of an extract from the minutes of a recent PCC / Vicar and Churchwardens(*) held onwhere our currently proposed investment decision was discussed and agreed upon.

In reaching our decision, we confirm that we have taken into consideration our duties as Managing Trustees and in particular are mindful of relevant Charity Commission guidance. We confirm that our decision is compliant with the legal requirements as set out in the Charity Commission guidance note: *“CC14 Charities and Investment Matters: A guide for trustees”*.

We confirm that, in reaching our investment decision, we have sought advice from investment managers and advisors regulated by the Financial Conduct Authority.

Signed on behalf of the Managing Trustees of the **PCC / Vicar and Churchwardens' (*)** Trust:

	Name	Signature
Vicar:		
Churchwarden/ PCC member:		
Date:		

(*delete as appropriate)