ACF Association of Charitable Foundations

Good practice for corporate foundations

An ACF Guide for Member Trustees and Staff

ZURICH Community Trust

Santander FOUNDATION

About ACF

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ACF is the leading membership association for the UK's charitable and independent funders and the gateway to a wealth of expertise in funding charities, voluntary organisations and social enterprises. Over 300 trusts and foundations have joined ACF, ranging in size from small and local grant-makers to some of the world's largest foundations. For more information about our services please visit the ACF website at www.acf.org.uk.

This guidance is available free to members of ACF. £25 for non-members.

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Foreword

By Andrew Hind, Chief Executive, Charity Commission

Corporate foundations play a vital role within the sector, and through their funding programmes enable many charities to fulfil important projects. The Commission welcomes this *Guide to Good Practice for Corporate Foundations* which builds on our own *A Guide to Corporate Foundations* published last year.

One of our statutory objectives is to promote charitable giving in all forms, and the establishment of a corporate foundation can be an effective way for a company to make a long-term commitment to the charitable sector, particularly in these difficult times.

We have all seen how the sector as a whole has been affected by the economic downturn; our own research has shown that nearly 60% of charities have been adversely impacted in some way. Commission research has also shown that charitable trusts and foundations remain committed to supporting charities, with many having already adopted a sustainable approach which would allow them to offer this vital support not just now, but into the future.

So more than ever, it's crucial that charities of all shapes and sizes strive to look at how they improve the quality of what they do and make the most of the resources at their disposal.

This is equally true of corporate foundations, which is why this Guide is a welcome addition to existing guidance. It provides useful information and examples for developing funding strategies and putting in place robust systems for assessing and agreeing funding applications, as well as ensuring the right checks and balances are put in place for follow-up on grants that have been awarded.

Good practice will also naturally lead to a greater level of accountability and transparency. Corporate foundations are obviously not immune from such public scrutiny – like other registered charities they appear on the Commission's web-based register. And that's good – a healthy, open, well-run sector is in the best interests of those who benefit from charities, those who support them, and of course charities themselves, and any resource that helps to achieve this is certainly welcome.

Foreword

By David Emerson, Chief Executive, Association of Charitable Foundations

We are delighted to be publishing this *Guide to Good Practice for Corporate Foundations* which lies at the heart of ACF's work in supporting and helping member foundations to improve further their effectiveness and the help they provide for their own beneficiaries. Such work can best be undertaken by membership bodies such as ACF, able to draw upon the collective experience of many members who work in a variety of ways and develop their own solutions to particular circumstances. This guidance has itself been directed by a group of members from within our network of Business and Corporate Foundations, with additional input coming from others in the group, and to all of whom we are very grateful. That input has ensured we have kept a focus on the issues of relevance and concern to corporate foundations. But the strongest focus has been provided by Fiona Ellis who has expertly surveyed the current corporate foundation scene across the UK and drawn from that audience a wealth of examples and good practice. The consequence is excellent guidance for a group of diverse charitable foundations not previously well served. While it is clear that no 'one size' can fit all such foundations, we hope the experience that follows will help guide appropriate motivations across the governance and operation of corporate foundations, acknowledging both their own philanthropic objects and the needs of their commercial partners.

This guidance could not have been completed without the help of many people, and we express our very considerable thanks to:

- The staff and trustees of all those foundations who so generously responded to Fiona's enquiries, and especially to those included in the Acknowledgements.
- The members of ACF's Business and Corporate Foundations Issue Based Network, for their guidance, and for commenting on early drafts.
- Beryl Hobson and colleagues at the Large Charities Division of the Charity Commission for their support and encouragement throughout the process.
- Laura McCaffrey for the design and layout of this Guide and that of the accompanying printed booklets.
- And especially to Fiona Ellis, sometime Director of the Northern Rock Foundation, for her immense work in so skillfully pulling together such a range of directly relevant experience..

We are especially grateful to The Santander Foundation and the Zurich Community Trust for their financial support, without which this publication would not have been possible.

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Introduction

Why this book now and how to use it

At the end of 2009 the Charity Commission[1] published its long-awaited *A Guide to Corporate Foundations*. It was designed to assist founders, trustees and donors in understanding and complying with Charity Commission requirements for such foundations.

The Association of Charitable Foundations, as the membership body for trust and foundation grant-makers, worked closely with the Charity Commission on its publication. Both parties agreed that there was an opening for a *Guide to Good Practice* for those considering

(i) Setting up a foundation; and

(ii) For trustees seeking guidance on ways to lead and manage their corporate foundations as effectively as possible.

ACF commissioned this *Guide to Good Practice for Corporate Foundations* to show ways in which corporate foundations work and to highlight examples of good practice. It brings together the collective expertise of many contributors, and was informed by a series of interviews with leading figures from UK corporate foundations.

Using the Guide

This Guide is written to assist both those already funding or operating a corporate foundation and those considering doing so. The first section addresses primarily those contemplating setting up a foundation and sets such a move in the context of other possible charitable activities. Subsequent sections describe the processes and legal requirements of setting up and running a corporate foundation. We offer a wide selection, where possible, of options on matters such as governance, connections with the donor and staffing. We also provide Good Practice suggestions intended to help both donors and foundations achieve the most from their charitable enterprise. Throughout the text the reader will find case studies showing how some of the Good Practice looks in real life. No one foundation illustrates all the Good Practice points: different approaches suit different needs and circumstances.

Inevitably things may go wrong even with the best-planned and established organisations. We describe some of the problems encountered by existing foundations and their donors and how they were resolved. Our suggestions in the problem-solving section are aimed at all readers – the best way to deal with trouble is to anticipate and forestall it.

1 The Charity Commission is the regulator for charities in England and Wales. Scotland has its own Office of the Scottish Charity Regulator, and Northern Ireland has its Charity Commission for Northern Ireland. The Northern Ireland and Scottish regulators have not been involved with this publication but we hope that the Good Practice will apply equally to all UK corporate charities.

Not much time?

Intending corporate founders will find all sections helpful in understanding what to expect from setting up a foundation but you can read selectively and in proportion to the scale of your ambition.

If you are confident that you are getting expert legal advice you may want simply to glance at Chapter 3 on Basic legal requirements and Chapter 4 on Governance but do look at the Good Practice boxes and the Chart on Independence in the Appendix.

If you have a clear view of what you want to achieve and some specific measurable goals check the Good Practice boxes in Chapter 2 and Chapter 6 to make sure you have thought of everything.

Chapter 7 is important – or will quickly become so once you have started to work.

Chapter 10 is full of valuable first-hand advice.

Chapter 1
What are corporate foundations?

Corporate foundations share two simple characteristics: they are, like other foundations, independent legal entities; and they are funded by businesses. After that it gets much more complicated. There are variants in the way the donor contributes, governance, staff contracts and, most importantly of all, what is done with the money the foundations receive. We look at each of these in turn in the main sections of this Guide and describe what, in the experience of the foundations that have shared their experience with us, works best.

How many corporate foundations are there in the UK?

In the UK there are probably slightly more than 100 corporate foundations in 2009-10. The number fluctuates: research by The Smart Company published in 2006 uncovered 126 in England and Wales, an increase of 25 on the previous Business in the Community research of 2003. We used the Smart Company data, added other UK foundations[2] where known and added foundations established since 2006 or not listed by Smart. We then (in an effort to contact them rather than to establish a definitive list) cross-checked them with the Charity Commission's website (for England and Wales only). We found that a number had deregistered i.e. wound up. These included foundations previously associated with Lazard, Novartis, HBOS and the Yorkshire Bank[3] (but not the Yorkshire Building Society). Others, although not removed from the register, have engaged in very little activity or have only tiny resources remaining.

This contrasts strongly with the US where about 90% of Fortune 100 companies and 80% of non-Fortune 100 companies have foundations[4]. In the US recent research shows some decline in corporate giving but an increase in giving by Fortune 100 companies.

Who was not included in the research?

There are some household names attached to foundations and trusts that might be thought to be corporate charitable vehicles but are not. Examples are the Sainsbury and Barbour Trusts. Sometimes a family-owned or previously family-owned firm will choose its own form of corporate social responsibility

2 Despite our efforts and the help of Scottish advisors we found almost no corporate foundations in Scotland though there are several family foundations created as a result of successful Scottish businesses.

3 The Yorkshire Bank Foundation has been replaced by the Yorkshire and Clydesdale Bank Foundation registered in Scotland but with an office in Leeds.

4 The Committee Encouraging Corporate Philanthropy: *Giving in Numbers 2009*. The research received 55/100 responses from Fortune 100 companies and 137 responses overall from its members who include many of the largest companies in the country as well as multinationals.

while family members will independently establish their own trusts or foundations.

The Sainsbury Family Charitable Trusts are a collection of independent trusts set up by members of the Sainsbury family but they have no direct connection with the business of the same name; indeed, applicants are strongly discouraged from making any such connection. So the Sainsbury trusts and foundations are not included here: they are family and not corporate foundations.

The Barbour Trust is closely related to the firm of J Barbour & Sons Ltd but it too was established by family members and is not technically a corporate trust. Its income is wholly generated by its shares in the company. In addition the Trust receives goods at cost from the company which it uses for charitable purposes but its activities are not connected thematically or otherwise to its clothing business, except that its giving is generally in the North East of England where the business is based.

Some multinational companies, although prominent in the UK, register their foundations in the US or elsewhere. Pearson PLC, for example, has a foundation which is active in the UK as well as in the US where it is registered. We have not included the Pearson Foundation in our research, though we do note that it is perfectly possible for a non-UK foundation to work here and, while obeying US charitable laws, to make an excellent impact in the UK.

Scale of giving

The biggest corporate foundations in the UK have annual grants budgets of over £20m: at its height the Northern Rock Foundation gave £28.2m in 2006. On the smaller scale, one of the foundations in our survey had an income of just over £67,000 in 2008. As with numbers of foundations, size of budgets is governed by various economic factors. Even the endowed foundation is not immune from the markets.

The range of foundation types and models is considerable even within such a small study group as the UK foundations. That is why throughout this Guide we offer examples of Good Practice and only rarely Best Practice. Intending founders must choose what best suits their own purposes.

Chapter 2
Why set up a foundation?

'The most important part of the work is the beginning' – Plato

While this Guide is primarily about corporate **foundations** and is therefore a strong advocate of the model, it would be wise for any business considering its charitable giving or corporate social responsibility policy to take into account all the options.

Corporate social responsibility (CSR) is variously defined. The CBI offers the following:

CSR is the acknowledgement by companies that they should be accountable not only for their financial performance, but for the impact of their activities on society and/or the environment[5].

The Harvard Kennedy School of Business goes further:

Corporate social responsibility encompasses not only what companies do with their profits, but also how they make them. It goes beyond philanthropy and compliance and addresses how companies manage their economic, social, and environmental impacts, as well as their relationships in all key spheres of influence: the workplace, the marketplace, the supply chain, the community, and the public policy realm.

Other definitions mention business ethics. We are not concerned here with the finer distinctions but we mention CSR frequently throughout this Guide because it is so often cited as a reason for setting up a foundation and because corporate foundations are sometimes lodged within the CSR department of a company.

Most publicly-quoted companies now at least consider whether or not they should have a CSR policy and what part donations should play in it. If you are reading this Guide you have probably already had discussions about CSR and how you plan to demonstrate your social responsibility.

There are various ways of meeting your CSR aspirations, some of which also meet your public relations (PR) objectives. Some of the corporate donors we surveyed and interviewed have combined setting up a foundation with other means of satisfying PR and CSR requirements. The most important thing to note here is that a foundation is not the solution to all CSR and PR requirements. Indeed, where PR is concerned you must proceed with caution. In November 2009 HM Treasury published *A Guide to Giving for Business*[6] describing the various tax-effective ways in which business can

5 See Confederation of British Industry website – www.cbi.org.uk.
6 Available on the Treasury website – www.hm-treasury.gov.uk.

contribute to community activity and charitable organisations. It details, for example, the difference between sponsorship and charitable support. It also helpfully explains why you can reclaim tax on sponsorship and how VAT should be dealt with by companies providing sponsorship rather than a donation, and by the charities receiving sponsorship.

Sponsorship is generally different from a donation of money because your business gets something in return. Where, for example, you get publicity for your business or one of its products, which is a reasonable return for the amount paid, it may be regarded as a legitimate trading expense on which tax relief may be claimed.

Because sponsorship is a taxable activity, unless your business, as the sponsor, receives nothing more than an acknowledgement, a VAT-registered charity must account for standard rate VAT on any sponsorship income received.

Good Practice – essential

It is vital that you do not attempt to use charitable donations, made directly or through a foundation, to promote your business. If you do so, then both you and the charity will be challenged by the Charity Commission and by HM Revenue and Customs.

This is not to say that your donations must be secret or that you must not publicise them. We talk more about this later in this chapter and in Chapter 7.

Corporate social responsibility choices (other than creating a foundation)

Before examining the advantages and virtues of setting up a foundation, let us quickly look at the other possible ways to make a visible contribution to charities and community activities. Essentially you have the following options:

- Giving time
  - Employee secondments
  - Donated company hours
  - Company one-day volunteering programmes
- Giving resources
  - Use of buildings for meetings or conferences or pro bono for offices
  - Gifts of land often in combination with a commercial building project
  - Gifts of surplus materials, furnishings etc
  - Use of machinery or tools
- Giving money
  - Donating shares directly to charities
  - Regular or occasional cash gifts
  - Profit share donated to charities from partners or from a sales team
  - Employee fundraising schemes
  - Payroll giving
  - Establishing a named fund with a community foundation
- Invest or trade
  - Purchase from charities' trading arms
  - Invest in social enterprises
  - Lend to local community ventures
  - Sponsor charitable activities, including arts and culture
  - Purchase publicity or goods from charities and social enterprises.

These are all valuable and welcome activities and they may be all you wish to do. Some of them help create a closer bond between staff teams or between the business and its immediate community; some are relatively cost-free; some are specifically geared towards public relations and may have trackable outcomes. All are used by corporate bodies we have researched or surveyed in addition to their corporate foundations.

So why create a foundation?

Choosing to create a foundation implies a longer commitment than a one-off donation, a deeper intention to make a more profound difference and a wider vision even when the foundation is intended to have a limited life. It involves investing in a new entity and capitalising on its independence. It is a brave and wise move bringing with it considerable benefits, especially to those with the patience to allow the foundation to establish its own identity.

We have been told of many initial reasons why corporate funders set up foundations. In practice most of our respondents cite several of them. Some are particularly related to the nature of the founder's business but others are pragmatic and/or philanthropic. Most of those interviewed found more or different benefits than originally expected.

We alluded to the problems of getting an acknowledgement for your CSR commitment without being accused of using it to advertise. In practice, you may well receive a better public profile from channelling your donations to an independent foundation than from a one-off donation directly to a charity. The first two of the reasons we give below partly answer this issue. Otherwise, these reasons for creating a new foundation are given in no particular order. They are all taken from our interviews with foundations in preparation for this Guide.

Reasons given for establishing a foundation

- The perception and clear maintenance of an arm's-length relationship undermines any notion of cynical exploitation of charitable activities for commercial benefit. Trust in business is a fragile thing as we noted earlier but credit for setting up and then setting free a foundation can bring enormous kudos. It is widely acknowledged that the reputation of the foundation that bore its name was of considerable value to Northern Rock when it was facing uncertain times in 2007-8; the company was reaping the benefits of very publicly having left the foundation to establish its own priorities and practices.
- A well-established foundation with its own name and logo (which may be very similar to yours) and its own identity will be regularly active and thus can be a continuous reminder of your generosity as it announces its grants and activities or reports on its own achievements. The corporate donor is entitled to be proud of the achievements of a foundation it has set up and to refer to them, providing it never presents them as its own.
- Businesses are not faceless machines but are run by people and shareholders who have a desire to improve the society in which they live and work. It is wrong to assume that their only motivation is the bottom line; the enhancement of their local area or indeed the wider world is as respectable a motive for setting up a charitable foundation as any other.
- With competition for bright young graduates still high, it is clear that companies with a strong CSR policy are more attractive to new employees. Several of our interviewees mentioned this as an important aspect of their recruitment.
- Having a foundation is good for staff morale and building a sense of common purpose. Single donations from the company to a charity may or may not even be noticed by staff but the steady stream of foundation grants or activities can be reported in staff newsletters and employees can share in the pride that their efforts are going to support a range of charities. One of our respondents pointed out that '*a charitable corporate arm can leverage further donations from employees of the corporate and can create a tax-effective giving mechanism and add significantly to culture*'.
- Some respondents have valued the connections with a new group of people they would not normally meet. They can combine this with other aspects of their CSR activities, for example, by brokering volunteer arrangements.
- Peer and customer expectations that companies create foundations are not as high here as in the US but are still mentioned by some respondents.
- Providing the cause is charitable a company can specify how its funds will be used e.g. the water companies seek to assist customers in difficulty; the banks and building societies are interested in financial literacy.
- Some building society foundations were created as a bulwark against carpetbaggers when demutualisation was being urged on them by members against the judgment of the Board. New account holders had to promise that any shares issued as a result of demutualisation would go to the foundation instead of them, thus discouraging entryism. This seems to have been successful but some of the companies with this motivation have experienced serendipitous benefits as well.

- Companies receive innumerable requests for donations: it can help to redirect people to the foundation without, of course, making any promises. (But see below for the other side of this coin!)
- Creating a foundation is a more powerful gesture than a one-off donation; it tells people you are serious, you are in CSR for the long term, and you understand the difference between marketing and being a good citizen

The Shell Foundation

Case study

The **Shell Foundation** came about because of a combination of external circumstances and good and intelligent responses to them. In the 1990s energy companies were getting a very bad press indeed, and Shell, because of some of its international work, was receiving more criticism than many. Several of the energy companies began to pay more attention to their corporate social responsibility policies as a result. Shell had always had a social investment interest. But when it established its foundation it wanted to do more than just improve its reputation. The company wanted to stand out from its peers and to make '*a bold addition to its social investment activities*'.

Shell did not rush into setting up a foundation: it held 40 round-table events over 18 months with international opinion leaders on how to do more valuable work in environmental and social issues. The Foundation came about as a result of this consultation; those leaders, in effect, touted it as the most effective way to show genuine philanthropy. Independence was a key criterion. To give this independence a clear head start, Shell gave its foundation a $250m endowment to which it adds an annual donation.

The company and the Foundation have a clearly defined relationship designed to ensure that the Foundation is not and does not appear to be 'greenwash'[7]. They both understand what the foundation will and will not do for the company and vice versa.

The right expectations lead to the right results

Several of the foundations we have reviewed have initially had problems meeting the expectations of their founders because they were unrealistic. Here are some of the most common misconceptions.

The foundation's activities will lead to great PR for us

A foundation will definitely, over time, build a good feeling about its donor. But it would be wrong to expect, for example, weekly column inches of gratitude in the press. You can assist the foundation to publicise grants or better yet, work with grant recipients to gain profile for their charity's work and thus the foundation's donation. But journalists and editors are wary of businesses seeking 'free' advertising so you need to be careful. Ironically, smaller and more locally-focused foundations may well fare better. The Tipton & Coseley Building Society, for example, is very pleased with the local coverage it receives from the activities of its quite small foundation.

However, you will get enhanced public approbation at a less obvious level and possibly with a more loyal audience: those who benefit from the foundation's activities will make the connection and talk about it. If the foundation has sufficient resources it will make capital grants that will be visible on donor boards for years. Your gross donation will be recorded in your Annual Report and picked up in analyses published by newspapers.

People will buy more of our product because of its association with the foundation

They might, but you almost certainly will not be able to find out and, legally, you cannot use the charity to promote your products directly. Research conducted for Northern Rock plc in 2007 revealed that potential customers outside the North East where its foundation operated were more likely to be customers because of the company's donation to the foundation, even if they could not directly benefit from it. Several people interviewed for this Guide spoke of their customers feeling positive about the charitable donations, though on the whole customers were not thought to be particularly well-informed about the foundation's activities.

7 Drawn from an interview with Simon Bishop at the Shell Foundation.

The foundation will do all our charitable work and we will no longer receive direct requests for sponsorship and small donations.

It does not always follow that applicants who used to approach you directly for donations or sponsorship will understand the new route to donations, even if you structure your foundation to receive them. Moreover, the foundation's trustees may choose not to accept the sort of small requests for donations to which businesses are susceptible.

Even if the trustees do decide to retain involvement with some of the bodies that used to approach you, you will still receive direct requests and some of them cannot be covered by the foundation. For example, you may be asked to take a table at the local hospice's Charity Fundraising Ball. You cannot use foundation funds to buy the table because you and your employees (even if they are also the staff of the foundation) cannot benefit from donations.

You may be asked to sponsor the local amateur theatre in return for a programme advertisement. Again, you cannot do this with foundation funds though the foundation may make a donation (provided the activity funded is charitable) and forgo the advertisement.

But the foundation could provide the company with a Charities Aid Foundation (CAF) or Charities Trust account – effectively a charity cheque account from which donations may be made to registered charities. The cheques will be sent in the name of the foundation but the due diligence and management of the account is outsourced.

Case study

The **Tipton & Coseley Building Society** uses its foundation to sift and select among the numerous requests it receives every year. The business welcomes this arm's-length way of choosing beneficiaries, which distances it from any protest or criticism.

The **Northern Rock Foundation** (pre-2008) lodged an amount annually in a CAF account for the use of one of its trustees who was also an employee of the bank. He issued charity cheques in answer to requests sent to the bank for small donations. CAF only paid to registered charities and the list of donations was reported to the trustees every year.

The foundation can deal with all the personal requests received by the board and senior management.

Since they are listed in public documents, senior executives and board members often receive requests for donations from individuals and charities. The foundation's trustees cannot take direction from others so they are unlikely to oblige even the most senior individuals by making donations on their behalf. Employees of the donor can of course suggest causes to the foundation but, if it makes a grant at the trustees' discretion and wholly within the foundation's charitable objects, the donation can only be made in the foundation's own name.

Good practice

Be clear about what you want and expect from the foundation.

Test your ideas on other existing foundations or the Association of Charitable Foundations (ACF) to ensure that they are realistic and possible within the charity framework.

Resist the temptation to ask for instant results – foundations are more effective over time if not constantly dug up to measure their growth!

The obvious is not obvious to everyone

Sometimes companies create foundations in a welter of good feeling and enthusiasm but without a true and realistic picture of what they can expect. We heard this very frequently in our research. Indeed in answer to the question '*What advice would you give a company wanting to set up a foundation?*' every respondent said: be sure that this is the right model for you and be clear and explicit about what you expect from it.

Chapter 3
Basic legal requirements

Trusts and foundations: what is the difference?

Before we describe some of the basic requirements for setting up a foundation we need to be clear about what we are discussing. Some readers may be understandably confused about the difference between a trust and a foundation: both words are generally used without distinction. The following extract from the Charity Commission's *Firm Foundations*[8] clarifies the matter:

Trusts and foundations: The terms 'trust' and 'foundation' are often used interchangeably. All charitable foundations are trusts – that is, they are managed by trustees who may or may not be supported by paid staff. Foundations do not, therefore, have a distinct legal identity or constitution and are subject to the same public benefit tests, governance and accounting requirements, and Charity Commission regulation as all other charities. They derive their income from an endowment of land or invested capital. Not all foundations make grants; some use their income to finance charitable activity of their own. This means that the difference between the terms 'foundation', 'trust' and 'charity' in the UK is semantic only; charities whose principal activity is grant-making are usually called 'charitable trusts' or 'charitable foundations', in preference to 'charities'.

- ***Charitable trust:*** *A trust is an arrangement whereby a person or persons (the trustees) is (are) made the nominal owner of property for the benefit of another person or group of people (the beneficiaries). Where the trust is charitable, the beneficiaries are not named and the purposes are public. The trust deed will specify either a wide group of people, any of whom can benefit, or a charitable purpose.*
- ***Community foundation:*** *A grant-making charity established to strengthen local communities, create opportunities and tackle issues of disadvantage and exclusion.*
- ***Corporate trust/foundation:*** *A trust or foundation set up by a commercial business to carry out charitable activities.*

Throughout the rest of this Guide we will use the two terms interchangeably unless there is some genuine distinction to be drawn. The remainder of this chapter describes some of the basic legal requirements for a foundation and the principles behind the corporate/foundation relationship. Even those who have already established foundations or are serving trustees should find it a useful refresher.

8 *Firm Foundations*, by Dr Diana Leat, Charity Commission 2009.

Registration and regulation

Foundations must be registered with the relevant charity regulator. For England and Wales this is the Charity Commission; for Scotland it is the Office of the Scottish Charity Regulator[9]; and for Northern Ireland it will be the newly-created Charity Commission for Northern Ireland[10]. Some foundations are registered with more than one regulator e.g. the Coats Foundation Trust which, although relatively small, is registered both with the Charity Commission and with the Office of the Scottish Charity Regulator because it has offices in two countries. Most charities are governed by a deed but there are other options on which founders should take legal advice.

In addition to registration you will need to consider whether or not the foundation is to be a company limited by guarantee or whether you might take advantage of the new Charitable Incorporated Organisation (CIO) form created by the 2006 Charities Act[11]. This new legal form is intended to provide the protection from personal liability of a company limited by guarantee but without the need for dual regulation. CIOs will register only with the Charity Commission and thus will obviate the need to report to both the Commission and Companies House[12].

Detailed guidance on registration and related legal matters is beyond the scope of this Guide. The Charity Commission has an excellent and very informative website which will give you a good insight into the requirements for registration but you are strongly advised to take legal advice on setting up your foundation.

Besides taking these sensible legal steps you may find it helpful to consult existing corporate foundations. The Association of Charitable Foundations has corporate foundation members who meet regularly to discuss matters of mutual interest. The Association and its members are excellent repositories of the sort of experience and advice that goes beyond mere legal guidance.

Good practice

Read the relevant regulator's guidance notes for founders and trustees[13].

Engage an experienced legal advisor.

Talk to the Association of Charitable Foundations.

Objects: what will the foundation do?

The basic rules

One of the first questions the Charity Commission will ask an intending founder is: what are the Objects of the charity to be? The answer to this question will then appear in its governing document and will be a defining characteristic of the newly registered charity. Thereafter the charity must always act in service of its Objects. This may seem a little daunting; many founders will be unsure about exactly what they want to do and unwilling to pin themselves down about activities in what could be a very long future. Fortunately, the question is not as difficult as it first appears.

The word Objects means the description of the purpose for which the charity will exist which must, of course, be a purpose recognised as charitable in the UK[14]. It need not describe the day-to-day activities but should give an overarching purpose. Most corporate foundations – and indeed most grant-making foundations – are established with very broad Objects. This example, quoted from The Nationwide Foundation's charitable registration, is quite typical:

To promote such purposes being exclusively charitable according to the law of England and Wales as the directors of the foundation (the 'trustees') shall from time to time determine.

9 The OSCR was established in 2005. Scottish Charity law differs slightly from that of England and Wales. The website is www.oscr.org.uk
10 The Charity Commission for Northern Ireland was created in 2009 with the intention of taking registrations from April 2010. Its website as at January 2010 is http://www.dsdni.gov.uk/charities_commission
11 The Charities Act applies to England and Wales. There is also a plan for a Scottish CIO form but it too is not yet available.
12 At the time of writing this new legal form has been delayed and may not now be available until late 2010 or early 2011.
13 The Charity Commission for England and Wales is the longest established of the regulatory bodies and as such has the most extensive guidance on a huge range of issues. While there are some differences in requirements between the countries of the UK, even those outside England and Wales will find the Charity Commission website useful.
14 There are slight differences between English/Welsh law, Scottish law and Northern Irish law.

Such a broad description allows for development of policy and redirection over time to the most effective use of the charitable funds. A key quality of a charity is that it is established wholly for public benefit; definitions of public benefit and guidance on the Charities Act 2006 are available on the Charity Commission website.

Picking your priorities

Some founders are very clear about their desire for a specific set of beneficiaries or goals; perhaps they anticipate the foundation operating in support of particular corporate social responsibility goals, so they articulate the foundation's Objects very explicitly from the outset. Some also want to restrict their giving to particular locations. Here are some examples of each of these.

The UK has several airport trusts that define their area of benefit to incorporate the people and communities affected by airplane noise and the other inconveniences of living near a busy airport. Here is an example of Objects from such a trust.

(a) For the general benefit of the public in such manner as may be charitable particularly but not exclusively by the making of grants, awards, bursaries, scholarships, donations and other financial payments to promote: (1) the provision of educational amenities and facilities for the benefit particularly but not exclusively of residents living near premises owned or operated by baa plc as are not provided from public funds; (11) the conservation and protection of land or other property which is of aesthetic or scientific importance; and (111) the protection and safeguarding of the environment and countryside and the control and reduction of pollution. (b)(1) The advancement of education in the areas of vocational training and business enterprise; (11) the relief of poverty through assisting with or obtaining employment training for employment or gaining work experience. (c) For such other charitable purposes as the trustees in their absolute discretion think fit.

The John Lewis Partnership takes a characteristic approach to its foundation. The Objects, which link beneficiaries to the business, are very much in keeping with the partnership structure of the company.

To advance general charitable purposes, acting alone or in association with others, by such charitable activities as the trustees shall determine, to include (without limitation) charitable activities designed to benefit the communities in the UK and overseas in which those who produce products for John Lewis stores live and work.

Keeping your options open

Herefordshire charity The Bulmer Foundation was set up by the Bulmer family and Bulmer Ltd before the company's takeover by Scottish and Newcastle Breweries. Its objects are:

(a) The advancement of the education of the public in the principles of sustainable development in land and estate management and use, sustainable methods of agriculture, horticulture, silviculture and organic farming.

(b) To conduct research into the social, economic and environmental effects of land and estate management and use conducted in accordance with the principles of sustainable development and sustainable methods of agriculture, horticulture, silviculture and organic farming and to disseminate the useful results of such research.

(c) The promotion for the benefit of the public of urban or rural regeneration in areas of social and economic deprivation (and in particular but not limited to the county of Herefordshire) by all or any of the following means:

> ***(i) the conservation, and protection of the environment***
>
> ***(ii) the relief of poverty***
>
> ***(iii) the relief of unemployment***
>
> ***(iv) the advancement of education, training or retraining, particularly amongst the young, the unemployed and those suffering from or recovering from addiction to drugs, alcohol or any other substance and providing such people with work experience***
>
> ***(v) the provision of financial assistance, technical assistance or business advice or consultancy in order to provide training and employment opportunities for the unemployed in cases of financial or other charitable need through help in setting up their own business or to existing businesses***
>
> ***(vi) the creation of training and employment opportunities by the provision of workspace, buildings and/or land for use on favourable terms***

d) The promotion of such exclusively charitable purposes or purpose or such exclusively charitable institutions or institution at such times and in such manner as may from time to time be determined subject to the written consent of the charity commissioners for England and Wales.

Note how the founders have made their priority interests and their preferred area of benefit absolutely clear but have also used the catch-all phrase in d) to ensure that, whatever else changes, they will always be able to be active without further recourse to the Charity Commission for a change of Objects.

The Shell Foundation's Objects, although worldwide in span, are also an interesting mixture of the very specific and some general terms that allow it to adjust its purposes at some future stage should its trustees so wish. It describes its interests and its geography in clauses 1, 2 and 3 but in 4 and 5 broadens out its potential activities.

To promote in any part of the world:

(1) The protection and preservation of the environment and public health by means of education and research (including the dissemination of the useful results of such research) into the provision and use of energy in ways that reduce or eliminate harmful emissions and in such other subjects of study as the trustees think fit; and by other such means as the trustees shall think fit;

(2) The advancement of education of young persons and adults or male or female adults including the provision of scholarships at universities in the united kingdom for post-graduate students, particularly citizens of countries other than the United Kingdom;

(3) The establishment in life of young persons aged not more than 30 years;

(4) The relief of poverty, suffering, hardship and distress;

(5) Such other purposes being exclusively charitable according to the law of England and Wales as the trustees may from time to time determine

In practice and for day-to-day purposes the Foundation states that its mission is:

To develop, scale up and promote enterprise-based solutions to challenges arising from the impact of energy and globalisation on poverty and the environment.

So it is clear that you *can* have your cake and eat it: you can give your foundation a focus at the outset but leave it leeway to develop in other directions if circumstances make that advisable.

However you choose to define your Objects it is essential to remember that they must be wholly and completely charitable. You cannot combine a business and a charitable purpose or add in a clause designed to serve, for example, a commercial or promotional purpose. If the Objects clause tries to allow the organisation to do something that the law does not recognise as charitable, or if the wording used is unclear, the organisation is not considered to be a charity and cannot be registered with the Charity Commission or other regulator[15]. It is possible to alter charitable objectives once they have been registered but it would require persuading the regulator and seeking its agreement – it is much better to get them right at the outset. For more information consult the Charity Commission *Guidance on setting up a charity*.

Good practice

Before you try to establish your Objects consider the following questions.

- How closely do you want to align the foundation's work with the corporate donor's work, taking into account what can and cannot be charitable?
- Are you planning to set a time limit on the foundation's life? That might mean giving it a very clear and achievable purpose.

If you are intending for the foundation to exist in perpetuity think about how you can make its Objects workable in future but perhaps still resonate with your motives for founding it.

Consider layering your Objects as the Bulmer and Shell Foundations have done.

15 In Northern Ireland at the time of writing the regulatory body is not yet established so registration is with HMRC though this will change when the new Northern Ireland Charity Commission is fully established.

Trustees and independence

We look at various governance models in Chapter 4 but it is worth emphasising here that the foundation you are creating must have its own legal identity and its own independent board of trustees. Independence means that the trustees, no matter who appoints them or where they come from, must act wholly and entirely in the interests of the charity. This extends to deciding whether or not any conditions you place on your donations are consistent with the charitable purpose of the foundation; making free decisions about the charity's resources; managing conflicts of interest; appointing their own advisors; and being able to conduct their business confidentially and privately without undue influence from the donor before or after donations have been made.

The table below lists rights and mutual responsibilities of donors and trustees (not a complete list).

These provisions may seem somewhat daunting but they are entirely manageable and, if properly observed, are advantageous to both parties. They offer both donor and foundation protection from accusations of abuse and give a clear framework for each to understand and respect the business of the other. Moreover they do not preclude working together and pursuing mutual interests.

Good practice

Founders and trustees should consider setting out a memorandum of understanding describing how they will each respect the other's rights and responsibilities. This should include agreements about: communications between them; correlation of interests and how and when they will be negotiated; use of each other's logos and brands; handling media; day-to-day relations (especially if the foundation is housed within company premises); and staff management and lines of responsibility.

Corporate donor	Trustees
May attach conditions to donations e.g. specifying a particular area of charitable activity in keeping with its own CSR objectives	**Must** accept only conditions compatible with its own charitable objectives **Must** retain the absolute discretion to accept or reject donations **May** entertain and consider the views of the donor in strategic terms while not being bound by them
Must refrain from seeking to influence the trustees in matters of day-to-day management and choice of beneficiaries (within any agreed conditions of funding mutually accepted as being in the charity's interest)	**Must** retain the absolute discretion to manage own affairs and to choose beneficiaries or activities **Must** reserve the right to conduct their own affairs in private i.e. without sharing papers with or allowing observers from the company
Must respect the independence of trustees even where they are also employees or board members of the company	**Must** avoid conflicts of interest according to company law or manage them if not registered as a company
May report activities of the foundation in its CSR report but may not claim these activities as its own	**Must** ensure that its activities are clearly identified as its own independent choices
Must, if retaining the right to appoint trustees, select those best suited to the charity's needs	**Must** always act in the best interests of the charity no matter who appoints them
May create a charity with a similar name and logo to its own, subject to trustees' agreement	**Must** clearly differentiate between the company's activities and interests and those of the charity
Must avoid any potential reputational risk for both parties by making the distinction between the two clear	**Must** avoid any potential reputational risk for both parties by making the distinction between the two clear
May provide additional services to the charity or negotiate supplier discounts, for example	**Must** ensure that any additional services or offers are in the best interest of the charity and will not create obligations or reputational risk

Case study

The **Shell Foundation** has set out its business principles in documents available on its website[16]. It has a defined relationship with its funder, the Shell Group, described briefly in this extract:

Independence

Our activities will always be consistent with achieving the Shell Foundation mission and cannot promote the commercial interests of the Shell Group. Any benefit that may accrue to the Shell Group from our activities will be incidental and outweighed by the contribution to our charitable objectives. We operate an assurance system to identify, measure and validate this. This means we – not Shell – decide what we want to do, where we operate and who our partners will be.

Leveraging Shell Group resources to deliver maximum social value

We believe the skills and knowledge of business, appropriately deployed to solve social problems, offer far greater value to society than simply providing traditional charitable funding to good causes. Thus, wherever appropriate, we leverage the power of Shell's brand, knowledge and infrastructure to help us and our partners tackle global poverty and environmental challenges.

16 *Shell Foundation – Business Principles* available on www.shellfoundation.org. See also the Shell Foundation/Shell Group joint publication – *Maintaining Independence: A Guide to the Shell Foundation Relationship to the Shell Group.*

Chapter 4
Good governance

The Charity Commission sets out the basic rules and principles for governance of any charity in its booklet *CC3 – The Essential Trustee: What you need to know*. This tells new trustees how they must govern the charity and what constraints are placed upon them. But the Charity Commission is not prescriptive about the composition of the board. That is a matter for the founder, his/her legal advisor and the trustees of the charity.

Given that there are 160,000 registered charities in England and Wales, a further 23,300 in Scotland, and an unknown number in Northern Ireland, it will come as no surprise that there is considerable variation in the forms of governance even among the smaller select group of corporate foundations. In effect. if you stick carefully to rules about independence of decision-making and conflict of interest, you can structure and thus engage with your foundation in several ways.

We deal here with the issues of charity governance. Some charities are also registered with Companies House as companies limited by guarantee. This means they have members as well as trustees. In practice the members may be the company and/or the trustees themselves. Their Memoranda and Articles will define much of their behaviour.

Models of governance

The table overleaf shows some models drawn from our research. At the top of the diagram is the most visibly independent structure. But the Charity Commission rules are very clear: once you become a trustee, no matter who appoints you, you are required to act *only* in the best interests of the charity. Nor are you permitted to accept instructions from any external body, including the one that appointed you. So to some extent the composition of the board *should* be immaterial. However, the external perception of the charity and the corporate donor's relationship with it will alter according to its governance. If the founder seeks approbation and wishes to avoid a cynical view of his/her motivation they would do well to adopt a model higher up the scale. Moreover, trustees are human and experience conflicts of loyalty if not conflicts of interest, for example if their appointer is also their employer. Trustees have a duty to manage (or as company directors, avoid) conflicts of interest, so it is essential that the board always includes enough independent trustees to make a decision when trustees connected to the founder are conflicted.

'The principle of independence continues when a corporate foundation has been set up. Trustees must always exercise independent judgment and properly manage any conflicts of interest. This is particularly important for corporate foundations, where the company may seek to influence or direct

its decision-making. There are reputational risks for the corporate foundation (and potentially the company) if the public perceive that the corporate foundation is for the benefit of the company rather than the public'[17].

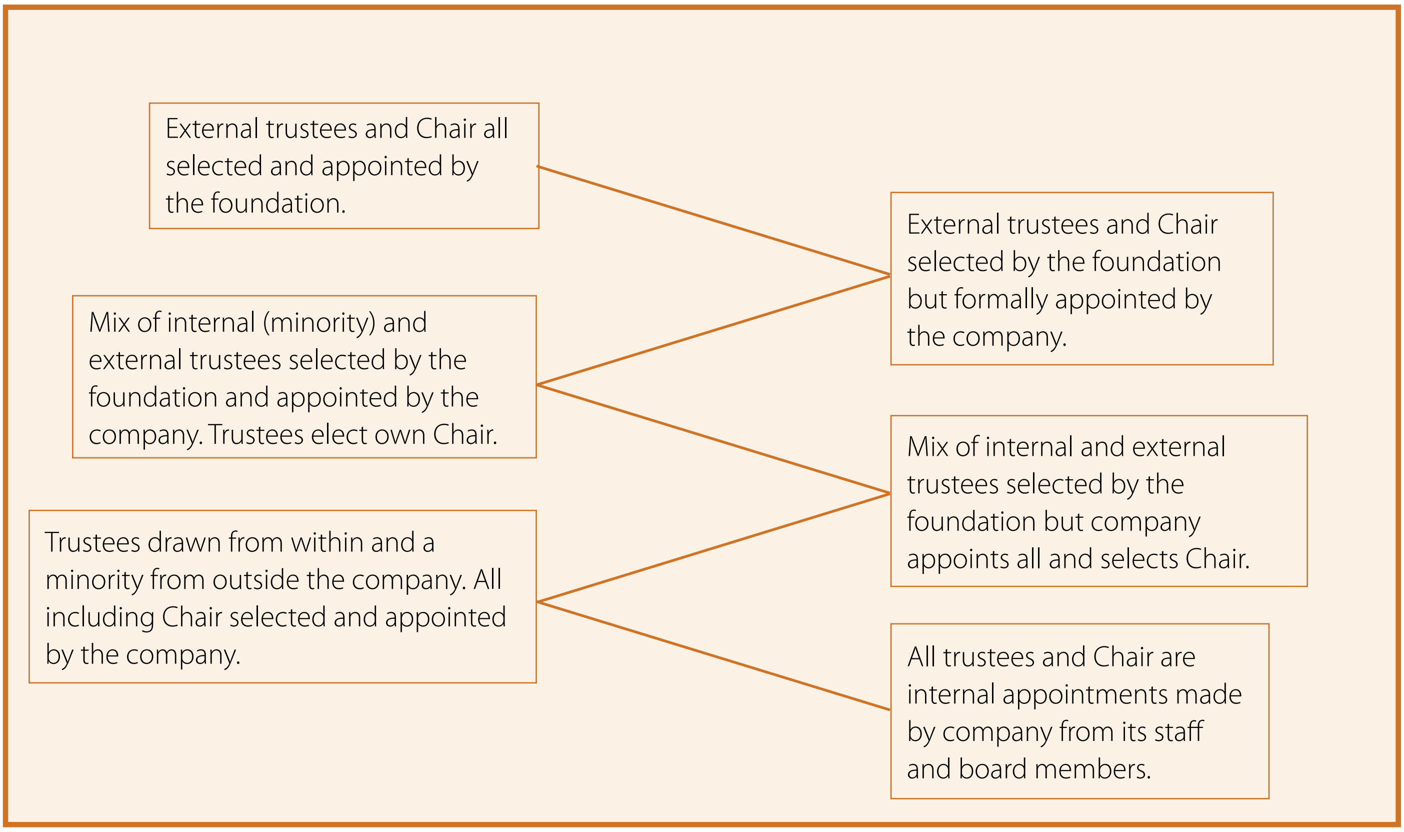
Respondents to our survey were almost equally split between the foundation and the founder on the question of who appointed trustees. Some recorded both answers. Our interviews lead us to believe that where the company appoints the trustees this is often – though not always – a formality, with the trustees identifying new recruits and recommending them to the company. This seems to be sign of the maturity of the relationship.

However, the balance shifted significantly on the question of the Chair; here it is the foundations' trustees who generally appoint from among their number.

This diagram shows a range of possibilities starting at the top with the most visibly independent structure and ending with the totally internal governance arrangement.

These provisions will be defined in the Memorandum and Articles of the foundation. If the foundation is also a company, the members will legally appoint trustees. It is also possible that the founding company will be the sole member in which case it retains the right of appointment.

It is essential that appointments pre-empt any potential difficulties that may be caused by conflicts of interest or loyalty. Should, for example, a number of trustees who are also corporate employees find themselves conflicted, there must be sufficient trustees remaining to make a meeting quorate. For further guidance on handling such conflicts see the section later in this chapter.



17 *A Guide to Corporate Foundations* para C1.

18 Some writers refer to *independent* and *company* trustees but this undermines the clear direction that all trustees are independent of the body that appoints them so we refer to internal and external trustees.

The ASDA Foundation

Case study

'There are currently nine trustees. The chair of the trustees is appointed from amongst those trustees who are employees of ASDA Stores Limited (company number 464777). The Chair will have a casting vote in the event of an equality of votes.

The Chair shall retire from the board after two years in office, but will be eligible for re-election for three consecutive terms (and longer if a majority of trustees consent).

The board of trustees will normally comprise eight trustees (and in any event must comprise between three and 10), all of whom will also be members of the ASDA Foundation. The board of trustees will be constituted as follows:

- *A majority of the trustees will be employees of ASDA Stores Limited;*
- *At least one trustee will not be an employee of ASDA Stores Limited ('independent trustee(s)');*

and, as far as possible, the board of trustees will comprise the following:

- *Four trustees recruited from employees working at ASDA House*
- *One trustee recruited from an ASDA store*
- *One trustee recruited from an ASDA depot*
- *Two independent trustees.*

Trustees shall retire from the board after two years in office, but will be eligible for re-election for three consecutive terms (and longer if a majority of trustees consent).'[19].

This foundation is very closely linked to the parent company as is evident from its governance arrangements. While it is clear that the foundation must make independent decisions, its activities are already defined by its Objects, which are largely to support staff involvement in '*good causes*' and to administer money raised for national appeals. Consequently, this governance scheme, although not recommendable for all corporate foundations, is fit for purpose providing all the trustees remember that their loyalty lies with the foundation and not the company.

Length and terms of service

Trusteeship can be a pleasure but also quite onerous. It is important for trustees to know for how long they are expected to serve and on what terms so that they can measure out the time they can give and, for example, the subcommittees with which they are involved. For the foundation the challenge is to retain knowledge, skill and historical perspective while keeping the board up-to-date and fresh. The foundation will want to avoid the development of cliques among trustees, excessive respect for longevity, and abrogation of power, especially if the foundation is large or dominant in a small area. We cite no examples of such problems in the UK but we are aware of examples in other countries with similar charitable regulations where very large foundations catering to small areas can find their trustees acting as if they were dispensing wealth at will.

Terms of three years are common with the possibility of extending by one term or two. Special provisions will be made to cover the case where a trustee becomes Chair towards the end of a term. For the first board, in order to prepare for a rotation of trustees, one-third of the board should resign after the first term, making themselves available for re-election; a further third should resign after four years; and the last third should resign after five years. The first cohort may therefore serve for fewer years and the last for more than the recommended six years but over time the system will balance itself.

Retirement ages for trustees are somewhat controversial. Some corporate foundations adopt the same practice as the boards of the business i.e. retirement in the year of the 70th birthday. Others take the view that this is discriminatory and wastes the talent of those who tend to have more time to give. Arguably, a regular skills audit and an appraisal system should guard against any foundation carrying trustees who are, for whatever reason, less useful.

19 Taken from the Foundation's *Annual Report and Accounts 2008.*

Good practice

The Charity Commission recommends that the board contain at least two external trustees.

Trustees should serve a minimum of two terms for the sake of continuity.

The Chair should be allowed a further term but it is wise to set a maximum period of service.

The first trustee board may differ because an orderly rotation will be needed.

The Chair should conduct regular board appraisals, especially if there is no age limit to trusteeship'.

The first board

It is, of course, necessary for someone to appoint the first trustees and the founder is probably the best placed to do so. Some corporate funders take advice according to what they hope the foundation will do and appoint experts in the particular field in which the foundation is to be active. Some founders retain the right to continue appointing trustees throughout the life of the foundation: this is acceptable to the Charity Commission but Best Practice would be to delegate this authority to the trustees themselves once the foundation was established. Those who continue to appoint trustees will always be subject to suspicion, fairly or unfairly, that they do so in an effort to maintain control of the foundation.

Best practice

Once the first board of trustees has been appointed, responsibility for future selection should be left to the trustees themselves, operating within the governance framework established at the outset.

Finding trustees

Traditionally, trustees or founders recruited new trustees from their personal and professional circles. Increasingly, and with the support of the charity regulators, foundations are seeking new skills from a wider catchment area.

One alternative is to use a recruitment consultant. There are various specialist consultants who can help. Other foundations have chosen to recruit new trustees by advertising the positions and conducting the whole process of recruitment themselves.

In order to get the best results from wider recruitment trustees will need to undertake an audit of the skills and experience they already have and identify the gaps they need to fill.

This question of a skills audit raises another critical point: whoever appoints the trustees must ensure that they appoint on the basis of what the foundation needs and for no other reason. Being a trustee is not a reward for having been a good corporate board member or a good friend of the Chairman, whether of the company or of the foundation. Nor is having an impressive business career necessarily a qualification for trusteeship. Of course, business skills can be transferable and of course a foundation with an endowment or complicated financial affairs will benefit from a business attitude and a business mind. But a board made up entirely of business people with no working or life experience in the charitable sector or in grant-making will be like a team of top heart surgeons trying to do brain surgery. The Charity Commission is keen that boards should feel confident about challenging the executive[20]. What better way to achieve this than by having an informed, experienced and unfettered board that can really add value to the foundation's work?

Several of the people we interviewed advocated having on the board someone very senior within the company. They gave several reasons.

- This shows everyone in the business that the company is serious about the foundation.
- It can make it easier to argue with the marketing department, for example, that they cannot use the foundation if the CEO or COO is a trustee.
- Communicating back to the board of the company will be the easier for having an informed ally already there.

Much depends on the balance of the trustee body and how close the foundation is to be to the founder.

20 Charity Commission, *Beyond the Banks: lessons and opportunities for the regulation of charities* (a summary of a round table discussion held in July 2009).

Case study

The Nationwide Foundation board forms a nominations committee which does a Board Skills Audit before advertising for and then interviewing and selecting trustees. It does this for all its trustees who are then, at its request, formally appointed by the Nationwide Building Society. The Foundation was delighted by the response last time it advertised for new trustees. It found itself with a much bigger pool of candidates – 80 – and recruited an excellent applicant who was not known to any of the current trustees.

Good practice

Ensure that you have the range of skills and experience the foundation needs by resisting the temptation to fill the board with colleagues and friends.

Always do a skills audit before appointing a new trustee.

Use a recruitment consultant or advertise if you want to stretch your net wider

Induction of new trustees

We were surprised to find that several corporate foundations have no induction process for new trustees. It is highly recommended by the Charity Commission to all charities that newly appointed trustees are given an induction including requirements of charity law and the practices and expectations of the foundation from its trustees. Indeed, the directors' report prepared under SORP regulations asks trustees to comment on induction. But, far from being a regulatory imposition, an induction benefits both the foundation and the new trustees. It is a sensible way of getting a new trustee up to speed and able to contribute to the foundation from the start. For the incomer it is a kindness that allows them not to approach their first meeting in a fog about the organisation's working practices.

An induction pack should contain the following.

- Memorandum and Articles of the organisation
- A selection of the Charity Commission's (or other regulator's) guidance publications including *The Hallmarks of an Effective Charity* and *The Essential Trustee.*
- A written note of the terms of office including period of service, limits to years of service and means of re-election. You might also include attendance requirements or other factors that might lead to dismissal.
- Annual Reports of the foundation if available (the last two and any that detail significant events in the foundation's life).
- Audited Accounts (as above).
- A list of fellow trustees with short biographies.
- A diagram of the staff team (if any).
- A trustee job description.
- A chair's job description.
- A note or diagram showing decision mechanisms.
- A calendar of key events including trustee meetings, AGM and any known additional events at which trustees are expected to be present.

The CEO and Chair of the foundation normally handle inductions separately or together. A corporate founder may also wish to participate. Only one corporate founder in our survey carries out the induction alone but this may be a factor of size.

Best practice

Foundations are strongly urged to devise an induction process for all new trustees and to revise it regularly.

Handling conflicts of interest and conflicts of loyalty

No matter how painstaking the appointment, induction and governance arrangements are, all trustees are liable to come up against conflicts of interest or conflicts of loyalty. A conflict of interest is *'any situation in which a trustee's personal interests may, or may appear to, influence or affect the trustee's decision-making'*[21]. The phrase '*may appear to*' is important: the Charity Commission is a fierce defender of the integrity of charity and requires the

21 Charity Commission, *A Guide to Corporate Foundations* p3.

foundation to have a procedure for handling such conflicts. However confident the trustee and the rest of the board are that the trustee can handle a possible conflict all trustees, like Caesar's wife, must not only be above suspicion but also be seen to be above suspicion! A foundation should have a procedure for handling conflicts of interest in which the trustee should withdraw from either the meeting or indeed the board. If the foundation is also a company it will have to observe company law on conflicts of interest which is very comprehensive.

During the crisis affecting the Northern Rock Foundation, three trustees stood down temporarily because of their connection with the bank.

Events relating to the business of the Foundation's sole funder, Northern Rock plc, led three trustees to stand down temporarily during the final quarter of the year. These trustees informed the Chairman that, while they did not believe they were yet subject to conflicts of interest between the bank and the Foundation, the circumstances at the plc and their own connections with it might lead them to be conflicted or to give the appearance of conflict. In the interests of the Foundation's reputation and for the sake of full transparency they therefore stood down temporarily[22].

The consequences of ignoring conflicts of interest can be severe.

Where a trustee has received an unauthorised benefit, or where a trustee doesn't personally benefit but does not act in the best interests of the charity, the transaction may not be valid and the trustee could be liable to pay back the value of the benefit to the charity.

In cases where it seems that trustees have deliberately placed their own interests ahead of those of the charity in order to gain significant benefit at the expense of the charity, we will open an inquiry and, if appropriate, refer the matter to the police[23].

Instances of trustees seeking personal gain from trusteeship are thankfully relatively rare but the corporate trustee, if s/he is also employed by the company, may face particular challenges. If, for example, the company asked the foundation to release a contact list of grant recipients so that it could market its services to them, the trustees would have to consider what this might do to the foundation's reputation as an independent body and indeed whether such a scheme might be construed as a use of the foundation for company marketing which would certainly jeopardise the charitable status of company donations. In such a case the trustee body would have to be very careful since trustees could be personally liable for any loss to the foundation. Moreover, there could be issues of data protection. Internal trustees could find such a situation embarrassing and difficult and should certainly absent themselves from such a discussion if they feel compromised. We have come across several requests like this in our research: in each case the trustees have politely explained that they could not oblige and have not allowed the company to use their lists. Later we talk about how situations like this can be avoided by clear protocols and good communication.

Conflicts of loyalty are different. They are defined by the Charity Commission as '*situations in which, although the trustee does not stand to gain any benefit as a result of a particular transaction, their duty to the body which appointed them, another organisation, another charity of which they are a trustee, or to a member of their family or other connected person may (or may appear to) influence or affect their decision-making*.'

The avoidance of such conflicts is very much a question of transparency and integrity on behalf of the trustee since the conflicts may not be always evident to fellow trustees. Keeping a register of trustees' interests may help but it is up to each trustee to declare an interest and to be clear that, while they are acting as trustees, the interests of the foundation precede any others. This could be difficult: if a trustee, for example, approved the arrangement of a long-term financial commitment by the charity in the private knowledge that the company was about to cut off funds this would be a clear breach of duty to the charity and could have severe consequences.

22 Extract from the Foundation's *Accounts 2007* p4.
23 Charity Commission, *A Guide to Conflicts of Interest for Charity Trustees*.

Case study

The Ove Arup Foundation was created by the engineering, planning, design and professional services firm in memory of its founder with the objective of '*the advancement of education directed towards the promotion, furtherance and dissemination of knowledge of matters associated with the built environment*'. The trustees are drawn from past and current senior members of the company, supplemented by external advisors; and its staffing needs are served by a company employee. Yet the company and foundation are kept distinct in what they do and in how they appear. For example, they do not share a logo. The company respects the independence of the Foundation to the extent that the Foundation even occasionally works with the company's competitors. In fact, this freedom to advance ideals without the constraint of commercial concerns is valued by both the Foundation and the company and is seen as an advantage of this model, although not the driver.

The trustees' right to private discussion

The trustees must be able to discuss freely among themselves and record privately any decisions or discussions without being or feeling constrained by the donor. In effect this means that the donor should not insist on having observers present at foundation meetings since an observer is not bound to serve only the interests of the charity and may, therefore, significantly impede free discussion and decision-making. Nor does the donor have the right to request foundation papers. Where a foundation is lodged entirely with the corporate donor it is important to establish right from the start that foundation agendas, minutes and reports may be kept private unless the trustees choose to share them.

We have come across instances where a company assumed it should automatically receive the papers for all foundation board meetings. In a number of cases the company comments on the foundation's papers without invitation. This should be seen as a serious challenge to the trustees' ability to work unfettered by outside pressure. Even if the company made no reference to papers and did not attempt to influence decisions, the perception would be that it could do. This would be embarrassing for the trustees and compromising to both parties' reputations. Of course there is nothing to stop trustees inviting company representatives to attend all or any part of a meeting if they wish, but it must be clear that attendance is within the gift of the foundation board alone.

Best practice

Trustees should ensure that they can meet in private and conduct their business without the scrutiny of any other party.

Company funders must respect the right of the foundation trustees to meet privately and remember that the foundation is not a sub-committee or subsidiary of the company.

Keeping trustees fresh and active

Trusteeship should be treated every bit as responsibly as any other board appointment. It is now common business practice for board members to be appraised annually and so it should be with foundation boards[24]. The Chair usually carries out appraisals often with a vice chair but the appraisal can be outsourced if the board members feel uncomfortable doing it themselves.

A good board appraisal looks at the functionality of the board as a group and also at the individual contributions of members. Poorly conducted appraisals tend to result in a series of complaints about how much time everything takes and how

24 See www.frc.org.uk/corporate/2009reviewresponses.cfm. on responses to the Combined Code of Corporate Governance

much paper is generated! While these may be legitimate complaints (though they are so common that it is unlikely), they do not help the board review its own composition and its own responsibility for making a contribution to the foundation that is greater than the sum of its parts.

The Nationwide Foundation undertakes regular appraisals of its trustees and on one occasion brought in outside experts to help it. The Chair regularly urges her colleagues to reflect on the effectiveness of their meetings. Other foundations conduct appraisals, though the practice is not as common as it might be.

Good practice

The Chair should ensure that the board members have regular appraisals, annually or at least every two years. The Board should also review its performance as a team.

Governance day-to-day

The governing document may include stipulations about devolved powers to subcommittees or to paid staff (if they have any). These are useful to any foundation and are relatively common, but corporate foundations have particular needs: many run matched giving schemes in which the foundation will match charitable donations made by staff of the business under schemes designed to suit each foundation. Others use a part of their annual income to fund, for example, projects local to company branches.

Busy trustees seeking to concentrate their efforts on strategy and larger grants or desiring to keep a regular flow of small grants between trustee meetings are well advised to give discretionary powers to the staff and/or a small group of fellow trustees to deal with such grants. Providing the rules for delegation are clearly agreed by trustees, this is a sensible way to avoid trustee meetings being clogged up with a series of very small grants. Some foundations also delegate other tasks to sub-committees for similar reasons.

Case study

The **Santander Foundation** engages local volunteers from among staff to choose some of its smaller grants. An independent local third sector expert joins them to select from applications that have already been cleared by staff for eligibility, due diligence etc. The foundation manager has authority to sign off amounts up to £5,000 but for higher sums he can call on one (up to £20,000) or two (over £20,000) trustees. The next possible trustee meeting then ratifies all such grants.

Trustees should remember that they can delegate tasks but not responsibility, so they must ensure that their decisions are correctly enacted and that they ratify all delegated decisions in a timely fashion.

Change and evolution

In some cases foundations attached to companies have changed as the companies have changed. But the fundamental principles of governance remain the same.

Case study

The original **Greggs Foundation** was set up with a gift of shares by a member of the Greggs family when its bakery business began a period of rapid growth. It operated initially almost like a family trust with the founder, Ian Gregg, managing it as a kitchen-table enterprise. But as the company grew even more, the Foundation grew with it. Whereas at the beginning it operated quietly and without significant recognition, it is now seen as an important part of the company's CSR ethos. Employees of the much larger Greggs operation are enthusiastically involved in fundraising and payroll giving. In return, each area division is given the opportunity to make small local grants by delegated authority. The company does now publicise the Foundation but is careful neither to abuse its independence nor to claim the foundation's activities as its own.

Good practice

If you are dealing with a high number of small and regular requests, delegation with clear principles to staff or to a subcommittee of trustees makes sense. The decision should be recorded in the minutes of the meeting at which it is decided. The meeting should also agree terms of reference explaining the purpose of the decision, to whom it applies, for how long it is effective, what limits there are to the powers of the delegate and how activities should be reported.

Summary

The governance arrangements are the basis on which the foundation will work. It makes sense to get them right from the beginning. There is plenty of good advice available. Founders should take professional legal advice, of course, but also talk to others who have set up foundations or who are running them. People in the foundation sector do not see other foundations as competitors and so are generous with their experience and advice. They can help a new founder to avoid any problems they have had themselves.

Some of the people interviewed for this Guide strongly suggest that trustees re-read the Charity Commission guidance booklets on trusteeship, conflicts of interest and, now, corporate foundations annually. For a board that meets perhaps only four times a year that might seem a bit too much. But trustee boards who have reflective or review meetings would do well to include, for example, a presentation from one of their number on some aspect of the guidelines and to discuss how they have dealt with any difficulties during the year.

Governance is the job of trustees but foundation employees, if there are any, should also be familiar with the requirements so that they can guide trustees as needed. The CEO or other main staff member should ensure that each trustee receives copies of relevant Charity Commission guidance on appointment and that any new publications are quickly circulated to the trustees.

Chapter 5
Funding the foundation

The prospect of setting up a trust or foundation may seem like a daunting financial challenge but it need not be so. There is no basic entry fee or minimum contribution. The smallest annual foundation spend in our survey was £6,673 in 2009 and the largest ran into millions. Nor need donors lock themselves into donations they may not be able to afford in future. Corporate founders have options to donate according to their ability and can build in variations to their giving to allow for fluctuation in future profits. The chief determinant of how you fund, other than your ability to contribute, is what you want the foundation to do and over what period. In our survey of foundations in the UK we found a number of variants. The table at the end of this chapter shows these with comments on the advantages and disadvantages to the foundation and to the donor.

In practice some donors have used several of the possible funding routes simultaneously. For example, when Friends Provident Life Office demutualised in 2001 it established a foundation with a small endowment and in-kind support in terms of key governance functions and administration. Currently the business's contribution takes the form of use of venues, at-cost provision of IT and other infrastructure, the contribution of company secretary time and general goodwill. The Foundation's income from investments supports all grant-making and pays for staff and other direct costs. The Northern Rock Foundation benefited from a formula by which it owned special shares in the business. In lieu of dividends from the shares, the Foundation received by covenant 5% of pre-tax profits.

Some types of corporate donor have particular ways of funding open to them. For example, some of the building societies we mentioned in Chapter 2 still require new members to agree to donate any shares that might be given as a result of a future demutualisation to the societies' foundations. This leads to the double benefit of discouraging carpetbaggers and accruing charitable donations for the corporate foundation.

Several British airport foundations receive money from fines levied on aircraft noise infringements. The money tends to go to local causes in recognition of the occasional inconvenience of living near an airport.

Other variants

The Trusthouse Charitable Foundation used the inherited investments from the Granada Group to endow a trust previously operated by Forte plc. BUPA the health service and insurance provider, has entered into five-year commitments with the foundation of the same name allowing it to vary donations according to its business success and at the same time giving the Foundation a degree of stability. One trust, responding anonymously to our survey, also mentioned speaking fees and Gift Aid as two of six different sources of funding. Another anonymous respondent noted gifts from customers and even some individual donations, though these are generally smaller contributions.

The Asda Foundation makes small local grants and contributes to major appeals like BBC Children in Need. It is funded by profits from midweek Lottery sales.

As a huge multinational company, Vodafone has choices not available to many; its Vodafone Foundation is centrally funded according to annual decisions by the board. The individual country subsidiaries in some of its countries of operation have chosen either to set up foundations or to pursue community activities in some other way. Subsidiaries are obliged to have some form of community engagement appropriate to the area of operation.

The Morgan Stanley International Trust was set up with the following Objects, which include an injunction to trustees to accrue capital:

For or towards such charitable purposes and to make donations to such charitable institution or institutions at such time or times and in such manner as the trustees may in their absolute discretion think fit provided that the trustees in their absolute discretion for the period of twenty-one years from the date of this deed instead of applying the income of the charity in any year accumulate all or any part of such income at compound interest by investing the same and the resulting income in any of the authorised investments and hold the same as an accretion to and as part of the capital of the charity without prejudice to their right to apply the whole or any part of such accumulated income in any subsequent year as if the same were income of the charity arising in the then current year[25].

Building a reserve

There are two kinds of reserve to be considered. The first is the rolled-up commitments made for grants or project commitments over several years: it makes sense to account for these and to place them safely aside once they have been offered. Indeed, SORP accounting rules require that any committed funds are accounted for in the year in which the commitment is made. Some foundations rely on clauses in their grant agreements to the effect that instalments are contingent on their own financial health. Others take the chance that some commitments will fall through every year for extraneous reasons. Planning this way is perfectly legal but can have severe consequences for grant-holders counting on the grant-maker being able to fulfil commitments. Ever since The Baring Foundation lost its income overnight and found itself unable to meet its commitments the Charity Commission has encouraged grant-makers to account for forward commitments in their annual accounts and to make suitable provision for them in line with SORP.

Good practice

Always ensure that you can honour your forward commitments by setting aside funds to cover multi-year offers for grants or projects.

The other type of reserve is the free or undesignated reserve set aside to cover rainy days or unforeseen expenditure. It can also be used for good things like special projects that could not be funded easily out of a single year's income. Some corporate donors encourage their foundations to spend every penny of their annual income; others are quite happy to see a reserve built up.

In recent years the merits of retaining a reserve have been proven as high-profile casualties like the Lehman Brothers Foundation and other financial sector foundations have experienced catastrophic declines in income. In the case of the Northern Rock Foundation its reserve allowed it to go on grant-making, albeit at a reduced level, until its future was clarified. At the very least a reserve can allow a graceful closure should the donor be unable to sustain giving. But even in less extreme situations a reasonable reserve will allow a foundation to ride out fluctuations in income while maintaining some activities. A foundation that might have to close to new grant applications for a period will still have outstanding grants to issue or to monitor so it will need to retain enough back office to do these tasks.

25 I have asked the Foundation if it did acquire capital as encouraged by the Objects but have been unable to get an answer at the time of writing.

Foundations with their own projects to run should always retain enough funds to withdraw gently and in a planned fashion rather than in haste and with a high casualty rate.

For trustees and staff of foundations there are of course formulae that give a greater degree of self-definition and which allow for more long-term vision and strategy. Where trustees can influence the donor at the outset they are well advised to try to secure some level of consistent and reliable funding: endowments are clearly the best possible option though they are still relatively uncommon in corporate funding. Any variety of unconditional regular donations comes a close second. However, some foundations have relished working closely with their funder and for them regularity of income, even if it comes with some corporate requests, is the important thing.

Diversifying income sources

The state of the world economy has rightly made all boards think carefully about the responsibilities that come with trusteeship. Many have considered whether or not they can or should seek other sources of income. The Charity Commission's *A Guide to Corporate Foundations* raises the issue and advises that: '*Trustees should consider the charity's income sources and have a strategy in place to raise funds*". However it goes on to express this more strongly: "*They should actively seek to diversify the charity's income sources as far as possible*.'

We asked organisations in our survey whether or not their boards had discussed this question and what their conclusions had been. Most had either not discussed the possibility or had ruled it out. Of those who said they had discussed it, the tactics were all part of their normal operation, for example, raising funds from corporate customers or seeking partners for projects. Some foundation directors were interviewed who did not complete the survey; none of them considered diversification a serious option for giving the foundation increased security or independence.

Given the economic imperatives and the Charity Commission exhortation, we need to ask why corporate foundations have been so reluctant to follow the advice. The answer is not complicated. Diversification of income sources, which is always urged on the service-providing side of the voluntary sector, is much more difficult for corporate foundations. It is worth exploring this for a moment because others beyond the Charity Commission – some donors, politicians, and the public – without wholly understanding the issues sometimes suggest that foundation trustees facing financial uncertainty seek donations elsewhere.

Within the donor/foundation relationship there are various income possibilities as we have shown. But to seek financial support beyond the founding donor or its customers/clients presents a series of problems for all parties. There are essentially three possible alternative sources of money for trustees to consider.

First, there are other businesses, charitable funders or philanthropic individuals. But unless the original donor has disappeared and the foundation bears a neutral name, it is unlikely that any new corporate donor would derive much advantage from making a donation. During the period when the future funding of the Northern Rock Foundation was in doubt, it was seriously suggested to the foundation trustees that they seek donations from other banks. But what bank would wish to have its donations promoted under the name of a rival? And why would, for example, a retail company fund the foundation bearing the name of an accountancy and consultancy firm unless they had some business connection? We found one exception to this objection: two of the Greggs Breakfast Clubs for schools, now run by the Greggs Foundation, are also funded by the Royal Bank of Scotland which seeks no branding from it. This is so clearly a special case that it does not overrule the general principle that companies are unlikely to give to another company's foundation.

An individual who had perhaps had a relationship with the original donor company might, to preserve anonymity, make a donation to the foundation and indeed this has happened in one of our surveyed organisations (though only one); but we know of no significant examples that have become a primary and enduring source. One corporate foundation received a six-figure sum from a resigning chairman of the business but he specified the organisations he wished to benefit from it and the foundation received no fee for administering the grants.

As for collecting money from the public or from other foundations, the same objections apply but in addition, the foundation would be setting itself up in competition with the very charities it might subsequently fund. Unless it had special access to a source of funds not available to other charities it would simply be re-routing charitable donations with no net gain to the sector.

Some foundations, especially those with direct customer-facing operations, do collect from the public. For example, all the major supermarkets collect for Comic Relief and some collect for their own foundations. Generally these are time-limited activities leading up to some national event, though some are more continuous. But the sums are not large and the competition point still applies. Some businesses lend themselves more readily to fundraising from customers; for example, anything involving fair trade, children or activities abroad seems to work well. So for some corporate foundations there is room to augment corporate donations with fundraising, but the limitations are clear.

Case study

The Costa Foundation[26]

'To demonstrate our on-going commitment to improve the social and economic welfare of our coffee growers, in addition to a direct donation from Costa, we've launched a variety of ways to raise funds for the Costa Foundation.

- *National centrally-driven campaigns.*
- *Store fundraising activities.*
- *Individual team member fundraising.*
- *Customer over-the-counter donations during national campaigns.*
- *Payroll Giving contributions.*
- *Sale of product.*
- *Donations from partner organisations.*

Whitbread/Costa also match pound for pound all store fundraising activity

Individual donations can also be increased through Gift Aid. Gift Aid is a government-led initiative that allows charities such as the Costa Foundation to reclaim the basic rate income tax on donations made to them by UK taxpayers who sign a Gift Aid declaration.'

A second source is government funds. These are often delegated to voluntary sector partners for distribution, so a corporate foundation seeking to run a scheme on behalf of a government department for a fee is possible, providing that the branding can be agreed. However, in general this sort of activity is the domain of the community foundation movement, which is generally well geared to handling throughput funds. There is no advantage to government, the foundation or the corporate donor in rivalling the local community foundation, if there is one.

Finally, trading is a possibility providing that the foundation has the appropriate skills and is permitted by its Memorandum and Articles. Our research has not turned up any substantial or ambitious attempt to fund a corporate foundation by this route, though some foundations reap the benefit of branded goods sold specifically to fund the charitable activity by the principal donor. Some businesses are specifically structured as non-profit-distributors, i.e. 100% of net profits are given to some cause connected with the company, sometimes through its own foundation. Newman's Own is such a company: the profits of the range of bottled foods from actor Paul Newman's company are given to causes helping children. There are several such arrangements in the US. Here in the UK this model is much less common. The Prince of Wales donates all profits from his Duchy-branded products to the Prince's Trust but this is not a corporate foundation. We have found no companies trading purely to fund a foundation in the UK, although there are of course plenty of excellent social enterprises recycling their profits into socially responsible activities.

It seems that a small amount of diversification can be achieved but it can only be enough to augment the activities of the foundation. Moreover, it is not true diversification since it will require the cooperation of the company to make time, customers and staff available for fundraising.

There is one further area in which diversification might be considered and that is investment of the foundation's endowment. Some companies endow foundations with a gift of shares. Trustees should immediately consider whether or not to diversify their share portfolio by selling some of these shares. In such situations trustees may feel that this shows

26 Quoted from the Foundation's website.

disloyalty to the company but their sole loyalty must be to the interests of the charity, which are likely to be best served by spreading risk. A sensible conversation between the board and the company should resolve any potential misinterpretation of the sale of shares.

Our survey revealed annual donations from companies ranging annually from £10,000 to $18m (£11.7m). We are aware of many smaller sums contingent on annual profits. Almost all corporate foundations receive additional support or staff from the corporate donor; the larger of them repay, for example, staff and office costs, while the smallest are run by corporate employees part-time. No matter how great or small the donation from the company, the most important thing is to make every penny count. We go on to consider some of the ways to do that in the next chapter.

Type of donation	Disadvantages	Advantages	Best for
Endowment	**For the donor** • Requires a large capital injection • Requires clear statement of purpose since, once given, the donation cannot be retracted • In time further expectations may be made of the company by peers or customers as the memory of the first donation fades **For the foundation** • Requires management of an investment portfolio • Will be subject to market fluctuations	**For the donor** • Can be a one-off donation taking advantage of particular circumstances and giving long-term returns for a single input **For the foundation** • Provides a more secure and independent future • Foundation will be able to manage its own plans and decide on variations in spending according to its own estimate of future income	• Donors and foundations taking a long view • Donors taking advantage of some significant change of circumstance e.g. demutualisation, merger, expansion, or flotation. Indeed, this may be a critical factor in securing stakeholder agreement • Foundations seeking to make real changes and with well-defined strategic purposes
Foundation owns company shares	**For the donor** • None apparent especially if they are non-voting shares **For the foundation** • Cannot usually sell shares or influence company's business plan	**For the donor** • Retains strong corporate relationship **For the foundation** • Should eventually provide the same long-term security as an endowment	• Companies seeking the additional protection from predators that having a large shareholder 'in-house' can bring

Type of donation	Disadvantages	Advantages	Best for
Covenanted donations from company profits	**For the donor** • New shareholders may resent commitment • Without a well-considered formula the company may find obligations difficult to meet **For the foundation** • Minimal	**For the donor** • A reliable formula with regular foundation contact • Annual donations recorded for CSR purposes **For the foundation** • Regular income with fewer fetters to independence but subject to fluctuation	• Companies with a long and strong commitment to the foundation but without the necessary one-off injection of funds
Variable donations from company profits or according to a defined formula	**For the donor** • Shareholders may expect higher or lower contributions at various times. **For the foundation** • Unpredictability in income • Changes among senior partners or board may alter commitment • Donations may be tied to activities not conducive to the foundation's grant-making or activity strategy.	**For the donor** • Allows for responsiveness to markets • Gives the opportunity to attach donations to certain types of activity[27] **For the foundation** • Commitment to regular income	• Companies with a long and strong commitment to the foundation but without the necessary one off injection of funds • Companies wishing to retain the possibility of influencing the foundation's activities
Donations from senior partners (in limited partnership)	**For the donor** • Unpredictable income may cost the foundation its effectiveness, which means poorer social and perhaps CSR return to donors **For the foundation** • Unpredictability in income • Changes among senior partners or board may alter commitment • Donations may be tied to activities not conducive to the foundation's grant-making or activity strategy	**For the donor** • Flexibility **For the foundation** • No particular advantage	• Highly motivated and stable partnerships sharing common values

27 But see the preceding section on Trustees and independence for cautionary notes on this subject.

Type of donation	Disadvantages	Advantages	Best for
Donations from employees (GAYE and/ or fundraising)	**For the donor** • May require management encouragement to keep up • Employees may prefer to donate to other causes • Face-to-face fundraising may alienate customers **For the foundation** • Unpredictability of income • Possible pressure to ally foundation donations and activities with changing staff interests thereby preventing strategic or long-term goals	**For the donor** • Can be good for staff morale and team-building • Costs to business lower (employee time and support only) relative to funds raised • Can help company's image with customers **For the foundation** • Often a very good yield depending on company size • Some foundations welcome close work with staff and ability to capitalise on company connection • Possibility of activities involving staff and foundation in pursuit of charitable objectives	• Large companies with spread-out workforce seeking the twin returns of employee satisfaction and customer engagement
Regular donations from a specific section of a business	**For the donor** • None **For the foundation** • Income may be modest • Possibly not a long-term prospect	**For the donor** • Flexible commitment which, once entered into, does not affect profitability going forward • Credit to company for repeated income **For the foundation** • Regular income which should have predictable pattern • Unfettered donations (within Objects)	• Companies with segmentable business e.g. large retail outlets • Companies seeking regular PR return for minimal administration and influence on company profits

Type of donation	Disadvantages	Advantages	Best for
In kind (e.g. offices, staff, materials, advice)	**For the donor** • May have hidden cessation costs e.g. redundancy • Needs to be used in combination with other funding **For the foundation** • May prevent trustees from hiring outside expert staff • May bring unwelcome corporate culture • Makes foundation staff more liable to intervention from corporate partners • Will require careful observance of Charity Commission regulations about independence	**For the donor** • Relatively low-cost way to donate • Keeps close identification between company and foundation **For the foundation** • May bring helpful corporate culture • Aids understanding between corporate and charitable cultures	• Small companies anticipating modest grant programmes • Large companies seeking to align foundation with other CSR activities

Corporate foundations use all of these different types of funding. Some use several at once. The table above assumes that the foundation trustees would prefer a secure and long-term future. However, limited-life foundations in which the donor wants to achieve something within 10 or 15 years are becoming more common in the US and may well be more used here too. Several such foundations already exist in the UK, though not among corporate foundations.

Given that the average life of a business is around 13 years and that even a multinational corporation can expect to exist for only 40-50 years, it is worth asking whether or not the foundation should parallel the life of the company. Some companies want to leave a legacy but others see nothing but vanity in that goal and simply want to get something done in their own lifetime. In this respect many new philanthropists are the same; they talk of giving while living and seeing the impacts of their philanthropy on present-day problems. A foundation can work in this way with real focus and a business-like approach to problem-solving; it only needs to be financially equipped in proportion to the task it is given.

Good practice

The funding mechanism should fit the purpose of the foundation and the expectations must match the amounts given.

Even a small endowment helps keep continuity in the foundation if the donating business has some difficult times.

If there is no endowment, build a reserve sufficient to honour commitments and continue modest activity in a downturn.

Whatever the donating style, be clear about what changes or fluctuations are possible and give notice of serious decline in income if you can.

Chapter 6
What will the foundation do?

What the foundation does is dependent upon how much thought the founder puts into what it wants to achieve.

Before setting up a foundation – which is a big decision – a founder should have a vision of what its purpose will be. Will it be to tackle some serious and chronic issue like poverty or climate change? Or is it for immediate needs like equipment for people with disabilities or sports kit for young people? Do you want to change something in the world or just make it more comfortable for now? Do you want to help specific people or provide some pleasant experience for everyone? All these possibilities are there for the founder. By making some decisions early on you can choose the right structure for the foundation.

Some founders want to do a lot of research up-front and define the foundation's mission, whether associated with the main interest of the business or not. Others simply want to offer an open philanthropic opportunity and leave the foundation to set its own mission within the charitable options.

While the majority of company foundations are grant-making, this is not the only option. Some are operational: they use the donated funds to provide a service of some sort. For example, the Resolution Foundation undertakes research rather than grant-making.

Case study

*The **Resolution Foundation** is an independent research and policy organisation. Our goal is to improve the well-being of low earners by delivering change in areas where this income group is currently disadvantaged.*

We do this by:

- *Undertaking research and economic analysis to understand the challenges facing low earners.*
- *Developing practical and effective policy proposals.*
- *Engaging with policy makers and stakeholders to influence decision-making and bring about change*[28].

Most but not all corporate foundations include some form of staff encouragement, for example, a matched giving scheme by which charitable donations or fundraising activities are matched, usually £1 for £1, up to a certain limit. Some, like the Coats Foundation Trust, combine special programmes for sometime employees with more open programmes. Coats uses a legacy from a previous pension-holder for the former but its charity makes grants to individuals and a few to

28 From the Foundation's website. Despite the company's acquisition of Friends Provident Group plc it is not expected that the Resolution Foundation will change.

educational institutions[29]. Yet others combine a whole series of possibilities. We describe some of the variants below.

Our main concern here is with the more outward-facing foundations. It is often said that, when you've seen one foundation, you've seen … one foundation! This is as true of corporate foundations as of their endowed cousins. It is difficult to recommend one model – the open-handed or the closely-defined – over the other, but what is clear is that the founder must decide at the outset how much thought to put into the mission, ethos and longevity of the new foundation. Again, it is a matter of good beginnings helping to create good ends. We looked at this from a legal point of view in Chapter 3, and in Chapter 2 we considered the benefits to the founder. Here we concentrate more on what the founder can expect to achieve for the society s/he hopes to benefit.

First, here are some examples of foundations closely aligned to the business of the founding company and yet still well within the charitable purposes outlined in the Charities Act of 2006.

What makes the Shell Foundation interesting is the combination of the emphasis on independence and the clear intention of leveraging the company's ability to assist the Foundation's mission[31].

Case study

'The ***Shell Foundation*** *was established by the Shell Group in June 2000 as an independent charity operating with a global mandate.*

Our mission is to develop, scale-up and promote enterprise-based solutions to challenges arising from the impact of energy and globalisation on poverty and the environment.

What makes us different is our application of what we call 'enterprise-based' approaches to developing these solutions. This involves applying market principles and 'Business-DNA' – business thinking, models and disciplines – to work out how to tackle global development challenges. Other ingredients in our model include working with partners, committing funds, and, where appropriate, leveraging the value-creating resources – the knowledge, brand and infrastructure – of the Shell Group.

Our vision is to see global development challenges successfully tackled through the joint engagement of business and society and through the widespread application of business models and business thinking.

These Business Principles govern how Shell Foundation conducts its activities. We promote these Business Principles to our partners.

Our board of trustees has approved these Business Principles.'[30]

29 See the Coats Foundation Trust website for its accounts and its newsletter.
30 Quoted from the Foundation's *Business Principles* available on its website.
31 The foundation's website http://www.shellfoundation.org contains several important and helpful documents illustrating the relationship between founder and foundation. This is an extract from its statement of business principles.

Here are some other examples of highly-directed activities related to the company's core business.

Case study

The **Costa Foundation** was set up in 2006 to give something back to coffee-growing communities.

The Foundation implements programmes to improve the social and economic welfare within these communities by providing children with access to education.

In 2009/10 the Costa Foundation is building, improving and maintaining schools within five coffee-growing communities in Colombia, Costa Rica, Ethiopia, Guatemala and Uganda. This is really making a big difference in regions where many of the children have no access to education, clean water, sanitation, transport or food for school meals.

In addition to the five projects currently under way, seven projects have now been completed in Colombia, Ethiopia, Guatemala and Uganda.

By 2010, the Costa Foundation will have:

- Built 11 schools with a total of 55 classrooms.
- Given access to education for over 4,000 children.
- Provided 120 teachers with jobs[32].

The Costa Foundation has an unusual structure. It has its own trustees but all its administration goes through the Charities Trust under whose charity number it operates. This means it is not itself registered with the Charity Commission. Although the website has some information, it has no direct contact details; indeed, it is impossible to contact the Foundation directly. This is probably to stave off requests from UK charities since all the Foundation's resources seem to be committed abroad. It is also unusual in setting out its targets very clearly on the website.

The Waitrose Foundation also works exclusively abroad in Africa. It is not registered with a UK regulator[33].

Case study

*'**The Waitrose Foundation** is based on the principle of returning a percentage of profits from our sales to the farm workers who grow the produce. The first Foundation, based in South Africa, was launched in 2005 and, in its first four years, has been involved in funding over 100 projects. These are chosen by the farm workers themselves, and cover areas such as education, sport, social and skills development, and healthcare. In 2008, we launched education bursaries for the children of the farm workers, and these are currently helping four students to study chemical engineering, financial management and human resources management.*

During 2009, Sam Cliff, a Waitrose placement student, spent six months in South Africa, setting up the foundation website and quarterly newsletter, which updates both the farms and our partners with news and progress. Sam also wrote a blog on the Waitrose.com website and a series of articles in our internal magazines, the Chronicle and the Gazette.'

'The Waitrose Foundation has raised over £2 million since it was launched and has touched the lives of more than 16,000 farm workers and their families. Building on this success, we launched two further Foundations in 2009: one in Ghana for prepared fruit, and another in Kenya covering flowers and vegetables. With the inclusion of Ghana and Kenya, there will be over 100 products in the foundation range, including wine and marmalade. The increased funds generated will enable us to help more communities to build a better future[34].'

32 Taken directly from the Foundation's website
33 See Waitrose Foundation CSR report available from John Lewis website. The Foundation has its own website pages: http://www.waitrose.com/food/originofourfood/foundation.aspx
34 *John Lewis Partnership CSR report 2009*

Julian Richer's Persula Foundation (connected to the Richer Sounds company) is interested in commissioning or undertaking research as well as grant-making. It also runs its own scheme, TapeSense, described below. The scheme takes advantage of the company's expertise in the quality-controlling equipment it makes available to blind and partially sighted people.

Case study

The **Persula Foundation**'s TapeSense project has supplied, at subsidised prices, branded blank audio cassettes, minidisks, headphones, cables, batteries, digital radios and other accessories to blind and visually-impaired people or organisations that support them[35].

Richer Sounds employees can suggest possible recipient charities to the Foundation though the trustees make all the decisions. See Chapter 7 for more about the imaginative way in which the company encourages its staff through its philanthropy.

The Greggs Foundation generally makes grants through a group of programmes ranging from very small amounts of £500+ through staff committees to larger grants of as much as £45,000 over three years to established charities. It has recently also taken on management of the company's Breakfast Club scheme. The company started the club programme in 2000 with the aim of providing a free, nutritious breakfast for primary school children in areas of particular social disadvantage. Schools receive bread from Greggs, the business, and a small grant from the Foundation to buy cereal, milk, fruit, yoghurt and spreads. There are now 125 such clubs.

Although its Objects are wide, the day-to-day activities of the Vodafone Foundation are focused on mobile telephony.

Among other things, the Foundation works to extend the ability of disaster relief charities to raise funds by text messaging. The recent DEC Haiti Appeal showed just how potent this new form of fundraising has become.

Other foundations are set at liberty by the founder and left to define their own programmes of activity. Such foundations tend to have a long view, professional staff and a strong social mission. The latter may well reflect the origins of the founder or the values of some of the key executives behind the idea of establishing a foundation. We believe they reflect extremely well on the founder since they so obviously cannot be accused of being a 'front' for the marketing department!

Vodafone Foundation – Our strategy

Case study

'Our strategy gives us a global focus and a truly local touch. Our broad strategic objectives are based around ***four central themes*** *and these shape decisions on where and how we spend our income... Through funding programmes that fit with these themes we want to:*

- *Share the benefits of mobile communications technology.*
- *Help alleviate human suffering when disaster strikes.*
- *Promote education, health and well-being among young people.*
- *Support local people in countries where Vodafone operates.*
- *Help sustain and enhance communities'*[36].

35 http://www.persula.org/tape.html.
36 From the Foundation's *Annual Review*.

The Northern Rock Foundation

Case study

The **Northern Rock Foundation** when it was first established was given a very free hand by its founder but initially, the company made three modest requests of the trustees, all of which were accepted without reservation.

The first was to incorporate a staff matched-giving scheme into their programmes. Secondly, they were asked to incorporate a 'Transitional Grant Scheme' for previous recipients of regular donations from the building society. When Northern Rock demutualised and established the Foundation it was not quite ready to relinquish the annual donations it had made as a building society. The Foundation's trustees agreed a transitional period during which the Foundation would make grants outside its own programmes to a list of charities. This tapering fund wound down after three years so that all the previous beneficiaries had plenty of time to adjust. The third request was that the trustees make people with disabilities a priority in the first grant programmes.

The Foundation also created new grant programmes according to the needs its research revealed. Sometimes these were complementary to the bank's activities – all financial providers are interested in debt and financial management. Both the company and the Foundation were involved in the Employment and Enterprise Bond projects in the North East, though decisions about involvement were taken separately. Periodically, both bodies would fund cultural activities, the bank through sponsorship (with the rewards in terms of publicity that entails) and the Foundation through a grant. Again, each took separate decisions.

Other activities

Sometimes the move from direct donations to foundation grant-making may have unintended consequences. Some businesses have had long-term relationships perhaps with local charities that may have become, if not dependent, then certainly expectant of annual gifts. These organisations may be drawn from a whole range of activities which made sense to the business but which may not always fit into a grant-maker's priorities especially since the open and receptive grant-maker will have many more calls on their resources. The business may intend, by creating the foundation, to consolidate its giving but at the same time may not want to let down previously-assisted charities. There is nothing to stop an arrangement being made to cover this sort of situation.

The Friends Provident Foundation has maintained a limited programme related to the donor's previous giving.

Friends Provident Tradition

Case study

The Foundation carried forward a legacy of giving by the Friends Provident Group. Trustees determined that a proportion (maximum of up to 15%) of the Foundation's funds may be committed in line with previous gifts to charity made by the Group and centred on medical research, especially aimed at preventative medicine and Quaker initiatives[37].

Good practice

For founders – Whether as the founder you decide to align the foundation's activities with your core business or not, be clear at the outset and then leave the foundation to get on with the job you set it.

For staff and trustees – Understand your mission, stick to it, and, if appropriate, try to see the company as an asset you can use to further it.

37 Description provided by the Foundation.

Chapter 7
The public face and image

Most corporate foundations share a name or near name with the founding business. The majority in our survey and research have established a separate but similar visual identity. This helps to maintain both a connection and a distinction between the company and the foundation. Before 2007, when Northern Rock plc was itself a donor, it was not unusual to see the logo of the bank as sponsor on the same theatre poster as the Northern Rock Foundation's logo as grant-maker. Frequently, neither had known that the other was making a contribution to a project, as was quite correct.

There are rare exceptions: the Persula Foundation is a corporate foundation which receives 15% of Richer Sounds' profits each year but shares no identity with the company. It states quite clearly why:

One of our original aims was to be publicly distant from the business group that finances us. A number of companies have taken a commercial approach to charitable work and have sought publicity through association with charities. This was never our policy, and to this end we have a suitably anonymous name.

The Persula Foundation

Case study

Registered in 1995, the **Persula Foundation** is an unusual corporate foundation in that it shares neither name nor branding with its donating company. At first the Foundation received 5% of the profits of the Richer Sounds Company but this grew to an extremely generous 15% in recent years. Four of the five trustees are associated with the company including founder Julian Richer. The Foundation's small staff team has been recruited from within the company.

The company consciously does not seek to capitalise on its philanthropy; few if any of its customers realise that 15% of the profits from their spend go to a charitable cause. However, colleagues are informed weekly of the charitable projects chosen for support and then more comprehensively on the company's intranet which can encourage colleague involvement or charitable suggestions to the Foundation. Each year colleagues receive a birthday card and a 'gift' of a tap or a mosquito net or similar, donated in their name through one of the 'good gifts' schemes.

On two occasions only the company and Foundation have visibly worked together. First, they combined forces with the Royal National Institute for the Deaf on a Safer Sound campaign, encouraging hi-fi equipment purchasers to protect their ears from excessive volume. Second, they currently share a TapeSense scheme through which visually-impaired people can purchase much-reduced hi-fi accessories sourced through Richer Sounds.

38 Persula Foundation *Guidelines for applicants* available from the website: http://www.persula.org.

This is the only example of a corporate foundation with such an approach although many years ago the Dutch company C&A, operating in the UK as an unlimited company, had an anonymous grant-making trust. Eventually caught up in the campaign to make grant-makers more transparent, the company closed the trust.

Name changes for foundations are not uncommon when a business is passed from owner to owner. For example, when the Abbey Bank changed its name to Santander in January 2010, the Abbey Charitable Trust became the Santander Foundation.

The, now, Coats Foundation Trust has changed its name frequently as is explained in its *2008 Annual Accounts*:

The Carrington Viyella Group Charitable Trust was set up by a Trust Deed made on 9 December 1974 between Amalgamated Cotton Mills Trust Limited and CV Pensions Trustee Limited. On 12 December 1984, the name of the Trust was changed to The Vantona Viyella Foundation Trust and Vantona Viyella Trustee Company Limited took over as Trustee from CV Pensions Trustee Limited. On 28 October 1986 the name of the Trust was changed to The Coats Viyella Foundation Trust and on 21 August 2001 the name was changed to The Coats Foundation Trust. The Trustee name also changed on this date from Vantona Viyella Trustee Company Limited to The Coats Trustee Company Limited.

The only caution is that a foundation, an independent body, cannot be compelled by another entity to make changes: that is a decision for the trustees. They must decide on any change based on their assessment of the benefits to the foundation alone and must guard against any possible imputation that they are being used to advertise the company. However, some corporate charities hold the name of a company under licence from the company and can be required to change it, depending on the terms of the licence.

Brands, logos and publicity

As with names, so also with visual identity: the issues of visual identity and branding are, on the surface of it, quite clear. The regulators are content that founders and foundations share a name or part of it providing that the association does not disadvantage the charity and providing that there are no licensing issues. They are aware of the potential for reputational problems if either party does something to embarrass the other. That is why in Chapter 3 we recommend a protocol or memorandum of understanding which makes it clear how names and logos should be used. Most of those foundations we surveyed or whose spokespersons we interviewed had a distinct but related name and identity. We think this makes sense and helps preserve the distinction between the charity and the company while allowing both to benefit from the connection.

Having a well-known brand as part of the charity's name and using its logo can help to attract interest in the charity and its activities. However, in using a company's name and logo, corporate foundations must be mindful of the legal implications that can arise, for example, intellectual property issues. They should also consider the wider reputational risks that could arise from the use of a shared name. Clearly, a company's reputation may be enhanced through its associations with a charity, but the trustees must ensure that they continue to only act in the best interests of the charity[39].

The question of reputation often worries company donors, especially where they have taken a clear decision to leave the foundation highly independent. However, as we have noted, good communication and a sensible protocol should ensure that no damage is done by anything the foundation does. We provide examples in Chapter 10 of some problems against which no protocol could hedge. They tend to be examples of mischievous journalism rather than any fault of the foundation or indeed the company. Most of the foundations we interviewed have an agreement not to do anything to embarrass the founder. Yet several of the most admired corporate foundations undertake work in 'controversial' areas with the full support of the founder. Examples of such programme areas include criminal justice reform, support for refugees and minority rights.

39 *A Guide to Corporate Foundations*, Charity Commission p6.

Good practice

Make sure the foundation has its own visual identity especially if its name reflects that of the donor. The foundation's visual identity can reflect that of the donor in style or colour without exactly replicating it. This will help clarify that the foundation is not merely a vehicle for sponsorship.

If the logo etc is to be the same as that of the company, remember that you must state clearly that the organisation is a registered charity on all printed material. You do not have to state the charity number but many organisations do so.

What you can do and what you can expect

Trustees and the donor can negotiate whatever visual and name identity they wish providing that the foundation's independence is not compromised.

One might think that the clearer the difference between the two, the less likely it is that they will be confused. It is, however, completely usual, in our experience and that of those we interviewed, for the public, including grant-recipients, to confuse and conflate the two organisations even where the two try to have strongly-differentiated images. This may cause a degree of irritation to the foundation and some pleasure to the company. It is common for the company to receive thanks in public and by correspondence for the activities of the foundation.

Foundation CEOs and trustees need to be relaxed about this when it happens by accident – it is after all the company's generosity that enables the grants to happen. It may even be advantageous to the foundation that being thanked pleases the founder. However, no-one should consciously try to deceive and to garner kudos for the founder through the grants. It would, for example, be wrong for the Chairman of the board of the company to take credit for grants made by the foundation in a speech or an advertising campaign. This would definitely draw the adverse attention of the regulators and the Inland Revenue.

Good practice

Take all the necessary precautions to distinguish between the company and the foundation, but accept that the two may be confused in the public mind.

There have been cases where companies have used their foundations in advertising campaigns. Northern Rock plc devised a series of billboard exposures with pictures of activities funded by the foundation with a rubric reading, for example: '*Our foundation helps bring out hidden talent*.'

A link to the Foundation's website was included. There was nothing to suggest that the reader take a NR mortgage or any other product: the bank just wanted people to know about its donation.

It is the job of the company to ensure that its marketing department does not endanger the charitable status of the foundation by trying to exploit it. The foundation needs to be vigilant and to protect its own interest but in a big corporation, the marketing executives may set off on a track without consulting the foundation in advance. At the very least they may spend a lot of money creating a campaign they cannot use; at worst they may destroy the reputations of both parties and cost the foundation its charitable status. Happily, this doomsday picture has not been realised but we have learned of a few close shaves.

Good practice

It is up to the company to protect its own reputation and its investment in the foundation by not letting any of its departments exploit the connection.

Recording the company's gift in its CSR report

It is both expected and required that a company record its donations in its accounts. However, most companies with a foundation will wish to record the full extent of their generosity; the natural home for this expansion is the Corporate Social Responsibility (CSR) report.

There are some subtleties at work here. The Charity Commission states very clearly that: '*Whilst there is no objection to the company's corporate social responsibility (CSR) policy and the purposes of the charity coinciding, the company cannot have a controlling influence*[40].' So the company cannot name a series or a selection of grants and their outcomes as if they were its own work. It may,

40 *A Guide to Corporate Foundations*, Charity Commission.

however, record its donation and describe some of the work, making it absolutely clear that anything done by the foundation was freely entered into by the foundation and was not influenced or directed by the company[41].

The Shell Foundation makes the difference clear: in the countries in which the foundation operates the company will be doing its own CSR activities.[42]

Criss-crossing web links

It is a rare website these days that does not include hyperlinks to other related or potentially interesting connections. In the case of companies and foundations there is a commonly observed protocol:

- The company can include a link to the website of the corporate foundation to draw attention to the connection;

but

- The foundation must not do the same in case it would be perceived to be trying to market the company's products or services.

Financial services companies need to be particularly careful: it cannot be a condition of grant-funding, for example, that an organisation receiving a grant from a banking foundation should hold an account with the company. Indeed, if applicants offer to change banks in recognition of a grant they should be firmly told that this is neither necessary nor particularly welcome.

Good practice

Keep relationships clear in your own mind whether you work for the company or for the foundation and correct any confusion quickly but proportionately.

41 '*Although the company could include the charity's activities in its annual CSR report, it should be made clear that the charity is a legally separate organisation, taking its own decisions.*' *A Guide to Corporate Foundations* .
42 From a conversation with a Shell Foundation executive.

Chapter 8
Staff for the foundation

Even if the foundation is quite small and modest in its activities there will still be work to be done and a need for some sort of staffing. At a minimum someone has to prepare and submit budgets and accounts, report annually to the Charity Commission or other regulator, prepare and administer meetings of the trustees and, of course, manage the grant applications and their outcomes.

Who does the day-to-day work?

There are various ways to staff the foundation, all with different advantages and disadvantages. Small foundations working very closely with their founders tend to draw such staff needs as they have from within the company making the running of the foundation a bolt-on to another job. The CSR, communications or human resources departments are often given the task. For example, in the case of the Coats Foundation Trust the pensions department in Glasgow provides the management. For others a whole new structure with a distinct staff is the right answer. And for some a combination of internally- and externally-recruited employees is best. Much depends as always on what you want to do and on how it evolves.

Here are some examples illustrating the benefits and disadvantages of each approach.

Hybrids

Case study

Greggs Foundation is run from within the company and is closely involved with the company's image and aspirations. Its current Foundation Manager began working as Community Initiatives Manager for the company overseeing and managing the Foundation (as it then was) as well as other CSR aspects. The Foundation had its own dedicated officer, usually with a voluntary sector background, and some administrative assistance. In addition, Greggs runs Divisional Committees of volunteer staff who preside over small local grants decisions.

This combination of an externally appointed charity expert with an internal CSR supervisor and use of volunteer staff suits a relationship that seeks a high degree of convergence with company practice (though the Foundation remains independent). In Chapter 6 (foundation activities) Greggs is used to illustrate synergy between some aspects of the company's work and the foundation's grant-making, which is facilitated by this staff structure. The inclusion of staff committees is attractive to companies who want charitable activity to motivate and encourage staff and make employees feel proud of and part of the company. But for thematic grant programmes and to maintain a direct connection with the local charitable sector of the North East, where Greggs makes larger grants, unconnected with the company's business, having an outside expert is essential. On the possible downside (and the interview with Greggs did not mention this as an issue), a clash of cultures could mean that the dedicated foundation employees feel isolated within the organisation and dissociated from their colleagues. Several of those we interviewed mentioned this cultural difference as a potential source of tension, though most thought it could be managed.

Other examples like this include the Nationwide and Northern Rock Foundations. Each to varying degrees has combined internal recruits with external recruits.

Outsourcing

In the UK there is now a small number of organisations that offer to manage the creation and administration of corporate donation programmes. They will assist companies in setting up a trust fund or other schemes and will work with trustees to manage and administer grants. The largest of these is the Charities Aid Foundation (CAF). Other outsourcing companies are following in the wake of US initiatives. Auriga is the trading company of the Severn Trent Trust Fund. Grantscape manages grants for corporate donors like the Landfill Communities Fund.

Clients of this and other outsourcing companies are very clear about what they want: the practical design and management of grant-making is not what they know about and not what they want to learn, so they commission experts and let them get on with the job. Charis and companies like it work with the trustees of each charitable trust so the responsibility for the trust's resources remains with the trust and at arm's-length from the company itself.

There are obvious administrative advantages to such an approach; it should be more efficient and thus more effective than struggling to manage the tasks in-house. The company also distances itself somewhat from decisions that its own customers might contest. Of course, distance from the donations could also be a downside if the source of the grants is not clear. The careful integration of website links between Charis and its clients seems to overcome that difficulty. What is missing is the opportunity for diversification of activities; however, we believe that the client companies are totally focused on debts and debt relief and are therefore not troubled by this inhibition.

Charis Grants Ltd

Case study

Several of the water and energy companies have outsourced their schemes to an organisation called **Charis Grants Ltd**. Charis offers a complete grants management service through trust or assistance funds. It describes itself as an organisation that '*exists to facilitate giving by designing, developing and managing a range of services in support of vulnerable members of society*'. It assists domestic customers of particular utility companies with grants to cover debts and other essential household bills. It also makes grants to money advice organisations to promote advice and support to those suffering financial hardship and debt management services.

Charis offers a complete management service to companies, or trustees of a trust fund, including servicing board meetings, promoting funds, assessing applications, monitoring and reporting, and providing policy or discussion papers as required.

Grant-making to individuals is time-consuming and requires particular skills. Charis grew from the desire of some of the water companies to pass over the complicated and onerous job of making grants to customers in difficulty. Once Charis had established itself as an expert in this sector it accrued other clients from utility companies.

Charis is itself a company and in fact has its own corporate foundation.

In-house

Case study

The Ove Arup Foundation is entirely run from within the company. The sole 'employee' works for the business and manages the foundation as an aspect of his work, reporting to the trustees on foundation matters. He was not hired from outside because he already had voluntary sector experience[43]. However, Ove Arup Foundation is a very specialised foundation and so the sectoral knowledge needed is readily at hand among employees and partners including the trust administrator. The Foundation is a member of the Association of Charitable Foundations from which it can draw support and advice on issues specific to philanthropic good practice.

The current Trust Administrator of Ove Arup sees considerable advantages in the arrangement for both trust and company; for example, he is able to call upon specialist expertise to supplement the grants the Foundation makes. This has resulted in some very successful outcomes to the benefit of the recipient organisations.

The in-house arrangement works well where there is very close synergy between the company and the foundation's purpose and where the area of charitable interest is perhaps somewhat specialised. For trusts in an area closely aligned with the company's expert knowledge there may be little to be gained by recruiting an external person. It is also a suitable arrangement for companies with relatively modest funds. On the downside there is no incentive to develop and indeed a danger of complacency or habit about the resultant activity. This would probably do no harm but might result in missed opportunities. It requires a well-managed timetable of application deadlines or a very tightly-defined programme so that the administrator does not waste precious time dealing with no-hope applicants. That discipline is, of course, very valuable! The Ove Arup Foundation reports back to the company on the activities of the Foundation: there is a shared expectation that the Foundation will be active and vital in pursuit of its objectives.

There are two other potential problems with a wholly in-house team. Let us imagine that, in a difficult financial climate, a company decides on across-the-board staff reductions shared proportionately between departments. In this case, the foundation or the department in which it is lodged may find its staff severely reduced to the point of real problems. Yet its staff may be paid for from foundation funds (through a recharge). In such a case the trustees will have lost control of their own budgets, which is not a good sign for independence. However, if the foundation staff were to be favoured it would cause disgruntlement in other departments.

The other problem is much more day-to-day. The employee needs to be protected from having split loyalties and needs to know who their manager is and who has ultimate authority to tell them what to do. In a situation where the interests of the company and the foundation were not aligned, or where trustees and company were in dispute, the staff could be badly caught between the two.

Totally external

Case study

The **Friends Provident Foundation** (FPF) is entirely staffed by people who have not worked for the company, although the Foundation Director is technically a company employee on secondment. FPF employs three people part-time. Although its main activities are in the area of financial services, financial exclusion specifically, the Foundation is independent of the company.

The technical secondment of the Director is an anomaly in what is otherwise a stand-alone foundation with its own specialist staff recruited externally according to need. There is no culture clash within the Foundation and no need to retrain a corporate employee into a charitable sector employee[44].

43 It was a piece of good fortune that the current Trust Administrator had in fact spent a year working for a voluntary organisation previously. He also serves on the company's community outreach team.

44 The Friends Provident Group plc was acquired by Resolution Ltd in late 2009 but the company retains its name and identity. Corporate foundations often disappear under mergers, but the Foundation has its own endowment, identity and governance, which it has no plans to change. Interestingly, Resolution also has a foundation but its work is entirely in research and is thus completely distinct from that of FPF.

Good practice

Staff requirements will reflect both the size and the aspirations of the foundation.

Grant-making is more than simply writing cheques so grant-making experience including the design of application systems and good communication networks in the sector can save the trustees and the founder much time and hassle. This sort of experience can be bought in periodically if that is all that is required.

If the foundation is to be taken seriously in the voluntary sector as an engaged and informed grant-maker, and if the trustees are to be well-advised on matters beyond the simplest responsive grant-making, it is wise to take on staff with professional voluntary sector knowledge and experience.

Staff salaries and contracts

We have given a few simple examples of different means of *recruiting* staff. But the real issues are not where they come from but how and by whom they are managed. This is where, inadvertently, founding companies can create problems in the future for themselves and the foundations.

Of those foundations that employ staff specifically for foundation work (as opposed to those which use volunteers or company employees employed mainly for some other purpose), the majority in our sample have staff employed by the corporate donor and technically seconded to the foundation. Although the most common arrangement, this is arguably not the best. The larger the corporation, the greater will be the pressure to align foundation salaries, terms and conditions with some corporate scale. The whole corporate structure of management, bonuses, cars and increments will sit oddly with the foundation ethos and with other foundation peers.

Several of the foundations we researched have tried to manage these incongruities and have combined company and peer-evaluated scales. Some have, after many years, moved all staff onto foundation terms and conditions. Others operate with a dual system, long-serving staff being contracted to the company, while new recruits are directly employed by the foundation. This latter 'mix-and-match' may lead to perceived unfairness as rights and perks are not equally shared.

The Charity Commission has a clear view that trustees must ensure that any reward package is appropriate. The following is a quote from a review visit the Commission made to a corporate foundation: '*Whilst it is within the trustees' discretion to set the pay and conditions for the charity's employees, these ought to be determined according to the needs of the charity and not those of the business, for which different skills may be required. In setting terms and conditions the trustees could consider the levels of pay offered by other charities for similar posts in order to satisfy themselves that the terms and conditions offered by the charity are appropriate.*'

At the end of this section we provide a table showing the areas where trustees will need to make choices and where corporate and charitable schemes are incompatible. But before that we look at how employees are to be managed and appraised.

Performance management

There are various systems for managing, motivating and rewarding staff in the corporate sector. Many general service-providing charities have also very successfully adopted schemes from private practice. However, foundations and their work are not easily absorbed into the most common systems and it is certainly not the case that any corporate body's normal system can be deployed for the foundation it has founded. Several of the foundations we reviewed have attempted to use the corporate donor's systems but none have found them helpful: some have had to adapt them beyond recognition or abandon them altogether.

Most schemes are based on SMART objectives, i.e. those that can be characterised as Specific, Measurable, Achievable, Realistic and Timely. This is fine for productivity and sales – widgets made per hour, per person, per £1 and then sold per salesman, per region, per year for £x profit. For the activities of philanthropists, specificity of outcome can be measured, but only if the goals are very simple or the idea of experiment or risk is properly understood and factored in.

Hypothetical case study

The Imaginary Grocery Foundation

Some corporate foundations have several strands to their activities. Let us imagine a corporate foundation attached to a chain of cafés. It has three types of activity: it helps its donor to run a surplus food distribution scheme 'Food Chain' giving a grant for core costs to homelessness charities which collect soup and sandwiches at the end of each day from their local branch; it allocates small grants for local activities involving children (no further criteria) through staff committees – 'Seedlings'; and it has a large grant programme through which it addresses any form of poverty through project and core funding – 'Grants for Change'. The trustees want to set Key Performance Indicators (KPIs) for the staff.

It should be possible to set targets for 'Food Chain' e.g. to expand the scheme to include X% of outlets; to ensure that Y people are helped by carefully mapping need and supply; to reduce dependency on grants by tapering core funding and introducing Z% of new grant-holders each year to replace those who have moved on. The targets need to be set alongside current practice and should be flexible enough to accommodate supply fluctuations as store managers will be trying to minimise surplus unsaleable goods through more accurate ordering (a case of two conflicting targets!). And if the trustees have their eyes on beneficiaries rather than intermediaries they will be unable to trace the effects of their activities other than by counting meals delivered. Would it be a success if Mr Jones, having been a regular 'client', stopped coming to the Thursday distribution? If he had found a home and a job and reunited with his family – yes of course and perhaps the regular food had an influence. But if he had simply moved elsewhere or if he had become dispirited by the attitudes of Food Chain staff or embarrassed by his dependency, who would know?

'Seedlings' is amenable to having numbers of its grants disbursed as a target but its work cannot be attached to outcomes since the scheme is not designed to do anything other than make donations to children's charities. Staff might like to count or display 'thank you' letters but garnering more of them cannot be a target.

Most difficult of all is 'Grants for Change'. It aims at a complicated and moving target. It will have its successes but may be distant from them. For example, it may invest in a scheme to help people in debt to doorstep lenders at prohibitive interest rates. Grants will go to Citizens Advice Bureau welfare and debt advisory services to help people repay the debts and manage their finances better. But who will pay for follow-up work to track the family's financial welfare over the next five years – even if that were possible? So the foundation cannot be measured against the longer term outcomes. It might be tempting to measure the total debt of, say, an estate near one of the corporate outlets and aim to reduce the debt burden overall, but the foundation is likely to be one contributor among many, so how can it trace the effects of its grants? And how can the staff of the foundation be held accountable for the activities of agencies to which the foundation is, for example, a 10% contributor? For this area of the foundation's work, annual KPIs are going to be hard to align to achievement.

Some schemes can work easily. They chiefly involve numbers of grants or geographic spread without much attention to what the grants are to be used for. The administration of the foundation can certainly be subject to Key Performance Indicators (KPIs) such as:

- Time taken to respond to enquiries and letters
- Time taken to turn round grant applications
- Time taken to prepare reports
- Time taken to submit accounts
- Maximum number of complaints received
- Time taken to respond to complaints
- Reduction of budget spent on expenses
- Reduction of utility and stationery bills.

These all fulfil the SMART criteria and are worth pursuing in the interests of maximising the foundation's resources but they do not *ipso facto* make for especially good grant-making.

As far as grant-making itself is concerned trustees may, with an eye on the donor (though deciding entirely at their own discretion), declare that their goal is to spread the grants budget in certain proportions across the UK mirroring corporate activity. This is quite common where a donor has multiple branches and wishes the trustees to include local staff committees in disbursement. Trustees may further wish 'as many people as possible' to benefit. The goal then for central staff is a simple one of achieving such distribution efficiently and gathering back information about the subsequent numbers of grants. Central staff would monitor expenditure patterns and might be given the task of assisting any tardy or inactive sub-committees. Anything like this, which is concentrated wholly on outputs, can be used for performance management.

However, the more ambitious corporate donors and foundations have larger goals in mind. They are looking at complicated and chronic social problems like homelessness, debt, poverty and discrimination, to name but a few. And most importantly they rarely deal with the work and beneficiaries themselves: they work through intermediaries. They are usually not the only funders but combine with others to support the work of charities. Each funder may have views or rules about how its funds are used and reported so disentangling the trail from grant to achievement is rarely easy, if indeed possible.

Complicated problems attract experimental approaches designed to improve upon the results of previous experiments. And it is in the nature of chronic problems to be resistant to startling improvements: things get better slowly and sometimes long after the input of grant money[45].

All these factors mean that the corporate foundation investing in such big and socially important issues has little control over the outcomes unless it runs projects itself. So staff cannot reasonably be held accountable except in the rare event of carelessness over due diligence leading to wasted money. In fact, for the more thoughtful and ambitious foundations, the more specific the target the more likely it is to lead to perverse outcomes. For example, let us suppose that trustees, seeking to maximise the effects of their debt advisory programme budget, demand certain outputs from grant-holders e.g. number of people seen by a debt counsellor per session. The staff will have to seek grant recipients on the basis of the volume of clients they process rather than the nature of the problems brought to them. Each grant-holder will have absorbed the requirement to put numbers through and will have to reject more difficult or needy clients because it can't afford them. Almost certainly this sort of outcome is not what the trustees wanted but the KPIs will drive everyone this way. This is why there is a limit to extending the KPI culture to grant-making. It is not impossible but it rarely adds value.

None of this means that foundation employees are somehow above appraisals and assessment. It is just that SMART systems cannot be simply grafted onto another culture and another set of problems. Any KPIs devised for the staff of a foundation must have some purpose for the foundation and not just be a way of monitoring employee activity. Goals that are useful can be agreed with employees at appraisal time and are more likely to be about developing the grant-maker's acuity in assessing and supporting grant-holders. Here are some examples.

- An office-bound, paper-driven officer might agree to do X more monitoring visits or attend Y useful conferences or training days.
- A group might agree that they are not sharing learning enough so the manager might set each person the goal of reading and reporting on one trade magazine per month via the intranet or in a staff meeting.
- Each member of the team might be set the task of organising an event for the others to make sure everyone understands the whole system of grant-making.
- Attendance at a conference might be conditional on presenting a summary of the key points at the next staff meeting.
- The manager might look at caseloads and ask why one officer managed more grants than another. She would then agree goals with each according to the complexity of cases they handled.

There is no prototype or template; any system should be built on what the goals of the foundation

45 There is quite a lot of literature on the difficulty of aligning social change with foundation grants. Interested readers might start with Diana Leat's *Just Change* published by ACF, November 2007.

are and not on anything else. Indeed the SMART acronym could even be useful in eliminating much of other systems since so much in grant-making is not specific, measurable or timely (if 'this year' is what is meant by timely.

Good practice

SMARTIE

If trustees wish to use the SMART objective setting tool then we suggest turning it into SMARTIE. 'I' stands for ***Intelligent***: worth achieving and worth measuring because it will improve our practice. 'E' stands for ***Ethical***: does not result in perverse outcomes but genuinely and flexibly furthers our overall goals of improving life for beneficiaries.

Some of the areas in which corporate practice and foundation/charitable sector practice may be at odds are listed below to illustrate the problems that can arise.

Exemptions to all these differences can be negotiated but they tend to create problems first and then require discussion; it would save time all round to avoid complications in the first place. It is particularly awkward to take on, for example, seconded administrative staff from the business and then try to manage them and reward them as charity staff. With each company pay review, foundation staff drawn from the company may see their sometime colleagues receiving union-negotiated, productivity-tagged uplifts which can lift a whole salary scale. Yet they themselves would no longer be eligible for such uplifts. The foundation employees, who work differently, may resent not being included. Alternatively, the foundation may be compelled to give a pay rise completely unaligned with its own business simply because its people are employees of another body. Salaries are usually recharged to the foundation so there is a cost to all this.

Corporate	Foundation
Salary scales pegged to corporate structure and job evaluations	Job evaluations may not readily correlate
Share award schemes based on company performance usually reflecting sales or profits – Inland Revenue rules require all employees to benefit	Foundation staff cannot contribute to company success and sales so should not profit
Bonuses tagged to clear outcomes, usually sales or profits	Bonuses are uncommon in the charity sector and more likely to be controversial in the absence of simple targets, though they can be managed
Company cars as a perk of rank	Not common in the charity sector
Private health insurance	Rare in the charity sector
Pension schemes	Potentially useful economies of scale but only if they can be opted into separately from other terms and conditions – otherwise there are tailored charity schemes
Union negotiation (may include holidays, redundancy etc)	Agreements will be entirely designed to suit the employees of the business and may be very unhelpful to the foundation
Staff appraisal systems	Corporate staff appraisal systems are almost entirely engineered around customers, sales and profits. Only small aspects can be redesigned for foundation use
Staff training and pan-organisation requirements	Employees of banking foundations contracted to the donor all have to have Financial Services Authority required training in, for example, avoiding money laundering, unless exemptions are sought. Most of the tests and courses are totally irrelevant to the foundations' business. There are similar examples for other businesses.

Making a staff transfer under Transfer of Undertakings (Protection of Employment) Regulations (TUPE) rules is an onerous, complicated and expensive process; it will require external advisors, union negotiation and perhaps a buy-out of employee 'rights'. It may save the foundation money in the long run but it is disruptive in the short term and not helpful to staff morale even with the best motivated staff team. It is better to establish a system right from the outset that will last.

Good practice

For trustees and founders

Start as you will need to go on.

Recruit the right staff with the right skills for the foundation and establish their terms and conditions as appropriate for the work they will do for the charity. Take advice: ACF publishes a reasonably regular salary review for foundations.

Ensure that, if the team must be employed by the business, their contracts are clearly related to their foundation work, if necessary by issuing new contracts. Avoid aligning with systems designed to motivate sales teams.

Encourage the foundation staff, with the help of trustees, to design their own appraisal scheme.

For the CEO

Keep the donor informed about any staff issues, especially if the two bodies are working very closely or in the same building.

Ask the personnel department to give you a 'heads-up' on any all-staff announcements so you can be prepared for your team's reactions.

Incidental complications

Although we have not heard of any particular current examples, it is possible that companies that handle payroll as a service to a foundation, recharging salaries accordingly, might be liable to levy VAT on the bill. The following extract from the Nationwide Foundation accounts reflects what can happen.

Extract from *Foundation Accounts 2004-05*

The Board of Trustees successfully appealed to HM Customs and Excise for a review of the VAT being paid on the salaries of the seconded staff which resulted in a total of £118,344 being refunded to the Foundation by HM Customs and Excise, who were satisfied that:

1. *The Foundation paid the relevant costs directly to the staff involved and discharged the employer's obligations to pay any PAYE, NICs, pension contributions and similar payments relating to the employee. This is done by using the Nationwide Building Society's payroll system as a payroll bureau;*
2. *The Foundation exercised exclusive control over the allocation and performance of the employee during the period of secondment; and*
3. *The Nationwide Building Society did not derive any financial gain from the secondment of staff to the Foundation.*

We are aware that this is a problem that can prevent other charities from sharing back-office functions and, for example, being billed by a jointly owned agency. It has been drawn to the attention of the relevant government departments but until it is resolved, clearly corporate foundations need to be careful.

Other staff matters

Technically, staff members cannot have conflicts of interest since trustees make all decisions. However, highly-experienced employees may also be trustees of applying charities or have family or friends employed by them. We advise that a Conflict of Interest policy be established and a Register of Interest be kept for staff to protect the integrity and reputation of the foundation.

Chapter 9
When things go wrong

Of course, no-one wants problems but some will arise even with the best planning. This chapter describes some of the issues that corporate foundations and their donors have experienced. We hope that the advice from experience generously given by our interviewees will help readers to avoid at least some of them.

Problems and solutions

Legal tangles

Here are two extracts from the accounts of the BUPA Foundation that illustrate an unusual problem. They show how careful trustees must be in maintaining a clear financial relationship with the corporate donor.

2008 accounts

During the year the Foundation has paid £574,824 for a tax liability which had arisen as a result of a change in tax legislation in 2007. The amendment to the legislation means any amounts donated to a charity by a corporation and subsequently loaned back to the corporation are now subject to tax in the charity. The new legislation impacts the Foundation as amounts donated to BUPA were previously loaned back to BUPA Investments Limited for investment. The Foundation suffered tax at 30% on the amount loaned to BUPA Investments Limited in January 2007, and the interest earned thereon. This loan and accumulated income was repaid in full and the arrangement has now ceased. The Foundation is working with legal advisors to approach HM Revenue and Customs on this matter as the legislation was not intended to penalise arrangements such as those the Foundation had in place with BUPA Investments Limited.

2007 accounts

The net incoming resources for the year include an accrual for £574,824 for a possible tax liability which has arisen as a result of a change in tax legislation in 2007. The amendment to the legislation means any amounts donated to a charity by a corporation and subsequently loaned back to the corporation are now subject to tax in the charity. The new legislation impacts the Foundation as amounts donated to BUPA were previously loaned back to BUPA Investments Limited for investment. This arrangement has now ceased, however, the Foundation has provided for tax to the amount on the amount loaned to BUPA Investments Limited in January 2007, subsequently repaid, and the interest earned on the balance at 30%. The Foundation is working with legal advisors to approach HM Revenue and Customs on this matter as the legislation was not intended to penalise arrangements such as those the Foundation had in place with BUPA Investments Limited.

In a charity's accounts – and this is the case for all charities – trustees must disclose 'related parties transactions'. The charity's accountants will advise how to go about this. Unfortunately, the regulation described above, though designed to protect exploitation of charities, has had the unintended consequence of making it difficult for the charity and the company to do business for the benefit of the charity. At the time of writing no-one from the BUPA Foundation was able to comment since there were still some issues to resolve.

This is an unusual case but an easy one to fall into where the company wants to offer additional and helpful financial services to the charity. The regulators advise trustees to take professional advice and generally to use investment managers where substantial investments are at stake.

Ethical clashes

There is sometimes a tension between the activities of the foundation and those of the business. One example, not from the UK, involves a very large foundation launching an anti-obesity programme for children. This foundation receives much of its funding from a maker of sugary foods! In the UK the utility companies and the foundations they have established deal largely with debt, caused in many cases by the inability to pay utility bills. When a company is foreclosing on loans and thus making people homeless or putting them out of work, foundations funded by them and dealing with homelessness or debt may feel that they are working to close a large hole in a dam with a small bucket of cement. These sorts of dilemmas can rebound on both parties, with the foundation being accused of being a sop to the company's critics and the company being accused of an attempted buy-off. However, as we saw in an earlier chapter, a good protocol can help, as can a clear understanding and an agreed media statement.

Public image and reputation

A more likely, though still happily not too common, problem occurs when journalists conflate the actions of the foundation with those of the company. Several respondents have had experience of this sort of thing. Almost every example we were given involved a journalist attempting to assert that the company was abusing the independence of the foundation; all the accusations were false.

One foundation, which tries to work with its founding company on issues that advance the charity's aims, found itself embroiled in media controversy simply because a journalist misinterpreted the partnership, presenting it as a piece of manipulation by the company. Such was the furore that the Charity Commission became involved. Both foundation and company were blameless and found to be so but the experience of this foundation shows how important it is not only to safeguard independence but to be seen to safeguard it.

In another example, the foundation in question had given a grant to a drug rehabilitation project run by a slightly controversial evangelical church. Many foundations fund activities undertaken by 'faith' groups but they tend (with the exception of explicitly religious funders) to require a non-proselytisation rule i.e. the activities must not seek to promote the religion and must be open to non-believers etc. A daily tabloid falsely accused the company of supporting the church despite the foundation's having taken precautions to reassure itself that money would be spent only on the drugs project. The foundation and company discussed the accusation and dealt with it internally. The story had no 'legs' and died down. There were no repercussions.

Ironically, it was not usually grants that the foundations might have described as 'controversial' that drew the attention of journalists. Many of the grants that provoked stories were pretty standard material for grant-makers involved in social change or in helping those most disadvantaged in society; many were also typical of the particular foundation. This rather argues that the journalists were looking for something to write about rather than any grant itself being especially contentious.

During late 2007 when Northern Rock was very much in the media because of its financial problems, the press turned its attention to the Northern Rock Foundation for further stories and information. This placed the Foundation's staff and trustees in a very difficult position: apart from its loyalty to the founding company, the Foundation was also wholly dependent on the bank for its annual income, a covenanted 5% of pre-tax profits every year. It was therefore not in the interests of the Foundation to criticise or damage the company's business in any way. Pressed for 'bad news' stories about the consequences of the company's problems and urged to be critical of its behaviour, the Foundation had to engage press and media advisors to assist it in treading the fine line between being appropriately helpful and not damaging the business of its founder. One national tabloid tried to use the Foundation's grants against the company, accusing the Government of supporting the bank only because of the Foundation's grants to causes favoured by the ruling party. The absurdity of this was obvious. Its reporters were cold-shouldered by every organisation they approached in search of criticism of the Foundation, including those who had been turned down. In fact there was a spontaneous upsurge in support for the Bank shown by numbers of people who had benefited from foundation grants announcing that they would be opening accounts and calling media representatives to tell them so!

Of course, it can happen that the company will accidentally or deliberately overstep the independence line, in which case the press may seek to be involved in a 'crusading' mode. This is rarely helpful; any issue will probably be misreported and inflamed. So trustees are advised to try to keep any disputes out of the public eye unless all other avenues have failed.

It is impossible to guard against the malign actions of some journalists – if they want to make trouble they will find a way to do it, even if truth must be sacrificed. Fortunately, they are the minority and many businesses will have had plenty of experience in dealing with them. Our Good Practice notes are designed to help avoid problems and, if they are unavoidable, to deal with them.

Intending founders and nervous trustees are well-advised continually to review their own arrangements as recommended throughout this Guide, to keep up good relationships especially at times of change and, if all good sense fails, to focus on the many successful years and the great achievements of the foundation!

Good practice

For foundation CEOs and trustees

Be prepared

Include press and media handling in your risk assessment of any grant you make (though do not be deterred from making a good grant).

If you anticipate contentiousness, talk to the company in advance and explain what you are doing and why.

Ask for help from the company's PR department if there is one but remember it's your grant.

Have a good press and media advisor on your contacts list, even if you do not use them regularly.

Have a protocol for press enquiries: who speaks and when, and who else they must consult or inform. Also be clear that others must not speak to the press: all enquiries should come to the designated person.

Consider giving the Charity Commission, or other regulator, advance notice of potential press interest or possible complaints.

Get your story right

If an unexpected situation arises, take your time to assemble your response. Be clear about your story, gather your facts and be prepared for unexpected questions. Prepare a briefing sheet with accurate numbers.

Journalists generally do not check facts, so be as clear as you can and provide a written record – at least then you can show the company what you really said!

Interviews

Before an interview tell journalists what questions you won't answer or areas you will and won't discuss and don't be tempted to fill the silence if they leave you to talk; they can edit out the gaps for television or radio afterwards. Silence is their problem, not yours!

Try to have someone else with you who can take notes of what you say: this may deter the journalist from misquoting you but it also helps, if they do twist what you say, to have a record.

No matter how aggressive the journalist is, remain calm and do not rise to provocation.

Be very careful about the moments after the interview: you relax and they appear to; they behave as if the job's done and ask you sympathetic questions. Do not relax until they are out of the door or you are – they will use anything you say!

Chapter 10
Advice from the experienced

Part of the process of gathering information for this book included interviews with a range of foundation executives and trustees. We took the opportunity to ask each interviewee for their advice to: an intending corporate founder; a new trustee of a corporate foundation; and a new CEO of a corporate foundation.

Interviewees were enthusiastic and generous and told us much that they wished they had known themselves as well as what they have learned through experience. Their advice often overlapped but, sometimes, different people had strongly differing views. That means that these lists are not internally consistent. However each piece of advice has been useful to several of our interviewees and deserves to be carefully considered.

We offer them all here as, *mutatis mutandis*, a series of good practice points.

Good advice for intending founders of new corporate foundations

At the beginning

- Do it – it's a great way to invest in communities.
- Do your homework – understand what it means to set up a foundation as opposed to any other form of corporate philanthropy. Research the benefits and the pitfalls.
- Be aware that the upfront costs of setting up can be high and it can be time-intensive, but after that it is not so demanding (*this is from a smaller, internally managed foundation*).
- Take advice from the Charity Commission or other regulator and use its publications.
- Decide what it is you want to achieve with the foundation.
- Before committing to objectives test your ideas on people who know something of the subject. Take the time it needs to do this properly – it will save time and conflict in the end.
- Give the foundation a function aligned with the company's business and then you can add value through your business practices.
- Make sure you give the foundation full independence and honour that arrangement.
- Think about the longer term – do you expect the foundation to grow, spend all its funding, or roll steadily on at about the same scale?
- Consider how you will fund and try to align your funding plan with your long-term expectations. Endow if you possibly can but if not make a covenant or agreement for five years or more so that the foundation can plan its activities.
- Get the best possible staff from the start.

The enduring relationship

- Resist the temptation to lodge the foundation in your CSR department – you will gain far more for your reputation by distancing yourself from it and visibly supporting its independence.
- Keep hold of the big picture in setting objectives – leave the detail to the trustees.
- Articulate your expectations of the foundation – otherwise it will waste time trying to second-guess you.
- Make a clear protocol for the foundation to report on its activities and review it *with the trustees* every year.
- Be clear about your objectives and expectations.
- Don't just hand over cheques; change your own business too and help the foundation to leverage your customers and clients.
- Be patient – the kind of things foundations do don't always deliver quick results.
- Accept that there will be frustrations and disagreements – they are inevitable but if the basis of the relationship is sound they won't matter.
- Take risks with resources – because you can.

Good advice for new trustees of corporate foundations

Basic building blocks of trusteeship

- Make sure you get the legal status right – become a company limited by guarantee for your own protection.
- Become familiar with what trusteeship means and review guidelines regularly.
- Make sure there is a good induction process.
- Try to get trustees from different backgrounds.
- Be clear who makes the decisions – it's you, the trustees, and no one else.
- Commission guidance notes, especially on governance, and refresh your memory occasionally.
- Think about teamwork and be aware of the skills of your fellow trustees.
- Don't leave your business acumen outside the door when you come to trustee meetings.
- Arrange 360-degree appraisals of the trustees.
- Avoid conflicts of interest.

Managing the key relationship

- Company support is essential – always try to have a company trustee or staff member.
- Get protocols for company relationships in place straight away – assume nothing. And refresh them according to need and incidents that illustrate them.
- The foundation will be the junior partner in the relationship with the donor – that takes special skills.
- Articulate your expectations of the company.
- Whether the company invites you or not, ensure that the whole trustee board meets the company board every year so that you can tell them what you have been doing and why.
- Start an early conversation with the company about *outcomes* from grants instead of *outputs* – when the difference is understood it will make reporting more sensible. Make sure you understand the difference yourself.

Activities

- Don't rush into grant-making; take your time to consider what sort of grant-maker or philanthropist you are going to be.
- Consider the nature and ethos of the company and the impetus that created the foundation: can you build on or reflect it?
- Speak to other foundations and learn from them.
- Speak to voluntary organisations and learn from them.
- Meeting only quarterly can make you task-driven instead of seeing the bigger picture – try to avoid becoming overly focused on detail by ensuring a place for a strategy update in each meeting.
- Think about effectiveness and take outside advice if needed – for example, when you review your strategy.

Good advice for new CEOs of corporate foundations

Understanding where you are

- If you do not like corporate bodies, do not take the job.
- Get to understand the dynamics of the corporate/foundation relationship.
- Learn where the power lies for different aspects of the relationship.

Working with the trustees

- Get the Chair of the foundation to manage the corporate relationship at the very highest level.

Managing day-to-day

- Go right to the top of the company for your backing: keep the company CEO informed about the foundation. He/she will then be your best ally.
- The company relationship will need regular management: if it is good at the top the message will cascade down to more junior levels.
- Push for as full financial independence as you can – a covenant or an endowment is best.
- Get to know the company and see what leverage you can get for the foundation. Find out what other resources the company has other than money that can help you do your job and help it too.
- Get to know all stakeholders as well as the company and nurture their interest by keeping them informed.
- Communication is very important and cannot be taken as read. It may well take up a far greater proportion of your time than you may have expected.
- Make time to get in touch with beneficiaries as well as organisations you are funding so you really understand and can convey what the foundation is doing.
- Build risk-taking into your activity and do not be afraid to experiment.
- Look for new models to achieve your goals; don't just fall into 'normal' grant-making.
- Be open to learning from others.
- Get yourself a network of supporters among other Foundation CEOs of all types of foundations, but especially corporate foundations.
- Do not expect to be able to make every stakeholder happy all the time: expect friction and learn to deal with it.
- Keep a balanced view but don't let yourself be pushed into doing things.

And finally ...

Clarity, clarity, clarity

Relationships and communication came up as issues in our interviews more often than any other topic – everyone emphasised the benefits of good and continuous communication between the corporate donor and the foundation.

Appendix
Independence in all its varieties

This chart helps donors and trustees to assess how the foundation may be perceived by the outside world. The blue column shows areas of governance, funding and practice which influence the perceptions of a foundation's independence from its donor. The second column shows the provisions which lead to the most clearly visible independence. Subsequent columns show how an increase in integration with the donor can decrease the apparent independence.

But all of these choices, if carefully managed, are legal. In practice, very few corporate foundations could claim to fall entirely within the first column; most have a mix of features drawn from across and up and down the table. Donors and foundations may find it interesting to plot where they lie in terms of visible autonomy and then to make sure that their decision-making processes secure them against any possible criticism of not acting independently.

Money	Endowed	Regular donations by covenant	Donations whether regular or occasional are nether planned nor reliable	Donations, regular or planned, are tied to certain charitable purposes or outcomes
Trustees	Appoints own trustees	Selects own trustees who are appointed by the donor	Trustees selected and appointed by the donor may include a number of business employees or board members	Trustees are all drawn from the donor's staff or board
Staff	Chooses and employs own staff	Chooses own staff who may be contracted and seconded by the donor	Staff employed by the donor and may be redeployed by it	Staff (if any) are employees of the company possibly doing foundation work as an extra

Policy	Sets own policies and does not align its work nor seek views from the donor	Sets own policies taking the views of the donor into account but not bound by them	Policies while within charitable objects are influenced by the donor	Policies may simply mean staff matched giving schemes or donations to charities at the request of branches, departments or the board
Accountability	Notifies donor of its strategic decisions	Notifies the donor of its decisions	Donor notified regularly of individual donations	Donor's staff decide on all grants within the framework of what is charitable
Public notification	Donor records donation to the foundation only in its CSR report	Donor records details of some grants as well as donation in CSR report	Donor records individual grants in its CSR report and elsewhere	Donor describes grants as made by 'our foundation' in CSR report

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References and further information

ACF

ACF **www.acf.org.uk**

The ACF *Good Practice Guide for Corporate Foundations* is available free to members from the members' area of the website www.acf.org.uk, or for £25 from ACF, Central House, 14 Upper Woburn Place, London WC1H 0AE. Telephone: 020 7255 4499. Email: acf@acf.org.uk

The other booklets in this series, *Good Practice Guide for Corporate Foundations – starting out; Good Practice Guide for Corporate Foundations – good governance; Good Practice Guide for Corporate Foundations – staff matters;* and *Good Practice Guide for Corporate Foundations – public face and image* are available from ACF, price £10 for the set of four, or £3 each. Multiple copies are available at a much reduced rate – please enquire from ACF.

Just Change, by Dr Diana Leat, ACF November 2007 (One of many books on the difficulty of aligning social change with foundation grants).

Regulators

The Charity Commission for England and Wales
www.charity-commission.gov.uk

Office of the Scottish Charities Regulator
www.oscr.org.uk

The Charity Commission for Northern Ireland
www.dsdni.gov.uk/charities_commission

The Charity Commission for England and Wales publishes many useful guides. The following are particularly helpful

- *The Essential Trustee: an introduction*
- *A Guide to Conflicts of Interest for Charity Trustees*
- *A Guide to Corporate Foundations*
- *Trustee Recruitment, Selection and Induction*

Other sources

Firm Foundations: A snapshot of how trusts and foundations are responding to the economic downturn in 2009, by Dr Diana Leat (Charity Commission).

The website of the US Committee Encouraging Corporate Philanthropy (www.corporatephilanthropy.org) contains much useful bench-marking material and illustrations of corporate models.