



## OAC GB Policy Document: Giving to the Ministry of OAC Overseas

Adopted by the Trustees 11.02.2020  
Reviewed with no amendments 15.03.2022  
Reviewed February 2024 – Appendix added below  
Reviewed March 2026

To be reviewed: bi-annually  
Review date: Spring 2028

OAC GB acknowledges the increased scrutiny HMRC, Banks and the Charity Commission give to overseas grants and international transactions.

HMRC rules have changed with effect from 15 March 2023 whereby any payment to an overseas charity will not be classed as a charitable gift. The payment must be dealt with as non-charitable expenditure. Where a charity has at anytime before 15<sup>th</sup> March 2023 made a valid claim to HMRC in reliance on its status as a charity this is extended to 5<sup>th</sup> April 2024. All donations should be made to UK registered charities to avoid any doubts regarding tax issues. (see appendix below for further details and examples)

OAC GB will carry out due diligence on overseas recipients and ensure the money will in fact be used for the purposes which are charitable under English law and in line with the constitution and stated objectives of OAC Ministries.

OAC GB will document the intentions of the person making the gift, be sure this fits within charitable law, have confirmation that the money has been received and will be used accordingly. OAC GB may also request some form of report relating to the use of the monies.

New donors will be subject to a more rigorous process and OACGB may decline to act as an intermediary as directing funds overseas isn't one of our principle purposes as laid down in our Charity Constitution.

Where there has been an established and long-standing relationship, OACGB will endeavour to continue to facilitate the arrangement with a minimum but adequate paper trail. However, it should be noted that there is no guarantee that this can continue indefinitely.



## **Appendix - Giving to the Ministry of OAC Overseas**

- added Feb 2024 follow link (Ctrl + click) for the latest updates

[Annex ii: non-charitable expenditure - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

## **Payments to overseas bodies**

1. In general, a payment by a charity for its charitable purposes is charitable expenditure by the charity. However, where the payment's to an overseas body an additional condition must be met in order for the payment to be charitable expenditure for UK tax purposes.

The legislation is at Section 500 CTA 2010 and Section 547 Income Tax Act 2007 for charitable companies and trusts respectively.

2. A charitable payment made to a body outside the UK will only be charitable expenditure for UK tax purposes by the charity provided the charity can clearly demonstrate to the Commissioners for HMRC that it has taken steps that the Commissioners consider are reasonable in the circumstances to ensure that the payment is applied for charitable purposes. If that condition is not met, the payment is treated as non-charitable expenditure by the charity for UK tax purposes.
3. Applied for charitable purposes means applied for purposes which are regarded as charitable within Chapter 1 of the Charities Act 2011. The same definition of charitable purpose applies for all charities claiming UK tax reliefs. Payments to an overseas body and payments to a body outside the UK mean any monetary payment to anybody outside the UK, and include monetary payments sent outside the UK to charities, companies, agents, partners and individual persons outside the UK.
4. Trustees are required to carry out appropriate research in relation to the overseas body, followed by monitoring and evaluation, and to avoid or minimise risk to the charity's finances to meet their legal duty as trustees. The charity trustees must be able to describe the steps they take, explain how those steps ensure charitable application of funds, demonstrate that



those steps were reasonable and produce evidence that the steps were, in fact, taken.

It's not sufficient for the charity to simply establish that the overseas body is a charity under the domestic law of the host country. Nor is it enough to keep records of how things are spent. These are important but for overseas payments trustees must do more. The rest of this appendix deals with the situation where the charity makes a payment for which it must take steps to ensure that the payment is applied for charitable purposes.

5. When considering whether the steps taken by the charity were 'reasonable in the circumstances', HMRC will have regard to:
  - the charity's knowledge of the overseas body
  - previous relations with the overseas body
  - previous history of the overseas body
  - the amounts given in both absolute and relative terms
  - the charity's observance of its own internal financial, management and decision making procedures, and whether or not these were adequate
  
6. When reviewing payments made to overseas bodies HMRC will generally ask the charity trustees to provide information and supporting documentation about the:
  - person or persons to whom the payment was given
  - specific charitable purpose for which the payment was given, the reasons, and how the decision to provide the payment was arrived at
  - guarantees or assurances that have been obtained from the overseas body that the payment will be applied for the purpose for which it was given (such as a partnership or other written enforceable agreements), and what financial controls were in place, including sufficiently detailed financial records providing robust audit trails
  - steps the trustees took to ensure the payment will in fact be applied for charitable purposes (such as safeguards, monitoring and oversight)
  - follow-up action taken by the trustees to confirm that payments were applied properly

The Commissioners for HMRC must be satisfied that the steps taken by the trustees are reasonable in the circumstances. If HMRC Charities is not provided with sufficiently detailed evidence of the steps taken it may not be able to accept the expenditure as charitable expenditure. This may give rise to a liability to tax.



The steps to be taken will depend upon the nature and circumstances of the expenditure, for example, whether the recipient body may pass on the funds to a connected person who may use the funds for non-charitable purposes. The rest of this section explains what sorts of steps would be reasonable depending on the circumstances of both the donating charity and receiving bodies.

7. Trustees are expected to make adequate enquiries to find out such information as is reasonably available about the overseas body, and establish what evidence will be provided or made available by that body to show that the payments will or have been applied for charitable purposes. The nature of the steps will depend upon the scale of operations, the size of the sums involved and the relevant circumstances. Enquiries should also be made to identify risks relating to connections between the body and other organisations. Where visits are required proper documentation is needed to show the checks carried out. Trustees should also identify any specific risks for certain projects especially in remote areas where language literacy and banking might be issues. Properly documented systems should be put in place if necessary to manage these. Where payments are to be made to overseas branches or partners, funds should be held in properly operated accounts by authorised persons.
8. In the case of small one-off payments, an exchange of correspondence between the charity and the overseas body will normally be sufficient. Where possible, the correspondence should be on headed paper and it should:
  - give details of the payment and the purpose for which it was given
  - provide confirmation that the sum has or will be applied for the purpose given

### **Example 1**

A situation where a thank you note on headed notepaper will be sufficient evidence.

A pastor from a church outside the UK visits a partner parish in the UK. On his return home he discovers that the church building in his home town has burned down. When writing to the UK church to thank them for his visit he mentions this and the UK church decide to donate £500 to help rebuild the church. The



overseas church sends a thank you note and a picture of the new building when it is complete.

This is a situation where the local pastor is known to the UK charity, the amount is a small, one-off payment and there are likely to be good connections between the charity and the overseas church. In this case a thank you note on headed paper is sufficient.

The relatively small amount of the donation affects the level of evidence required. In a situation like this HMRC would accept that the trustees' personal knowledge of the pastor and his connection with the overseas church is sufficient evidence.

Where there was no history of personal contact and knowledge with the pastor more evidence would be needed, for example press reports confirming that the building had, in fact burnt down, and was, in fact, a church and had been rebuilt.

9. More thorough work by the trustees will be required where the sums involved are larger or where a transfer of funds is to form part of an ongoing commitment. This might include independent verification of the overseas body's status and activities, along with reporting and verification of the manner of application of resources provided. The steps required can be reviewed in the light of evidence of proper use of funds and resources from recent earlier involvement on a particular project.

## **Example 2**

A situation where further evidence of action taken, is required.

A UK charity becomes aware of a small overseas hospital that's struggling to afford drugs to treat a local epidemic. They agree to provide funding for 6 months supplies at the cost of £10,000 and enter into an arrangement with a pharmaceutical supplier close to the hospital. The supplier provides the necessary drugs to the hospital and invoices the UK charity. In this situation the invoices from the drugs company are not sufficient on their own. The trustees must be able to produce sound evidence to show what they did to verify that the hospital warranted the funding. This might include evidence of governance arrangements, financial controls and alternative available funding. In addition as things progress the trustees should check that the correct drugs are actually being delivered to the hospital in the amounts invoiced. A letter from the hospital



confirming that they've received what the charity purchased would be acceptable evidence.

The larger level of the donation, a lack of detailed knowledge of the recipient charity and the existence of a third party means that more evidence is required than for example 1. In a situation like this the evidence to verify the suitability of the expenditure is likely to include:

- records to demonstrate the research undertaken, including the process in relation to the trustees' decision to provide funding
- records of meetings or teleconferences with the overseas body
- exchanges of correspondence
- detailed financial records
- a copy of any agreement between the third party and the charity

If the charity was supporting a particular project being carried out by an overseas body, official project documentation and literature.

10. The steps taken are to 'ensure' that the payment to the overseas body will be applied for charitable purposes. If the recipient body is not bound by its own domestic law to apply all of its income for charitable purposes, then the trustees of the paying charity should consider seeking a legally binding and enforceable agreement to ensure that their payment will be applied charitably. If the overseas body declines to enter into such an agreement, the trustees of the paying body may have difficulty ensuring that the payment is applied for charitable purposes. If an agreement's entered into the trustees will need to have a means of establishing whether the agreement has been complied with.

11. Where a charity makes a series of payments to the same overseas body for the same charitable purpose, it's not necessary for fresh enquiries to be made in respect of each new payment. If the trustees have recently checked the overseas body is applying its charitable funding properly, for example within the last year, and they're satisfied that the overseas body has an ongoing need for funding and is bound to apply payments from the charity for charitable purposes, then it's not unreasonable for the trustees to rely on the results of this review for a payment shortly afterwards.

12. However, reliance on the overseas body's integrity may diminish with the passing of time and the trustees should be able to demonstrate that they are making enquiries of a sufficiently searching nature at regular intervals to ensure that the funds are being properly applied for charitable purposes.



## **Situations where more positive action is needed.**

### **Example 3a**

A charity's approached by an overseas body to provide support for a school building project. This is scheduled to take 18 months to complete. The proposed project is evaluated by the trustees who consider this to be within their charitable objects. They agree to provide staged funding totalling £250,000.

In this case the trustees must be able to produce evidence to demonstrate the research carried out in advance of any funds being made available and detailed financial and other records of how the grants were actually spent.

In a situation that involves large sums of money and a long term commitment, which could involve several overseas contractors, HMRC would expect to see comprehensive evidence of the trustees' considerations. This might include:

- a detailed project plan
- a formal funding application from the overseas body
- records of the evaluation and decision making procedures carried out by the trustees

In addition HMRC would expect the funding to be dependent on the overseas body entering into a formal agreement with the charity providing for:

- the payment of grants in stages based on specific targets
- a series of reviews to monitor project delivery
- claw back provisions should the project fail or the building is not used as intended

The trustees should also be able to produce evidence of ongoing evaluation as the project advanced including recommendations in relation to further funding

### **Example 3b**



A charity wishes to endow an overseas body with £1,000,000 to be used for charitable purposes at the body's own discretion. The research to be carried out by the trustees should include obtaining sufficiently detailed financial records to provide robust audit trails in support of their decision. Further, they'll need to either:

- obtain detailed and legally binding assurances from the recipient body that the money will be applied for purposes that are charitable for UK purpose
- satisfy themselves that the body is established in such a manner that it's subject to regulation in the overseas country that will ensure its funds can only be applied for purposes that are charitable for UK purposes

If the charity is seeking binding assurances it will need to:

- obtain the assurances in a form that's legally binding and enforceable in the overseas country, ideally this will be in writing
- ensure, taking specialist advice if necessary, that it will be able to take enforcement action against the overseas body in case funds are not applied as intended
- ensure that it and the overseas body have a clear understanding what expenditure the funds provided are intended to meet and over what time scale
- ensure that effective monitoring arrangements are agreed with the overseas body

If the charity is relying on the manner of establishment of the overseas body and local regulation it will need to:

- ensure, taking specialist advice as necessary, that the overseas body is established in such a way as to ensure that it can only apply its funds for purposes that are charitable within the meaning of English law; in practice this will be set out in its governing document
- ensure, taking specialist advice as necessary, that the domestic legislation and regulatory structure in the overseas country are such that the overseas body will be effectively monitored, and the controlling individuals held to account, if it fails to apply its funds in accordance with its governing document