

Grenfell Fire Disaster Trust

Note

1. I am asked to draft a trust deed for the Grenfell Fire Disaster.
2. The starting point for this topic is Suddards, "Bradford Disaster appeal: the administration of an appeal fund": it will save the trustees and their advisors a great deal of time reinventing the wheel, as Suddards faced very similar issues and sets out his solutions. The book also has useful precedents of fundraising statements. It was published in 1986 but as far as disaster funds are concerned, little has changed. I can lend my copy if that would be helpful.
3. There is also the charity commission guidance, CC40 (Disaster appeals) but that (understandably, given its authorship) focusses on charitable disaster appeals. The main vehicle should be a non-charitable trust, so the trustees are not limited to charitable objects of relieving poverty and need. In the Bradford case the trustees also set up a charitable trust, which could receive grants from other charities, and would qualify for gift aid relief, but the non-charitable trust was the main one.
4. I am not asked to give tax advice, but briefly:
 - 4.1. IHT should not be an issue as gifts to the trust are all likely to be small enough to fall within the normal expenditure out of income or nil rate bands of the donors. The trust has multiple settlors and so should not have exit or 10 year charges: s. 44(2) IHTA. Very large donors (if there are any) would probably want to give to a charitable trust.
 - 4.2. The trust is subject to income tax, but I expect allowable expenses will exceed income, so income will be taxed at the basic rate only. In addition, I don't expect the trust will actually receive much income.
 - 4.3. The trust will need to register with HMRC. At present, the old 41G trust details form has been withdrawn, at least formally, but the replacement online Trusts Registration Service is not yet in operation. The trustees should instruct accountants to act for them who will contact HMRC.
 - 4.4. Distributions of capital will not be taxable in the hands of the beneficiaries.
5. On the drafting, there are a number of decisions to be made. I hope the draft I have provided is self-explanatory. I would mention in particular:
 - 5.1. The trustees must act unanimously. If there are to be four or more trustees, a power to act by a majority would be desirable.
 - 5.2. The trustees have only the statutory power to charge fees, so one trustee cannot charge fees unless the others consent. In practice I expect the trustees will not seek to charge fees.

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