

## Response from Oscr to Community Land Scotland – September 2015

Your question relates to whether a charity would be able to donate money to individuals/partners/companies for new business start ups or business expansion in communities, and you've referred to the charitable purpose 'the advancement of citizenship/community development'. I'm afraid the answer to your question is that 'it depends'!

The charitable purpose 'the advancement of citizenship/community development' does include **urban and rural regeneration**. In our recently revised Meeting The Charity Test Guidance, we say that 'to be charitable, a regeneration organisation will normally need to demonstrate that an area is in need of regeneration, and that its activities will cover a broad spectrum of regeneration work'.

The guidance goes on to include the following examples of activities that *could* fall under regeneration:

- providing education, training and re-training opportunities and work experience, especially for unemployed people
- providing financial or technical assistance or advice to new businesses or existing businesses where it would lead to training and employment opportunities for unemployed people
- providing land and buildings on favourable terms to businesses in order to create training and employment opportunities for the unemployed

The key, as mentioned earlier, is that the charity must be carrying out a suite of activities in furtherance of the regeneration purpose. If it is, then carrying out any of the above activities could form part of this suite of activities. Carrying out one (or even two) of the activities above in isolation would not be sufficient. Even if a charity is carrying out a range of regeneration activities, it would still have to carry out a careful analysis of public v private benefit before deciding to donate money to individuals, businesses or companies. All three of the activities above are **only** charitable where the outcome is the creation of jobs or training for unemployed people. Therefore, even providing a business or employer with funding which will result in 'job creation' may not be acceptable if the jobs were not primarily filled by unemployed people.

Our Meeting The Charity Test guidance also includes a short section on 'the relief of unemployment', which is recognised as being analogous to 'the relief of poverty'. We would only tend to recognise charities under this purpose if they can demonstrate that they have been established with the primary purpose of relieving unemployment, and their activities would have to be directed to the relief of unemployment generally or to a significant section of the community in a way which can be demonstrated objectively.

Their activities might include assisting unemployed people to:

- find and retain employment

- get training in work-related skills
- benefit from apprenticeships and work placements

Simply creating jobs or giving grants to employers to create jobs is not likely to fall under this purpose.

So, in summary, it *could* be charitable in certain circumstances for charities to donate money to individuals/partners/companies for new business start ups or business expansion in communities. However, these circumstances are very specific and the charities would also have to be wary of the balance between private and public benefit. In making decisions whether to provide such funding, trustees would also have to be mindful of their trustee duties and seek appropriate independent advice if it was unclear whether such an activity was in furtherance of their charitable purposes.

**Office of the Scottish Charity Regulator (OSCR) 2nd Floor, Quadrant House, 9 Riverside Drive, Dundee, DD1 4NY | <http://www.oscr.org.uk/> | *Charities you can trust and that provide public benefit***