

**Report by the
Comptroller and Auditor General**

Charitable funds associated with NHS bodies

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Executive summary

Introduction



1 There are over 500 trustee bodies administering charitable funds associated with the National Health Service that hold net assets amounting to some £1.8 billion. Trustees are responsible for the administration of the individual charities and for ensuring that assets are properly managed, controlled and safeguarded in accordance with trust and charity law. Trustees may be bodies of *special trustees* responsible for controlling funds held historically by many teaching and university hospitals, or *corporate trustees* where the board of an NHS body, for example an NHS Trust, acts collectively as a trustee for associated charitable funds.

2 From 1996-97 to 1998-99, the value of net assets held by the charities increased in real terms by some £220 million or 15 per cent. In 1998-99 income amounted to £314 million, mainly from donations of £159 million and investment income of £79 million. In the same year the charities spent £322 million on a wide range of projects to support the NHS.

3 All trustees are required to submit audited annual accounts to the Secretary of State for Health. Trustees of larger charities are also required to submit audited annual accounts to the Charity Commission. Under Section 98 of the National Health Service Act 1977 the Secretary of State is required to prepare annually a Summarised Account of the Funds Held on Trust. This account provides an aggregated summary of the assets, liabilities and activities during the financial year of the charities associated with the NHS.

4 The 1977 Act also provides for the Summarised Account to be audited by the Comptroller and Auditor General and presented to Parliament, and for him to have access to the accounts of trustees and the records relating to them.

5 Under the Charities Act 1993, the Charity Commission administers a general regulatory framework for charities in England and Wales. This includes the maintenance of a register of charities and oversight of the submission of annual returns and accounts in accordance with the 1993 legislation. Other regulators are responsible for specific elements of some particular classes of charity.

6 The specific responsibilities of the Charity Commission and the Secretary of State for Health for charities associated with the NHS are described in Appendix 2.

The National Audit Office investigation

7 This report sets out the results of examinations we undertook of the corporate governance and financial control arrangements at a sample of 21 of the larger trustee bodies, and our findings and conclusions on the arrangements for supervision and accountability of charitable funds associated with the NHS. The details of our study methodology are set out in Appendix 4.

Corporate Governance

8 Trustees are responsible for ensuring that a charity operates high standards in the management of its resources and in the delivery of its charitable aims, in accordance with certain legal and regulatory requirements and the expectations of the public. To this end, corporate governance provides a framework that enables trustees to direct and control their charities, including the setting of financial policy and overseeing its implementation.

9 We considered the arrangements that trustees have set up to secure high standards of corporate governance, against three key principles of integrity, accountability and openness. Overall we found that the charities we visited had made substantial progress in adopting these principles, often in line with guidance issued for exchequer funding within the NHS.

10 We identified many examples of good practice, covering a range of activities, where:

- ✓ the charities were run by a clearly identifiable body of people (the trustees) who took responsibility for management and control;
- ✓ trustees had clear reporting lines with sub-committees and staff, to ensure that all parties remained well informed;
- ✓ charity business was handled on a regular and timely basis;
- ✓ comprehensive induction procedures for new trustees were in place;

- ✓ the charities had adequate procedures to deal with conflicts of interest; and
- ✓ the charities made information about their affairs freely available.

11 We made a total of 57 recommendations to the 21 bodies visited relating to corporate governance issues, that trustees agreed to implement. These are summarised at Appendix 6. Areas covered by our recommendations included:

- the establishment by *corporate trustees* of a charitable funds sub-committee, in accordance with statutory rules established by the Secretary of State for Health, emphasising the distinction between the administration of charitable funds and exchequer funds;
- ensuring that trustees are kept fully informed about business conducted by sub-committees and ratify any decisions that they take;
- by trustees reviewing their arrangements for delegation, to satisfy themselves that an appropriate balance exists between authorisation procedures devolved to fund advisors and trustee oversight;
- avoiding trustees acting as fund advisors where it could lead to a conflict of interest. Where this is not possible arrangements being made to ensure that all interests are properly declared and dealt with in an appropriate fashion;
- trustees introducing formal measures to ensure that documents setting out the charities' rules and procedures are regularly updated;
- introducing comprehensive induction procedures for all new trustees, including formal briefings and the provision of relevant Charity Commission and NHS Executive guidance and background information about the charity;
- maintaining up to date registers of interest covering trustees, support staff and fund advisors, and non-financial as well as financial interests; and
- reviewing what could be done to improve communication and make information about the charities more widely available.

Financial control

12 It is important for trustees to ensure that the resources of the charity are managed securely and economically and deployed to the best advantage of users and beneficiaries.

13 Overall we found that the charities we visited had adequate controls to ensure that business was conducted in accordance with the law and to minimise the risk of a breach of trust. We identified many examples of good practice, where;

- ✓ charities had reliable financial systems based on proper books and records, conforming to the requirements of Part VI of the Charities Act 1993;
- ✓ charities had comprehensive guidance and procedure notes, covering background information on the charity, how to apply for funds, handling receipts, fundraising, and the financial accounting system;
- ✓ trustees had agreed policies for the use of reserves, to allow them to demonstrate that they were not accumulating funds unnecessarily and to help them to manage their reserves;
- ✓ charities had adequate planning and budgeting arrangements, to give trustees assurance that funds were being used in accordance with the objectives of the charity and to help prevent the unplanned growth of fund balances;
- ✓ accurate and timely management information was provided to trustees;
- ✓ investments were managed by professional investment managers;
- ✓ trustees had in place effective internal and external audit arrangements;
- ✓ trustees had set out clearly their objectives for expenditure;
- ✓ trustees had taken steps to control all funds within the charity even when some of their duties had been delegated to fund advisors; and

- ✓ trustees maintained adequate control of fund-raising activities.

14 We also found a number of areas where there was scope for further improvements by trustees and to the 21 bodies we visited we made a total of 100 recommendations concerning financial controls, that trustees said that they planned to implement. Appendix 6 provides further details. Our recommendations covered the following areas:

- regularly reviewing guidance notes and circulating them as widely as possible amongst charity and hospital staff;
- developing an integrated reserves policy, forward plan and budget;
- having planning and budgeting arrangements that at least meet the recommendations of the Charity Commission;
- requesting management information on spend in the period, total spend to date, comparative figures for the previous year, budget for year profiled by month, large or unusual transactions, significant donations, use of the Chairman's (or other officer's) discretionary authority, investment performance, and slow moving or overdrawn funds;
- regularly monitoring and reviewing the performance of their investment managers;
- periodically testing the market for the investment managers and other service providers;
- making arrangements to ensure that all internal and external audit reports are made directly to them; and
- developing guidelines for fund advisors and potential grant applicants on what expenditure is appropriate to the charity.

15 A summary of all our recommendations is provided at Appendix 6.

Supervision and accountability

16 Our largely positive evidence on the bodies' corporate governance and financial control arrangements provides reasonable assurance that the current arrangements for supervision and accountability are operating effectively. On the basis of our findings there is no case to be made now for greater regulation.

17 Further, we found that the NHS Executive (acting on behalf of the Secretary of State) and the Charity Commission have worked together to ensure that, in the discharge of their responsibilities in relation to charitable funds associated with the NHS, there is no significant duplication of effort.

18 In accordance with the Charities Act 1993, it is the Charity Commission that regulates charitable funds associated with the NHS. The Commission has issued specific guidance to the trustees of these funds on the duties, responsibilities and obligations which charity law imposes on them in their capacity as a charity trustee. Our investigation indicated that there was a perceived need for further guidance on certain issues such as reserve policies and research funds. Since our visits to trustee bodies, further guidance on these subjects has been published in the NHS Executive's Funds Held on Trust: 1999-2000 Manual for Accounts and the Charity Commission's Exposure Draft of Accounting and Reporting by Charities: Statement of Recommended Practice.

19 The NHS Executive does not in practice duplicate this regulatory function and has no legislative powers to do so. However, on behalf of the Secretary of State, it continues to exercise beneficially the legislative powers to appoint and remove trustees and also to transfer property between trustees, for example when there is a re-organisation of the associated NHS Trust or Health Authority. Where there is an obvious overlap of functions, for instance where trustees are required to submit annual accounts to the NHS Executive and the Charity Commission, by agreement between both organisations the accounting requirements are virtually identical and do not impose significant additional burdens on the trustee bodies concerned, except for the smallest charities which otherwise would not need to submit annual accounts.