



National Audit Office

Report

by the Comptroller
and Auditor General

Cabinet Office

Investigation into the matching of funds from the Grassroots Grants Programme with donations from The W O Street Charitable Foundation

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Investigation into the matching of funds from the Grassroots Grants Programme with donations from The W O Street Charitable Foundation

Report by the Comptroller and Auditor General

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National Audit Act 1983 for presentation to the House of
Commons in accordance with Section 9 of the Act

Sir Amyas Morse KCB
Comptroller and Auditor General
National Audit Office

20 July 2015

This investigation focuses on whether £1.3 million of donations from a charity, The W O Street Charitable Foundation were eligible to be matched with funds from the Cabinet Office's Grassroots Grants Programme, under the Programme's rules.

Investigations

We conduct investigations to establish the underlying facts in circumstances where concerns have been raised with us, or in response to intelligence that we have gathered through our wider work.

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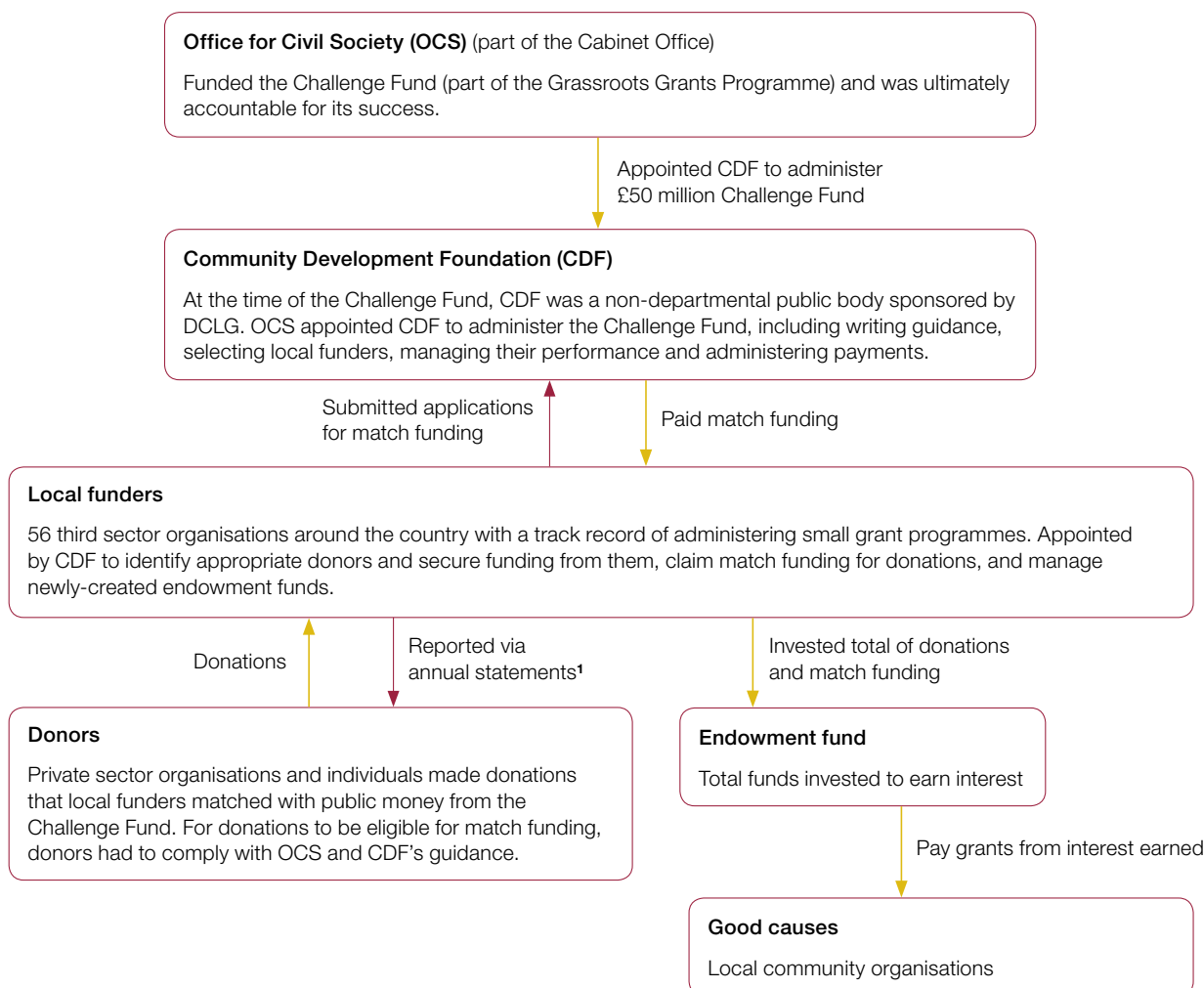
Overview of the Grassroots Endowment Match Challenge Fund

Our investigation concerned one donor (The W O Street Charitable Foundation) and three local funders (the Community Foundations for Greater Manchester, Lancashire and Merseyside).

Figure 1

The Grassroots Endowment Match Challenge Fund

Investment income from donations and match funding was distributed to good causes



Notes

- 1 Local funders gave each donor an annual statement of the capital balance of their donation, the interest earned and the grants made to good causes.
- 2 CDF became an independent charity in April 2011. While the charity CDF continued to work with the Cabinet Office in relation to the Programme (for example, paying grant claims in June 2011 and publishing an evaluation report), it has advised us that any contractual liabilities of the non-departmental public body were not transferred when CDF became a charity.
- 3 The eligibility requirements for donations are set out in Part Two of this report.

Summary

1 In October 2013, David Nuttall MP wrote to the chair of the Committee of Public Accounts to express concern about the matching of £1.3 million in donations from a charity, The W O Street Charitable Foundation (the Foundation), with public funds from the Cabinet Office's Grassroots Grants Programme (the Programme).

2 The Programme ran from September 2008 to March 2011. It aimed to improve access to funding for local community groups. The Cabinet Office appointed the Community Development Foundation (CDF), a non-departmental public body, to run the Programme on its behalf.¹ CDF in turn appointed 'local funders' to administer the Programme locally. The Programme had two elements: an £80 million Small Grants Scheme, and a £50 million Endowment Match Challenge Fund (the Challenge Fund). The Challenge Fund aimed to use the incentive of match funding to make more funds available for local good causes. Our investigation relates only to the Challenge Fund.

3 Under the Challenge Fund, local funders' role was to attract donations from individuals and private sector organisations, match them with public funds available under the Programme, and combine these to create new endowment funds for charitable purposes. The interest earned on these endowment funds was then used to make grants to local community groups.

Scope

4 We investigated £1.3 million of donations from the Foundation that were matched and managed by three local funders: the Community Foundation for Greater Manchester² (CFGM), the Community Foundation for Lancashire (CFL) and the Community Foundation for Merseyside (CFM).

5 Our investigation sought to establish:

- the value of public funds matched with donations from the Foundation;
- whether the donations were eligible for match funding; and
- how the local funders have since managed the newly created endowment funds.

¹ Up to 31 March 2011, CDF was a non-departmental public body. It became an independent charity in April 2011. While the charity CDF continued to work with the Cabinet Office in relation to the Programme (for example, paying grant claims in June 2011 and publishing an evaluation report), it has advised us that any contractual liabilities of the non-departmental public body were not transferred when CDF became a charity.

² The Community Foundation for Greater Manchester is now known as Forever Manchester.

6 We did not review the Small Grants Scheme element of the Programme nor did we review any subsequent Cabinet Office schemes with similar aims. While this is not a report on the overall operation of the Challenge Fund, we report on some aspects of the Programme design and oversight by the Cabinet Office and CDF that emerged during our investigation. References to CDF refer to the non-departmental public body which existed until 31 March 2011 (rather than the independent charity of the same name) unless otherwise stated.

7 Part One sets out the background to the Programme, and the Challenge Fund in particular. Part Two sets out our findings on the matching of donations from the Foundation with public money from the Challenge Fund. Part Three sets out our findings on the Cabinet Office and CDF's oversight of the Challenge Fund. Our methods are set out at Appendix One.

Key findings

Findings of our investigation

8 **Based on our examination of the available evidence, and discussions with the parties involved, we cannot see a justification for the decision to classify the Foundation as 'ineffective' in a way that complies with the guidance.** When local funders applied for match funding they described the Foundation's donations as eligible on the grounds that the Foundation was 'ineffective'. Local funders may have mistakenly believed that if they could potentially use the Foundation's resources in a more effective way, this equated to the Foundation being 'ineffective', a view CDF did not challenge at the time. However, having considered all the available evidence, we do not believe that the Foundation met the definition of an ineffective trust as set out in the Challenge Fund guidance.

9 **We estimate the Foundation's donations were matched with around £753,000 of public funds in total across the three local funders.** However, we have not been able to determine the exact amount because of poor record keeping by the Community Foundation for Greater Manchester.

10 **Our investigation has been hampered by poor record keeping by the Cabinet Office, CDF and the local funders.** These bodies were unable to provide us with a clear audit trail for this case either because they had not documented the rationale for their decisions or because they had not managed their records well enough.

11 The Cabinet Office reviewed the eligibility of the Foundation's donations in 2012 and 2015. Its 2012 review concluded that the donations were eligible for matching. However, the review went beyond the matters the investigator was asked to review, and the strength of the evidence presented in the report did not support the wide reaching conclusion it drew. The Cabinet Office has accepted that, at the time, CDF did not appropriately scrutinise local funders' claims for match funding in relation to the Foundation's donations.

Wider observations on the design and operation of the Challenge Fund

12 In reviewing the Foundation's donations, we identified flaws in the design of the Challenge Fund and gaps in the Cabinet Office and CDF's oversight. Although we did not set out to assess the Challenge Fund's design, we identified the following wider issues in the course of our work:

- a** The guidance produced by the Cabinet Office and CDF for local funders was unclear in places. It did not clearly define key terms on which the eligibility of donations depended. This created a risk that different local funders would treat donations inconsistently. In a worst case scenario it means public funds may have been matched with donations that did not meet the objectives of the Challenge Fund.
- b** The design of the Challenge Fund included incentives (such as annual targets) to encourage local funders to work to secure donations. However, the Cabinet Office and CDF did not establish adequate safeguards to manage the risk that any local funder might misrepresent donations as eligible due to pressure to secure donations.
- c** The Cabinet Office and CDF's guidance to local funders on how to manage the endowment funds created by the scheme was limited. In November 2011, CDF published an evaluation of the Programme, which included a high-level review of local funders' performance. Since this evaluation, the Cabinet Office has not monitored the use of the endowment funds and could not assure us that local funders were distributing grants in line with the Challenge Fund's intentions.
- d** CDF checked the arithmetical accuracy of local funders' claim forms but had no standard checks to verify that donations were eligible and in line with the Challenge Fund's intentions. The Cabinet Office and CDF's guidance explicitly noted that it relied on local funders to operate within the spirit of the Challenge Fund.
- e** The Cabinet Office's oversight of CDF was extremely limited: it did not require CDF to submit any detailed information about how the Challenge Fund money was being used, nor did it monitor the use of public funds once they had been paid.

13 Since 2011, the Cabinet Office has introduced measures to strengthen its oversight of subsequent schemes. The successor scheme to the Programme, which is run in partnership with CDF (the independent charity), incorporates improvements to strengthen the Cabinet Office's oversight. In response to our findings, the Cabinet Office has told us it intends to review and improve its grant-making and record keeping. It is currently developing a framework agreement for its delivery partners who distribute grants, which it intends to use to improve record keeping and further increase programme oversight. It has also offered to work with the local funders involved to ensure that the endowment funds are managed appropriately.

Part One

Background

1.1 This part presents the relevant background to the Grassroots Grants Programme (the Programme), and specifically the Endowment Match Challenge Fund (the Challenge Fund), which ran from September 2008 to March 2011.

1.2 The Cabinet Office – specifically its Office for the Third Sector³ – funded the Programme and was accountable to Parliament for its delivery. The Programme’s overall objective was to improve the long-term sustainability of grant-giving to local groups. Its specific aims were to:

- improve access to funding for local community organisations;
- increase the capacity of local charities and community groups to respond to local needs; and
- build stronger communities through increased local impact.⁴

1.3 The Programme comprised two elements: £80 million for a Small Grants Scheme and £50 million for the Challenge Fund. The Challenge Fund sought to use the incentive of match funding to make more funds available to local good causes.⁵ This investigation focuses only on the Challenge Fund.

1.4 In 2008, the Cabinet Office appointed the Community Development Foundation (CDF) to administer the Programme on its behalf. At the time, CDF was a non-departmental public body. CDF became an independent charity in April 2011. In the rest of the report we refer to the non-departmental public body as ‘CDF’ and its successor as ‘CDF the independent charity’.⁶

³ Now the Office for Civil Society.

⁴ Daniel Pearmain, Areenay Hatamian and Zoe Khor, *Grassroots Grants final evaluation report*, Community Development Foundation, November 2011. Available at: www.cdf.org.uk/wp-content/uploads/2012/02/CDF-Grassroots-Grants-Final-evaluation-report-.pdf

⁵ Match funding is funding that requires funds from another source to be available before it can be released. Funding may be matched on a 1:1 basis but other ratios may also be used.

⁶ While CDF the independent charity continued to work with the Cabinet Office in relation to the Programme (for example, paying grant claims in June 2011 and publishing an evaluation report), it has advised us that any contractual liabilities of the non-departmental public body were not transferred when CDF became a charity.

1.5 CDF subcontracted its work to a number of local funders (56 for the Challenge Fund). These local funders were third sector organisations with a track record of administering small grants programmes, and raising and managing endowment funds.

1.6 Local funders' tasks were to identify eligible private sector donors in their area and attract donations from them. They had to apply to CDF to match these donations with part of the £50 million available under the Challenge Fund. Local funders combined the donations and the matched funds to create new endowment funds for charitable purposes. The interest earned on these endowment funds was used to make grants to local community groups. Under the terms of the Challenge Fund, the local funders were responsible for managing the new endowment funds. Between September 2008 and March 2011, the Cabinet Office gave £42 million of the £50 million available under the Challenge Fund to local funders.

1.7 Figure 1 (page 4) sets out how the Challenge Fund operated. To avoid any one geographical area benefiting disproportionately, CDF calculated an allocation for each of the 149 top tier local authority areas when the Challenge Fund began. Local funders (who were each responsible for a number of local authority areas) were entitled to claim match funding up to the area's annual allocation for each year that the Programme operated. Local funders submitted claims to CDF for match funding on the basis of a matching ratio they had agreed with CDF at the start of the Programme. For example, CDF allocated £580,385 to the Community Foundation for Merseyside (CFM) in the final year of the Programme. It agreed a match funding ratio of 2:1, which meant CFM could claim £1 from CDF for every £2 it secured in donations.⁷

⁷ The Community Foundation for Merseyside covered six areas, each of which had its own allocation for the third year of the Programme: Halton (£47,085), Knowsley (£59,611), Liverpool (£171,807), Sefton (£109,300), St Helens (£69,969), and Wirral (£122,613).

Part Two

Findings from our investigation

2.1 This part sets out our findings on the matching of donations from The W O Street Charitable Foundation (the Foundation) with public funds from the Cabinet Office's Grassroots Endowment Match Challenge Fund (the Challenge Fund).

Background

2.2 The Foundation is a grant-making charity established by William Openshaw Street. According to the Foundation's accounts, the trustees may apply income for charitable objects and purposes as they see fit. It makes grants to national, regional and local charities and projects, and the late Mr Street had a particular interest in education, general welfare (particularly the elderly, the blind and the disabled), and family and social welfare. Mr Street directed that the Foundation should give preference to people residing in or connected with Lancashire⁸ and Jersey – but not to the exclusion of others.

2.3 In March 2011, the Foundation made donations totalling £1.3 million to three local funders:

- the Community Foundation for Greater Manchester (CFGM) received £778,842;
- the Community Foundation for Lancashire (CFL) received £390,617; and
- the Community Foundation for Merseyside (CFM) received £129,859.

2.4 In June 2011, all three local funders submitted claims to the Community Development Foundation (CDF) to match public funds with the donations they had received in the quarter to March 2011. These claims included the Foundation's donations. Two local funders had their claims matched in full according to their agreed match funding ratio. One (CFGM) received only a partial match because there was not enough remaining in its match funding allocation to match the donation in full (**Figure 2** overleaf).

⁸ The Trust Deed refers to the geographical area of Lancashire before local government reforms of 1974, so covers areas now known as Lancashire, Merseyside and Greater Manchester.

Figure 2

Match funding paid from the Challenge Fund to three local funders

Local funder (match funding ratio)	Total match funding claim for quarter to March 2011 (£)	Total public funding paid from Challenge Fund for quarter to March 2011 (£)	Percentage of claim for match funding paid over by CDF ¹	Value of W O Street donation included in claim (£)	Public funding matched to W O Street donations (£)
CFL (1:1)	554,659	554,659	100% at 1:1	390,556	390,556
CFM (2:1)	1,088,917	544,394	100% at 2:1	129,819	64,909
CFGM (1:1)	970,328	384,813	40% at 1:1	744,484 ²	297,800 ³
Total	2,613,904	1,483,866		1,264,859	753,265

Notes

- 1 A claim would not receive full match funding if donations exceeded the annual allocation of match funding for the area.
- 2 Amounts shown for CFGM are after donations to cover set-up costs incurred were deducted from the original donation.
- 3 This figure is an estimate based on an assumption that 40% of the value of the Foundation's donation to CFGM was matched with public funds.
- 4 Further detail on the match funding claims made by these local funders is in Appendix Two.

Source: Area grant claim forms under the Challenge Fund and CDF's Challenge Fund payment schedules

2.5 CFGM only received 40% of its total claim for match funding, and its records do not show how it matched this to its donation from the Foundation. Assuming it spread the funding equally across the donations it received, CFGM would have allocated around £297,800 in match funding – equivalent to 40% of the Foundation's donation – to the W O Street Transformation Fund. Therefore, our best estimate of the total match funding the Foundation's donations attracted across the three funders is just over £753,000.

2.6 Local funders were allowed to agree with individual donors the proportion of the donation the local funder would take to cover administrative costs. Before submitting its claim, CFGM agreed with the Foundation it would deduct a one-off set-up fee of 3% and an annual management fee of 1.5%, which together totalled £34,359. CFM and CFL agreed with the Foundation set-up fees of £10,000 and £15,000 respectively and annual management fees of 1% of funds under management.

2.7 The local funders each combined the Foundation's donation with the match funding to create a W O Street Transformation Fund. Local funders told us that, by the end of March 2015, they had made £107,600 donations to local good causes.⁹

⁹ CFL told us it has a further £52,052 and CFM has a further £12,646 waiting to distribute to local groups once our investigation is complete.

Local funders' claims for match funding

2.8 David Nuttall MP wrote to the chair of the Committee of Public Accounts in October 2013 to express concern that the donations from the Foundation may have been ineligible for matching with funds from the Challenge Fund.

The Challenge Fund's eligibility criteria

2.9 The Challenge Fund was set up, in part, to release funds held by trusts which were not being put to good use. The Challenge Fund explicitly sought to avoid the simple redirection of funds from effective trusts which were already available to local groups.

2.10 The Cabinet Office and CDF produced guidance for local funders about the kind of donations that would be eligible for matching under the Challenge Fund. The guidance did not include a set of clear eligibility criteria but set out some of the circumstances in which different donations would be eligible for match funding. In particular, it included different requirements for donations from a trust (i.e. a charity) depending on whether or not the trust was: a) active, and b) effective or ineffective (**Figure 3**).

Figure 3

Eligibility for match funding from the Challenge Fund

Nature of trust	Eligibility of donation
'Active and effective'	Ineligible for matching unless the donations were additional to, and separate from, the donor's previous support for local community organisations and groups. The guidance required local funders to keep evidence that donations were additional to, and separate from, previous support otherwise the donations would be ineligible.
'Active but ineffective'	Donations from 'ineffective' trusts could be matched if the local funder could demonstrate this was a significantly better use of the donor's resources, and would lead to better long-term benefits for local groups. Local funders had to liaise with CDF before taking donations from this type of trust. The requirement to retain evidence (as for active and effective trusts above) also applied.
'Dormant'	The guidance was unclear about whether, in general, transfers from dormant trusts were eligible. However, it did identify transfers from certain types of dormant trusts that were ineligible.

Source: OCS and CDF Guidance notes for Local Funders' applications (January – April 2008); CDF's Grassroots Grants: Local Funders Frequently Asked Questions – Version 9 (October 2009)

Indicators of an ineffective trust

2.11 The Cabinet Office discussed the definition of ‘ineffective’ with the Charity Commission at the time of designing the Challenge Fund but failed to agree a definition. As a result, CDF told local funders that they should consider the eligibility of donations on a case-by-case basis and consult CDF before taking donations from ‘ineffective’ trusts. Local funders were therefore required to exercise their judgement with reference to the guidance in determining the eligibility of donations.

2.12 Although the Programme guidance is unclear in places, CDF’s Frequently Asked Questions document described an ‘ineffective’ trust as one that was not doing what it should be doing. This guidance suggested an ineffective trust was one that, for example:

- did not give out grants;
- did not invest appropriately;
- had trustees that were not engaged; or
- only gave out small amounts in relation to its costs (although it did not say what counted as ‘small’ in relation to costs).

This list was not exhaustive, and the guidance indicated there might be other reasons that local funders could use to justify their classification of a trust as ineffective.

2.13 Furthermore, the guidance stated that for donations from ineffective trusts to be eligible, they needed to represent a significantly better use of the donor’s resources and also lead to better long-term benefits for local groups.

Basis of local funders’ claim

2.14 When they claimed funds from the Challenge Fund to match the Foundation’s donations, the three local funders described the Foundation as active but ineffective. The funders have not been able to provide a written rationale, from the time, setting out the basis for this description. However, over the course of our investigation, they explained the decision as follows:

- The Foundation was keen to find new grant-making opportunities in certain geographical areas but had been reluctant to make grants to groups that were not registered charities.
- Through the creation of the endowment funds the Foundation’s resources were able – via the local funders’ networks – to reach new groups which were not registered charities.
- Furthermore, the creation of the endowment funds under the Challenge Fund enabled the Foundation’s resources to be used to facilitate mergers and collaboration between local groups and support the start-up of new local groups.

2.15 The local funders felt they could ensure significantly better use of the Foundation's resources and better long-term benefits for local groups through their local networks. For these reasons the local funders felt that the Foundation's donations were eligible for matching. We agree that the Foundation was active, but disagree that the circumstances above mean that it was ineffective under the Programme's rules.

Whether the Foundation was active

2.16 When the Foundation made its donations in March 2011, it was clearly an active trust. It made charitable grants of £313,659 in 2010 and £419,919 in 2011 (excluding £1,299,318 it donated to the three local funders).¹⁰ Its annual accounts for these and subsequent years do not indicate a change of circumstances that left the Foundation unable to continue its activities.

Whether the Foundation was ineffective

2.17 In paragraphs 2.11 and 2.12 we set out the indicators of an ineffective trust set out in the Challenge Fund's guidance. Although the arguments put to us by local funders (paragraph 2.14) indicate that the Challenge Fund enabled the Foundation to reach new grant recipients – which was something the Foundation wished to do – the arguments do not in our view, show that the Foundation was not 'doing what it should be doing' which was the description the guidance gave of an ineffective trust.

2.18 The guidance required local funders to consult CDF when taking donations from ineffective trusts to confirm eligibility on a case-by-case basis (see Figure 3, page 13). Although we have seen evidence that a discussion took place between CDF and CFGM (which liaised with CDF on behalf of all three funders in this case), we have seen no written rationale prepared at the time either by the local funders or CDF which sets out why, with reference to the guidance criteria, the Foundation was ineffective and therefore its donations were eligible for matching.

2.19 In the case of donations from active but ineffective trusts, CDF usually provided confirmation to the relevant local funder regarding the eligibility of donations. However, in this case, CDF did not write to the local funders to confirm the eligibility of the Foundation's donations. Whilst the local funders did not receive formal confirmation of eligibility, CFL and CFM had their claims matched in full and told us that they took this as confirmation of eligibility at the time.

¹⁰ According to the Foundation's 2009 accounts (the latest year for which accounts were available at the time of the match funding), the Foundation made charitable grants of £345,639, including £44,000 to CFGM. We do not know if these accounts were reviewed by the local funders as part of their decision-making.

2.20 During the course of our investigation the Cabinet Office told us it believes the Foundation could be considered ‘ineffective’ for a variety of reasons:

- the Foundation was struggling to distribute funding;
- its costs were high compared to its charitable giving; and
- the local networks and expertise of the three local funders potentially enabled them to deliver significantly better outcomes with the funding.

We consider each of these points in paragraphs 2.21 to 2.23.

Whether the Foundation was struggling to distribute funding

2.21 CFGM told the Cabinet Office that the Foundation was struggling to distribute funding in line with its legator’s wishes. However, as noted in paragraph 2.2 the Foundation’s trust deed is drawn in wide terms that permit the trustees to use income for any exclusively charitable objects and purposes as they think fit. At the time, the trustees particularly wanted to find grant-making opportunities in specific geographic areas. But the legator’s wishes in relation to these geographic areas were a preference rather than a requirement. It is difficult to see how the trustees could have struggled to distribute funds when the Foundation’s charitable objects are drawn so widely, and we have seen no evidence that this was in fact the case. Although the trustees wished to seek out further opportunities in specific geographical areas with the assistance of the local funders, this did not in our view indicate that the Foundation was ineffective.

Whether the Foundation was ineffective on the grounds that its costs were high

2.22 The guidance indicated that a trust that gives out small amounts in relation to its costs could be considered ineffective. In terms of its grant-giving, the Foundation’s general policy is to distribute income earned on its capital together with realised gains.¹¹ In 2009 (the latest year for which the accounts were available at the time of match funding), the trust earned interest of £321,000 and awarded charitable grants of £346,000. It is not clear to us that the Foundation had scope within its stated policy to increase significantly its level of grant giving. In terms of its expenses, these were around £260,000 in 2009. In 2010, the Charity Commission reviewed the Foundation’s administrative costs, including the trustees’ fees and concluded it had no regulatory concerns.

¹¹ The Foundation has adopted a ‘total return’ investment strategy and its general policy is to distribute income earned on its capital together with realised gains on its investment portfolio (at a level which does not adversely impact the Foundation’s overall investment performance).

Whether the Foundation was ineffective on the grounds that significantly better outcomes were possible following the matching

2.23 According to the guidance, the requirement for donations from an ineffective trust to lead to significantly better use of the donor's resources was not an indicator of ineffectiveness; it was an additional requirement that donations from ineffective trusts had to meet in order to be eligible (see paragraph 2.13). Notwithstanding this, it seems to us that although, after matching, the Foundation's donations were applied to useful alternative purposes – through grants to local voluntary groups, including some without charitable status – this did not amount to a significantly better use of the Foundation's resources. Had the resources stayed under the control of the Foundation they would have been distributed to other good causes elsewhere in the UK.

Our view

2.24 The fact that the Cabinet Office, CDF and the local funders did not keep sufficient records to provide a clear audit trail for their decisions in this case has hampered our investigation. As CDF's sponsor department, the Department for Communities and Local Government (DCLG) archived CDF's records when it ceased to be a non-departmental public body. When it took receipt of CDF's records, DCLG only retained paper records and not electronic records. This means we cannot be sure that we have seen all the evidence originally held by CDF in relation to this case. Given the passage of time and weaknesses in the audit trail, it is not possible to be sure what information the local funders had before them when they concluded that the Foundation's donations were eligible for matching.

2.25 However, in our view, the limited evidence that local funders provided to us does not demonstrate that the Foundation was ineffective according to the requirements of the Challenge Fund guidance.

2.26 For the purpose of this investigation we considered whether, in our view, the Foundation met the indicators of an ineffective trust as set out in Challenge Fund guidance. We did so on the basis of the Foundation's 2009 audited accounts which were the latest available at the time of the match funding claim, and correspondence from the Charity Commission setting out the results of its July 2010 and March 2011 reviews of the Foundation's administrative costs.

2.27 In our view, on the basis of this evidence, the Foundation did not meet any of the four criteria set down in the guidance which would indicate that it was ineffective – items a) to d) in **Figure 4** overleaf. We have also not seen any satisfactory evidence from the local funders or CDF that the Foundation met the overall Challenge Fund definition of an ineffective trust – namely, that it was not doing what it should have been doing. It is also not clear to us that the Foundation's donations met the two additional criteria required for donations from active but ineffective trusts – items e) and f) in Figure 4. On this basis, the Foundation's donations do not appear to us to be eligible under the requirements of the Challenge Fund.

Figure 4

NAO assessment of whether the Foundation's donations met the indicators of an 'active but ineffective' trust set down in Cabinet Office and CDF's guidance

In our view the Foundation did not meet Cabinet Office and CDF's indicators of an ineffective trust in March 2011

Indicators of an 'ineffective' trust ¹	Our view of the Foundation's circumstances
a Trust does not give out grants	Not met. The Foundation made charitable grants totalling around £346,000 to 73 organisations in the year ended 31 December 2009 (the latest year for which accounts were available when the match funding claim was made in June 2011).
b Trust does not invest appropriately	Not met. The Foundation's investments were managed by a global asset management firm. The Foundation earned £321,000 on its investments in 2009. The market value of its investments was around £14.6 million at 31 December 2009, a net gain of nearly £1.7 million on the previous year.
c Trustees are not engaged	Not met. In addition to making grants as noted in point a) above, the two trustees (a corporate trustee and a solicitor) charged the charity an hourly rate for time spent. In 2009, the corporate trustee received approximately £149,000 and the solicitor's firm received approximately £8,500 from the Foundation in relation to their trustee duties. ³
d Only gives out small ² amounts in relation to its costs	Not met. The Foundation's general policy is to distribute income earned on its capital together with realised gains, in a way that does not adversely impact overall investment performance. In 2009, the trust earned interest of £321,000 and awarded charitable grants of £346,000. Its expenses were around £260,000. In 2010, the Charity Commission reviewed the Foundation's administrative costs and concluded it had no regulatory concerns. ⁴
In addition, CDF's Challenge Fund guidelines required local funders to demonstrate that the matching of donations from 'active and ineffective' trusts with public funds would lead to:	
e a significantly better use of the donor's resources, and	Not met. The local funders provided us with no evidence (as the guidance required) that matching public funds with the Foundation's donations led to a significantly better use of the Foundation's resources. The Foundation already made grants to local groups in the geographic areas where the local funders worked, for similar purposes. Although, via the Challenge Fund, the Foundation's donations were applied to useful alternative purposes (ie directed to local non-charitable groups), this did not amount to a significantly better use of the Foundation's resources compared to how the funds are likely to have been used had they stayed under the control of the Foundation.
f better long-term benefits for local groups, for example because the local funder can provide a higher rate of investment return, or better engagement with the needs of the local community	Unclear. The Foundation's own investments grew 13% in value in 2009, and we have seen no evidence from March 2011 that the local funder was likely to achieve a higher rate of return. However, via the endowment fund created following the match, the Foundation's donations were permanently allocated for the benefit of groups in the local funders' geographical areas. Grants were also made to some local groups which had not previously received funding from the Foundation which may constitute better engagement with the needs of the local community.

Notes

- 1 The guidance indicated that points a) to d) were not an exhaustive list and that local funders might refer to other factors to justify their classification of a trust as ineffective.
- 2 The Grassroots guidance does not define 'small' in relation to costs.
- 3 The trustees' fees are stated inclusive of VAT.
- 4 In 2010, the Charity Commission reviewed the Foundation's administrative costs, including the fees charged by its trustees. The Commission concluded that it 'had no regulatory concerns in the matter of the administrative charges'. The Charity Commission review was in response to concerns raised by a third party about the fee rates charged by the trustees. The Commission gave advice to the trustees on ensuring fees charged were reasonable for the work undertaken.

Source: National Audit Office, based on the Foundation's reports and financial statements for the year ended 31 December 2009, CDF's Grassroots Grants: Local Funders Frequently Asked Questions – *Version 9* (October 2009), and correspondence from the Charity Commission regarding its review of the Foundation's administrative costs (July 2010 and March 2011)

2.28 The Cabinet Office is of the view that because of the weaknesses in record keeping and the lack of clarity in the Challenge Fund guidance, it is impossible to say definitively at this distance that the donations did not meet the eligibility requirements.

Scrutiny of the claims

2.29 Neither CDF nor the Cabinet Office could provide evidence to show that CDF had checked the local funders' claims to ensure the Foundation's donations were eligible prior to the match funding being disbursed. Claim forms submitted by four local funders were selected for audit each year. None of the 2010-11 claim forms for the three local funders involved in this case were selected for audit.¹²

Cabinet Office's investigations into the eligibility of the donations

2.30 The Cabinet Office has twice reviewed the eligibility of the Foundation's donations for matching under the Challenge Fund. In November 2012, following concerns raised by a member of public, the Cabinet Office investigated the eligibility of the Foundation's donations for matching under the Challenge Fund.¹³ In response to enquiries, CFGM told the Cabinet Office the Foundation was ineffective on the grounds that it was struggling to distribute funds in line with the wishes of the legator. The investigation went on to conclude that the donations were eligible for match funding on the grounds that the local funders had judged that they were able to widen the benefits to the local community.

2.31 The author of the Cabinet Office's 2012 investigation described their review as 'extensive and thorough'. They drew a wide conclusion, stating that all parties 'have acted in a proper and appropriate way at all times in the administration of the Grassroots Endowment Match funds'. This conclusion went beyond the matters the investigator was asked to review, and the strength of the evidence presented in the report did not support it. The investigator also appears to have misunderstood CDF's guidance to local funders on eligibility, for example, by stating that donations from active trusts were ineligible.

2.32 In February 2015, in response to our investigation, the Cabinet Office reviewed the eligibility of the Foundation's donations again. This time it concluded that CDF had not adequately scrutinised the claims in 2011. It agreed with us that the guidance it had produced with CDF was unclear. However, it also told us that, in its view, if the claims had been adequately scrutinised, CDF was still likely to have reasonably judged the Foundation to be ineffective and therefore its donations eligible; this was on the basis that according to its 2009 accounts the Foundation's costs were high in relation to its charitable giving and that the three local funders' connections potentially enabled them to deliver significantly better outcomes with the funding (see paragraphs 2.22 and 2.23).

¹² In the previous year, 2009-10, five donations included in CFM's 2009-10 claim forms were selected for audit and the auditors concluded there was sufficient evidence to provide reasonable assurance that CFM's claims were free from material misstatement, either by fraud, irregularity or error.

¹³ The 2012 investigation also considered whether certain individuals had been inappropriately involved in the decision-making.

Whether the Foundation's donations would have been eligible if it had been classified as active and effective

2.33 Towards the end of our investigation, the three local funders told us they believed that if they had classified the Foundation as active and effective in March 2011 (rather than active and ineffective), then the Foundation's donations would have been eligible for match funding.

2.34 According to the Challenge Fund guidance, donations from active trusts were ineligible unless evidence was retained that the donations were additional to, and separate from, previous support for local community organisations and groups. This applied to both effective and ineffective trusts. Local funders have provided us with no evidence that these criteria were met, which according to the guidance means the donations were ineligible, regardless of whether the Foundation had been classified as effective or ineffective.

2.35 Setting aside the lack of retained evidence which makes these donations ineligible, the Foundation's trustees told us that its donations were additional because the creation of the endowment fund enabled some local voluntary groups that were not charities to secure a grant they would otherwise not have received because the Foundation was unwilling to fund groups that were not charities. The donations were made as a contribution of capital to the new endowment fund and, in this way, were separate from the Foundation's previous support to local charities which was in the form of direct grants. We note that the transfer of capital from the Foundation's own endowment fund into the new endowment fund did not lead to new money being available for local charities, since the Foundation's donations would have led to grants to other good causes if they had stayed in the Foundation's control.

Going forward

2.36 Shortly after the Programme ended, the Cabinet Office launched a similar scheme called the Community First programme, in partnership with CDF the independent charity and UK Community Foundations (UKCF). Cabinet Office and CDF the independent charity sought to improve the design of this second programme and incorporate lessons learned from the Challenge Fund to strengthen the Cabinet Office's oversight. These improvements included introducing an eligibility checklist form. In response to our investigation, the Cabinet Office has also told us it intends to review and improve its own grant-making and record keeping. It has also offered to work with the local funders involved to ensure that the endowment funds created under the Challenge Fund are managed appropriately.

2.37 CFL and CFM told us that for future similar schemes they would welcome explicit scope for local funders to support changes in the way traditional grant-making charitable foundations distribute funds. For example they would like to assist charitable foundations to support voluntary groups that are not charities and find new ways to secure social impact and public benefit.

Part Three

Design and oversight of the Challenge Fund

3.1 Although we did not set out to assess the design of the Endowment Match Challenge Fund (the Challenge Fund), in the course of our work we found design flaws that weakened accountability and increased the risk that public funds could be misapplied. We also found weaknesses in oversight of the Challenge Fund by the Cabinet Office and the Community Development Foundation (CDF).

Unclear eligibility criteria

3.2 As discussed in Part Two, the terms ‘active’ and ‘effective’ were critical to deciding whether donations were eligible for matching. Ineligible donations would not contribute to the Cabinet Office’s overall intentions for the Challenge Fund to encourage new investment for local good causes, calling into question the overall effectiveness of the Challenge Fund. Despite this, the Cabinet Office and CDF’s guidance was not clear on eligibility. For example it did not offer guidance on how to judge what ratio of costs to grants might indicate a trust was ineffective. Furthermore, for donations from an active trust, the guidance did not define ‘additional’ support or state how the local funder should demonstrate that donations from such a trust were eligible.

3.3 This lack of clarity for local funders and donors created a risk that different funders would treat donations inconsistently. In a worst case scenario it may have meant that public funds were matched with inappropriate donations, counter to the Cabinet Office’s intentions. It also meant there was a lack of transparency for the taxpayer and potential donors about which donations were eligible for matching with public funds.

Incentives to match funds

3.4 CDF gave local funders a grant to cover the administrative costs of the Programme, and under the Challenge Fund, local funders could also deduct an administration fee from the donations they secured. The level of this administration fee was agreed between local funders and donors on a case-by-case basis, usually as a percentage of the donation. Alongside annual targets, the administration fee created an incentive for local funders to secure the maximum amount of donations they could.

3.5 This arrangement created a risk that local funders might misrepresent donations as eligible in order to boost their own income and meet annual targets. The Cabinet Office and CDF relied on local funders to check and confirm that donations met the Challenge Fund's requirements. They also required local funders to liaise with CDF about the eligibility of donations from ineffective trusts. However, the Cabinet Office took no further steps to mitigate the risk that matched funding might be applied to ineligible donations, other than by requiring CDF to commission audits of a small sample of local funders' claim forms (see paragraph 2.29).

Management of endowment funds

3.6 CDF, directed by the Cabinet Office, made local funders responsible for managing the endowment funds created as a result of the Challenge Fund. It required them to ensure that:

- they spent the interest earned on the endowment on small, informal, mainly volunteer-led, grassroots voluntary and community groups in the local area, which met relevant needs as identified in their local communities; and
- the funds were managed in line with the local funder's own investment strategy, which was reviewed in 2008 by CDF's independent assessors as part of the local funder application process.

3.7 CDF also encouraged local funders to manage endowments as a single fund to minimise administration costs. Beyond these requirements the Cabinet Office and CDF's guidance did not suggest how the local funders should manage the endowment funds, nor did it give indicative performance expectations (eg regarding the rate of return on investments). CDF's contract with the Cabinet Office did not require CDF to oversee local funders' management of the endowment funds, nor their decisions about how to allocate grants to local good causes from the interest earned.

CDF's oversight of local funders

3.8 Under the Challenge Fund, local funders submitted quarterly claim forms to CDF asking it to transfer the funds that would be matched with locally-secured donations. CDF checked the arithmetical accuracy of claim forms but did not perform standard checks to verify that donations were eligible and in line with the Challenge Fund's intentions.

3.9 CDF arranged for a proportion of the Grassroots local funders to be audited each year. This included checking the eligibility of a random sample of donations. CDF's guidance makes clear that for active trusts, local funders needed to provide evidence that donations were eligible for match funding.¹⁴

¹⁴ In the case of the Foundation's donations, CFGM did not provide CDF with the evidence of eligibility and CDF did not provide its usual written confirmation to CFGM regarding the eligibility of the Foundation's donations, although CDF and CFGM did discuss the donations. See Part Two for more information.

3.10 Beyond these limited measures, however, CDF's guidance explicitly said that it relied on local funders to operate within the spirit of the Challenge Fund. The onus was on local funders to raise any queries or concerns with CDF if they felt they needed additional guidance.

The Cabinet Office's oversight of CDF

3.11 The Cabinet Office is ultimately accountable to Parliament for the £42 million awarded in match funding from the Challenge Fund. The Cabinet Office delegated the day-to-day running of the Challenge Fund to CDF.¹⁵ CDF submitted quarterly funding requests to the Cabinet Office summarising the funds it needed to pay local funders' match funding claims. However, the Cabinet Office did not ask CDF or the local funders for any additional information to show that the local funders had subsequently invested the funds appropriately, in line with the Challenge Fund's design.

3.12 CDF the independent charity produced an evaluation of the Challenge Fund for the Cabinet Office in November 2011¹⁶ which included a review of local funders' returns on investment and grants from the endowment yield between 2008 and 2011. However, since this evaluation, the Cabinet Office has not monitored the use of the funds so could not assure us that local funders were distributing grants in line with the Challenge Fund's intentions.

3.13 All three local funders provided us with evidence that local community groups had benefited from grants made from the endowment funds created with the Foundation's donations and the Challenge Fund match funding.

¹⁵ The scope of the day-to-day running of the Programme was determined by the service level agreement agreed by CDF with the Cabinet Office.

¹⁶ Daniel Pearmain, Areenay Hatamian and Zoe Khor, *Grassroots Grants final evaluation report*, Community Development Foundation, November 2011. Available at: www.cdf.org.uk/wp-content/uploads/2012/02/CDF-Grassroots-Grants-Final-evaluation-report-.pdf

Appendix One

Our investigative approach

Scope

- 1 We conducted an investigation into three specific issues. These were:
 - the value of public funds matched to donations from The W O Street Charitable Foundation (the Foundation);
 - the eligibility of the donations to attract match funding; and
 - how the parties involved have since used the endowment funds.

Methods

2 In examining these issues, we drew on a variety of evidence sources. We interviewed key individuals from the Cabinet Office, the Community Development Foundation, and the Community Foundations for Greater Manchester, Lancashire and Merseyside to establish:

- the basis on which the match funding was awarded; and
- how the local funders have used the donations and match funding.

3 We also reviewed the records of these organisations, including guidance documents and financial records for the Grassroots Grants Programme's Endowment Match Challenge Fund to establish:

- the value of public funds matched to donations from the Foundation; and
- the eligibility of the donations to attract match funding.

4 In conducting the investigation, we did not contact the Foundation's trustees until just prior to report publication, as the primary focus of our investigation was the actions of the Cabinet Office, CDF and the local funders, as detailed in paragraphs 4 to 6 of the Summary.

Appendix Two

Match funding receipts

Figure 5

Details of match funding receipts for three local funders

Claims from Lancashire and Merseyside were met in full but Greater Manchester's were not

Local funder (match funding ratio)	Area	Total match funding claim for quarter to March 2011 (£)	Total public funding paid from Challenge Fund for quarter to March 2011 (£)	Percentage of claim for match funding paid over by CDF ¹	Value of W O Street donation included in claim (£)	Public funding matched to W O Street donations (£)
CFL (1:1)	Blackburn	55,646	55,646		55,646	
	Blackpool	56,233	56,233		56,233	
	Lancashire	442,780	442,780		278,677	
	Total	554,659	554,659	100% at 1:1	390,556	390,556
CFM (2:1)	Halton	87,954	43,977		17,032	
	Knowsley	113,284	56,579		18,189	
	Liverpool	322,487	161,243		53,999	
	Sefton	202,013	101,006		20,127	
	St Helens	130,905	65,452		20,472	
	Wirral ²	232,274	116,137		–	
	Total	1,088,917	544,394	100% at 2:1	129,819	64,909

Figure 5 *continued*

Details of match funding receipts for three local funders

Local funder (match funding ratio)	Area	Total match funding claim for quarter to March 2011 (£)	Total public funding paid from Challenge Fund for quarter to March 2011 (£)	Percentage of claim for match funding paid over by CDF ¹	Value of W O Street donation included in claim (£)	Public funding matched to W O Street donations (£)
CFGM (1:1)	Bury	59,775	30,712		59,426	
	Manchester	147,712	75,957		146,851	
	Oldham	71,760	36,869		71,342	
	Rochdale	67,492	34,679		67,103	
	Salford	71,253	36,610		70,838	
	Stockport	183,104	47,122		91,169	
	Tameside	70,070	36,001		69,661	
	Trafford	69,234	35,572		68,830	
	Wigan	229,928	51,291		99,264	
	Total	970,328	384,813	40% at 1:1	744,484³	297,800⁴
Grand Total	2,613,904	1,483,866		1,264,859	753,265	

Notes

- 1 A claim would not receive full match funding if donations exceeded the annual allocation of match funding for the area.
- 2 Amounts shown for CFGM are after donations to cover set-up costs incurred were deducted from the original donation.
- 3 This figure is an estimate based on an assumption that 40% of the value of the Foundation's donation to CFGM was matched with public funds.
- 4 The Foundation did not make a donation to Wirral.

Source: Area grant claim forms under the Challenge Fund and CDF's Challenge Fund payment schedules

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