

NATIONAL LOTTERY (FUNDING OF ENDOWMENTS) BILL

Regulatory Impact Assessment

I Purpose and intended effect of measure

Issue

The stated view of the Department is that all Lottery distributors, with the exception of the Community Fund (the operating name of the National Lottery Charities Board, which gives grants to charities and the voluntary and community sector), are able to make grants to fund endowments. However, since the current Lottery Statute (the National Lottery etc. Act 1993 as amended by the National Lottery Act 1998) does not contain any express provision which permits the distributing bodies to make grants for the purpose of funding endowments the position is uncertain. As a result, good causes (in particular charities) may find it difficult to obtain funding for endowments.

Objective

The proposed Bill amends the National Lottery etc. Act 1993 to clarify the powers of all distributors, including the Community Fund, to fund endowments (including permanent endowments), both for the purpose of establishing endowments as well as contributing to those already in existence, thus curing the present uncertainty.

II Risk Assessment

Endowments can be a useful way of providing long term revenue funding. There are, however, three potential risks with the measure:

- Endowments require large sums of money upfront to provide reasonable revenue in the longer term, tying up money, with the possible result that less money would be available for other Lottery grants.
- A lack of certainty about future income levels, which are subject to variations in interest rates.
- Applicants need expertise to manage endowment funds, or need to buy in such expertise.

This is however a permissive, rather than mandatory, measure, granting all distributing bodies the express power, should they choose to exercise it, to grant funding for endowments (including permanent endowments). The Community Fund has been unable to fund endowments under current statute and so the biggest potential impact is on this body. Whilst firm figures are difficult to ascertain, anecdotal evidence suggests that, to date, only a tiny proportion of charities have applied to the Community Fund for endowment funding (an estimated 20-30 out of around 100,000 applications), and there is little evidence that this level of demand would increase if the Fund was given this power. In addition, at a time when Lottery income is falling, it is unlikely that applications for endowment funding would be considered a high priority for funding, compared to applications for revenue funding, for the reason highlighted above.

III Identifying the options

There would appear to be three options:

Option 1

Leave the current Lottery statute unchanged.

This would, however, mean that the current legal uncertainties remain, in particular in respect of the Community Fund, and could lead to the distributing bodies being unwilling to fund endowments in the future.

Option 2

Introduce a Bill specifically to allow the Community Fund to fund endowments.

Whilst this would correct what the Department believes to be the existing anomalous situation with respect to the Community Fund, it would not deal with the position of the other distributing bodies. By explicitly conferring powers on the Community Fund to fund endowments, the Bill could be interpreted as undermining the position of the other distributors who would not have explicit powers under Lottery statute.

Option 3

Introduce a Bill to clarify the powers of all distributors, including the Community Fund, to fund endowments.

This proposal would remove the current uncertainty as to the powers of the distributing bodies – in particular the Community Fund – by expressly providing that all the distributing bodies have the power to fund endowments.

IV Issues of equity or fairness

The proposal is intended to address the current legal uncertainty.

V (i) Identifying, quantify and valuing the benefits

Option 1

There would be little perceived benefit in leaving the current Lottery statute unchanged, as the legal uncertainty would remain - in particular in relation to the Community Fund. Based on the Department's stated view, charities would remain disadvantaged compared to other grant applicants, and the distributing bodies other than the Community Fund may also be reluctant to make grants for the purpose of funding endowments. It may, however, avoid potential additional calls on the Community Fund's resources from charities seeking to augment or create endowments. Grants of this nature need to be of a considerable size compared to other forms of grant to yield a reasonable annual income (eg: an endowment of £1m would produce around £50k in annual income).

Option 2

Although this option would benefit charities seeking to apply to the Community Fund for funding for endowments, it arguably could cast doubt on the power of other distributors to fund endowments.

Option 3

The proposal contained in the Bill would benefit all good causes by clarifying the powers of all distributing bodies (including the Community Fund) to fund endowments. It is difficult to quantify the impact on Lottery funding. It would not necessarily, however, put additional pressure on the Community Fund's resources (who have not previously considered applications for funding for endowments), as there is little evidence of great demand from charities for endowment funding, and it would ultimately be a policy decision for the Fund on how to prioritise such applications against other types of grant.

VI (i) Securing compliance

N/A. The proposal is for a permissive, rather than a mandatory regulatory power. Good causes would be under no obligation to apply to the distributing bodies for endowment funding, nor would the bodies need to comply by agreeing to fund such applications against other calls for funding.

VI (ii) Compliance costs

N/A, for reasons given above. Whilst endowment funding requires larger amounts of upfront money than other forms of grant, there would be no requirement on the distributing bodies to accept such applications above other calls for funding.

VI (iii) Enforcement costs

N/A, for reasons given above.

VII Consultation

DCMS sought general views on the value of endowments in its Review of Lottery Funding published last July, although not on the specific proposal to enable the Community Fund to fund endowments.

Opinions from respondents were mixed, although overall there was cautious support for the principle of endowments as a way of guaranteeing secure longer term revenue income for projects than was possible with other forms of grant. Against this, however, there was a general recognition that endowment could tie up large amounts of Lottery funding at the expense of other potential grant recipients. There was some support for the introduction of enabling powers, so that the distributors could offer endowments sparingly in specific circumstances.

Whilst the Community Fund has reservations over the value of endowments, its public position on this Bill is neutral. The views of the VCS in the Review were mixed for the reasons given above.

VIII Enforcement, sanctions, monitoring and review

N/A, for the reasons given in Section VI above.

IX Summary and recommendation

Whilst there are legitimate arguments of principle over the use of endowments, we recommend that the Government supports the Bill as a permissive, enabling Order, clarifying the position of all lottery distributors. The only identifiable cost is that of a potential additional call on the Community Fund's resources, but ultimately the Bill does not require the Fund to accept such applications at the expense of other calls on its resources.

Declaration

I have read the Regulatory Impact Assessment and I am satisfied that the balance between cost and benefit is the right one in the circumstances.

Signed

Rt Hon Richard Caborn MP

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