

The legal framework for investment policy



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* Harries and Others v Church Commissioners for England and Another [1992] 1 WLR 1241

** <http://www.bwblip.com/file/summary-and-opinion-pdf>

Establishing the legal framework

Ethical investment considerations are not new. Indeed, the court case that underpins how a charity board should approach investment policy discussions is over 20 years old, but it remains as relevant today as it was then. Known as 'the Bishop of Oxford case', it continues to be a useful reference point when considering how to align a charity's purposes with its investment criteria*. Here, we summarise its key points.

- **Could any of a charity's investments conflict with its purposes?** – The obvious example here is a cancer charity choosing not to hold shares in a tobacco company. A more current example could be an environmental-protection charity reviewing the carbon intensity of its investments. The 2015 opinion of Christopher McCall QC on such matters is worth noting here.**
- **Could a charity's beneficiaries decline help if they are uncomfortable with the source of its income?** – This could undermine the charity's operational ability to fulfil its purposes.
- **Could certain investments alienate potential donors?** – Loss of donor support could result in financial detriment for a charity.

Creating an investment policy statement

A charity board can record the outcome of its investment policy discussions using an investment policy statement (IPS). These documents are becoming more widespread since their use was made mandatory in some situations for trusts in England, Wales and Northern Ireland, further to legislation aimed at trustees in 2000/2001. However, charities that are not governed by a deed of trust may still be without an IPS. Additionally, they are not mandatory for Scottish trusts.

Leaving to one side the rather patchwork statutory picture, a sensible approach for charities is to regard an IPS as a matter of good governance; something always to be used when delegating investment management to a discretionary investment manager. There are a number of templates freely available, which can support a charity board or investment committee in this regard.

Charities in the UK hold more than £79 billion in investments, and what sits behind these investments is increasingly under scrutiny by stakeholders. Charities should expect to be challenged on the alignment of their investments with their organisation's purposes. Therefore, taking a proactive approach by using an up-to-date IPS, which is kept under review and updated as required, is a sensible risk-management step.

We can support you

At Aberdeen Standard Capital, we can support your charity's IPS discussions and help your charity meet its financial goals.

To find out more, please email us at charities@aberdeenstandard.com

The value of an investment is not guaranteed and can go down as well as up. An investor may get back less than they invested.

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GB-211218-79447-1