Response to Charity Commission Consultation

Charity Responsible Investments Guidance

For further information please contact

John Pepin
Chief Executive
Philanthropy Impact
Two Temple Place
LONDON WC2R 3BD

T: +44 (0)20 7407 7879
M: +44 (0) 780 305 1674
Email: john.pepin@philanthropy-impact.org
Web: www.philanthropy-impact.org

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Charity Responsible Investments Guidance

The following is Philanthropy Impact's initial response to the Charity Commissions Charity Responsible Investment Guidance.

1.0 Philanthropy Impact

Philanthropy Impact (www.philanthropy-impact.org) is a charitable organisation whose mission is to increase philanthropic giving and social investment and to encourage impact/ESG investment – more and better.

We work with professional advisors (private client advisors, wealth management, banking, independent financial advice, tax and legal sectors) to grow and enhance the quality of the support they give to their clients around philanthropy, social investment and impact/ESG investment.

We are a membership organisation for professional advisors as well as individual philanthropists and social investors, impact/ESG investors, trusts and foundations, charities and social enterprises.

We act as a knowledge hub and centre of excellence offering events, specialist knowledge sharing, training, voluntary standards and sector and government liaison.

We represent over 200 members, including professional services firms and individual members, and we have outreach to and multiple contacts with over 11,000 stakeholders.

2.0 Initial response to the Consultation

As a result of reading this draft guidance, how clear are you about the duties and good practice that apply to decisions about a charity's financial investments, whether or not the charity adopts a responsible investment approach?

The duties and good practice that apply to decisions about a charity's financial investments has been spelt out relatively well – taking advice, avoiding conflicts of interest, determining an appropriate return, risk, and time horizon framework, adopting a diversified/balanced portfolio, ability to take a total return approach, and how decisions may depend on whether the trustees are dealing with an expendable or a permanent endowment.

The guidance also talks about the need to regularly monitor investments and the distinction between an advisory/discretionary portfolio.

The general guidance is also clear about whether a charity adopts a responsible investment approach. However, the way the Charity Commission has written the guidance makes it seem that the trustees should only adopt a responsible investment policy if this does not conflict with the aims and values of the charity.

We believe that the guiding principle for trusts and foundations should be that as public benefit entities they have an automatic social responsibility that should be reflected in their investment strategy. Therefore, the burden of evidence should be applied to investment decisions that do not apply a socially responsible filter.

At least, public benefit entities should match the standard set out for companies, as set out in Section 172 of the Companies Act (see 172(1)(d)).

172 Duty to promote the success of the company

(1) A director of a company must act in the way he considers, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole, and in doing so have regard (amongst other matters) to—

(a) the likely consequences of any decision in the long term,

(b) the interests of the company's employees,

(c) the need to foster the company's business relationships with suppliers, customers and others,

(d) the impact of the company's operations on the community and the environment,

(e) the desirability of the company maintaining a reputation for high standards of business conduct, and

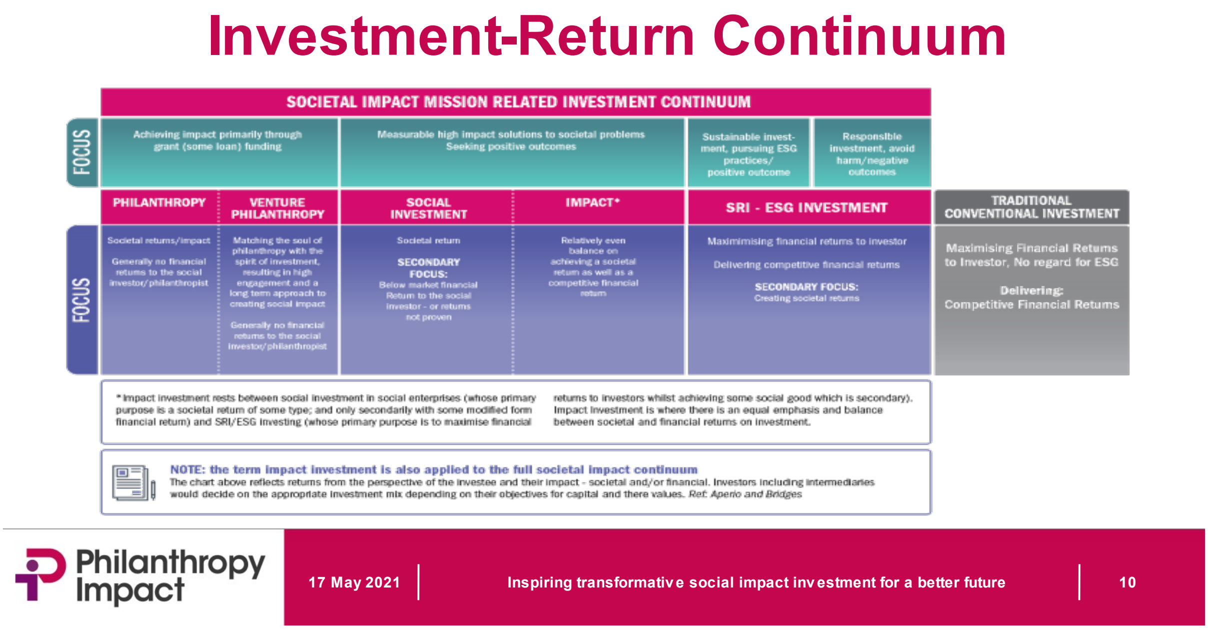
(f) the need to act fairly as between members of the company.

As a result of reading this draft guidance, how clear are you about what a responsible investment approach is?

The draft guidance does not really explain responsible investing particularly well. It mentions negative screening, positive screening, shareholder activism etc. but only at a headline level and very briefly. There needs to be a proper explanation of what responsible investment means and the interchangeability of terms like SRI, Sustainable Investing; including outlining the benefits of good stewardship - that actually investing in well managed responsible businesses could not only yield better financial results but is also good for the general community (better paid and happier employees, fairer treatment of all stakeholders including employees, customers, suppliers, shareholders etc), better health (no tobacco, alcohol etc), better for the environment and climate change etc, just to name a few.

Additionally, sustainable development goals (SDGs) should be integrated into guidance.

The investment return continuum should be also incorporated into the policy as it helps with understanding the different approaches to sustainable investment.



It is also recommended that the typology of sustainable investments (avoid harm, ESG screened, ESG managed, impact related investments including impact aligned and impact generating) should be included in the guidance along with sustainable investment strategies. We are willing to contribute to the development of these.

Is the phrase 'responsible investment' an appropriate term for the approach to investing in line with a charity's purpose and values?

An alternative is sustainable investing, but we can see why responsible investing is a more attractive term for the Charity Commission because it more directly correlates to good stewardship and alignment with a charity's purpose and values.

As there are no agreed definitions of the various terms it would be good for the guidance to contain definitions.

How confident would you be, as a result of reading this draft guidance, that adopting a responsible investment approach is a valid option?

The guidelines present responsible investment as a valid option but we are concerned that they also present it as a suboptimal approach to purely focusing on maximising financial returns. Terms like "if it does not conflict with the values and purpose of the charity", "if not adopting one would harm the reputation of the charity" etc. You get this sense of slight sub optimality when you read the more detailed guidance on the investment of assets on behalf of permanent endowments.

Research shows that taking a responsible investment approach does not harm returns. We recommend the removal of "the evidence that it is in the charity's best interest". The guidance would then read "You can take a responsible investment approach even if there is no apparent direct conflict with your charity's charitable purposes"

Alternatively, the Charity Commission could develop template wording that trustees can put into their investment policy statements that shows that responsible investments are in the best interests of the charity. Philanthropy Impact is ready to help with the drafting of this template.

In the section 'Check if extra rules apply', we say that there are some situations where a responsible investment approach can be taken only if at least one of five tests is met.
As a result of reading this draft guidance, how clear are you about when these tests are relevant to the decision to take a responsible investment approach?

This goes back to what we have outlined above. When one reads about the five tests it portrays the sense that one only considers responsible investment if one or more of the five tests apply to your charity. This approach is very different to saying you really must seriously consider taking a responsible investment approach because it could be better for your reputation, because it may yield higher returns etc i.e. more positive as opposed to negative considerations in the way the Charity Commission presents the five tests.

Do you have any other comments to make on the draft guidance?

It is good that the Charity Commission is taking responsible investment seriously and making trustees think harder about this area. However, we believe that every charity should invest responsibly.

The Charity Commission could present responsible investment in a more positive light and extol the benefits of a taking such an approach for the charity, investment returns, for society, as well as for the environment and climate.

3.0 Follow up

This paper presents an overview of Philanthropy Impact and our work to increase philanthropic giving, social investment and impact/ESG investment in the UK.

We have included our suggestions and recommendations related to the Charity Commission responsible investment guidance consultation.

We welcome the opportunity for further dialogue to discuss the investment guidance.