
Working Paper

Payout with an English accent: Exploring the case for a foundation 'distribution quota' in the UK

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Abstract

This paper reviews the nature and direct of the private foundations' mandatory "payout" debates in the United States, in the context calls for its emulation in the UK. This is against the background on the literatures on trans-national policy transfer and diffusion, and in the light of recent research, suggesting that a 5 % per cent distribution quota in the UK would yield major new resources for the nonprofit sector. That work concluded that payout of 5% of assets in the five years leading up to 2007/08 would have led to an increase of £1 billion in UK foundations' grant-making per annum.

This paper draws on new data from a wider database than that used in the original research, on the charitable expenditures of the leading 50 family foundations in the UK, to explore the payout issues and outcomes in increased depth. It demonstrates variations in payout levels, some overall convergence around the mandated US payout levels, but with significantly different payout polices between foundations, and a pattern of payout rates generally continuing to rise in years where asset values apparently fell. The paper draws attention to the importance of longitudinal data as evidence prior to any regulatory change and by implication marked uncertainty that mandated policy change would achieve anything like "billion pound windfalls". This implies that the kinds of lesson –drawing that mandatory-payout advocates are supporting should be quite different from those indicated by a direct policy transfer or copying from US to UK jurisdictions. Areas for continuing research on UK foundations' charitable expenditure patterns and on the relative impact of market volatility and charitable sector need on foundations' finance decisions are indicated.

Introduction

In the growing transnational policy transfer and diffusion literatures, the case for cross-national policy borrowing or emulation is shown to be uncertain. The reality of “policy transfer” is contested, because of dissimilarities between socio-economic and political contexts and the range and means of policy implementation. Instead, it is argued, policy mimesis is occurring, that is the imitation or reproduction of a policy, from one context to another. (Massey, 2009); with the risks as well as rewards that that entails. Yet governments and their policy advisers continue to be drawn to policy ideas and practices from jurisdictions other than their own. In the case of the UK, the direction of policy gaze seems inexorably towards the United States. Thus, Jones and Newburn (2002), in “Learning from Uncle Sam?” explore US influences on UK criminal justice and penal policies. Deacon (2000) examines “Americanisation of the welfare debates”, in the pursuit of what is described as policy that is “workable”. Cook (2008) examines the policy transfer of US Business Improvement Districts to England and Wales, as a response to city management fiscal problems. Current UK debates include the extent of transferable learning from US to UK higher education (Attwood, 2009), the UK as an “importer” of counter-terrorism policies, mainly from the US (Pantazis and Pemberton, 2009), and the governmental longing for a US style and level of engagement among philanthropists giving to UK arts. (Cain, 2010).

Policy transfer of ideas and rules on institutions’ regulation offers particular challenges, because of the uncertainties of regulatory compliance across as well as within jurisdictions (Etienne, 2010.) Yet it is in this sphere that a recent proposal for exploring a cornerstone of US regulation of endowed foundations, the “payout” or distribution quota regulation, for its value and impact in the UK has been made. None of the UK home nations have the equivalent of this regulation; and research commissioned by the Honorary Treasurers’ Forum, has proposed “further investigation” by government of this approach. (Grant and Driscoll 2009, 32). During economic downturn, when governments will be seeking to lever in private philanthropy for service-focused voluntary organisations (Harrow and Pharoah, 2008), the possibility of a consequent loosening of additional funds in this way must seem attractive. This is especially so since Grant and Driscoll’s analysis of the expenditures of the leading twenty one leading foundations offered an estimate of the resultant increase of charitable funding by endowed foundations as reaching “around £1bn per annum”. (ibid, appendix two.)

What are the auguries then for a “payout with an English accent”, given that the colloquial term “payout” denotes not just sums of money, but *large* sums, “often in compensation”. (Oxford English Dictionary, online, 2010)? To what extent should any such exploration be informed (or discarded) by the critics and advocates of this approach of foundation regulation in the United States. (See for example, Toepler, 2004 and Burrows, 2010.). This paper commences with a brief consideration of the policy transfer literatures, and goes on to identify briefly the range of thinking on the distribution quota approach in US contexts, which should feed in to any UK debate. Having presented the foundation-grantmaking context in the UK of the Grant and Driscoll case, it examines the implications of a mandatory distribution quota using new data on family foundation spending in the UK published in summer 2010 (Pharoah, 2010); and draws conclusions about the extent to which this group of foundations are responding in the current

economic climate, without the existence of a mandatory payout level. Finally, the implications for government-voluntary sector relations and relations within the sector itself, between funding seekers and funding providers in the light of such a policy transfer are reviewed.

A comparative study of the spending ratios of UK foundations is timely. In a rapidly changing economic climate, foundation spending has come under the spotlight in both the US and the UK. The Foundation Center has, for example, been building up a real-time database on foundations' annual spending announcements (Foundation Center 2010). Amidst renewed debate on payout rates, a study of UK spending ratios provides an opportunity to look at what happens where there is no mandatory payout, to compare this with the US, and explore whether a mandatory payout would stimulate or inhibit the release of funds in the UK.

Since the UK and US studies quoted above, the economic environment has been changing dramatically, and amidst a prolonged period of economic turbulence, the levels of confidence in market growth which characterised the last decade have been replaced by much greater uncertainty in the current one. This has had an impact on thinking about the most effective management of foundations' funds, and the most appropriate way to balance current need against the consideration of provision for the future. We therefore felt that it would be useful to re-address data on payout rates in the UK, incorporating more recent foundation spending figures, and to try to track whether and how the economic crisis has affected payout rates.

The policy transfer literatures

These developing literatures have increasingly identified the processes and implications of policy transfer, policy convergence and policy diffusion, as well as the linked field of "lesson drawing" (Rose, 1991), all examining a process in which "knowledge about policies, administrative arrangements, institutions and ideas in one political setting (past or present) is used in the development of policies, administrative arrangements, institutions and ideas in another political setting". (Dolowitz and Marsh, 2000, 5). Stone (1999) noted that that this "dynamic" was deemed to be on the increase in an era of globalisation. She has emphasised that alongside leading bureaucrats and politicians, "non state entities" and especially "knowledge-based actors" are involved in "the export of ideas"; with opportunities for soft forms of policy transfer and policy entrepreneurship among "think tanks, consultancy firms, foundations and the university sector" (Stone 2004). Copying-across provides for "emulation", that is where another nation is viewed as a "policy innovator and an exemplar, where policy practice can be monitored by policy elites and analysts elsewhere to shape lessons to shape policy at home". (ibid.) Who, however, are these policy elites? Freeman (2006, 373) turns to work from Hecló (1974) in which agents of policy transfer may often be marginal to main policy actors: "crucially they are networked across countries, what they think and know comes from being informed about and paying attention to what happens elsewhere".

The logic of institutions being central to policy transfer across national boundaries is stressed by de Jong et al (2006, 4), where they note that "eligible institutions" include "formal regulations, organizational procedures and informal codes and procedures". The borrowing of successful institutions can thus be seen as speeding up development, "pooling best practices, a strategy to lower the cost of innovation and speed up its diffusion (since this approach is) easier to

convince those reluctant to change than by arguing for original ideas.” Such a “pooling” is analysed elsewhere in terms of “policy convergence”, a “growing similarities of policies over time”, Holzinger and Knill (2005, 776) . For these authors, the mechanisms for policy convergence are viewed in terms of the stimulus that has arisen and the response that has resulted. Thus, their ‘table of mechanisms of policy convergence’ presents the following explanatory picture:

Table: Mechanism of policy convergence from Holzinger and Knill (2005, 780).

Mechanism	Stimulus	Response
Imposition	political demand	submission
International	legal obligation	compliance
Harmonisation	thro; international law	
Regulatory competition	competitive pressure	mutual adjustment
Transnational Communication		
Lesson drawing	problem pressure	transfer of model found elsewhere
Trans.nat.problem solving	parallel problem pressure	adoption of commonly developed model
Emulation	desire for conformity	copying of widely used model
Internat.policy promotion	legitimacy pressure	Adoption of recommended model
Independent problem solving	parallel problem pressures	Independent similar response

In the context of ‘trans-national communication’ therefore, it is the ‘problem pressure’ (or its recognition as such), that appears key to seeking policy transfer, albeit from soft as well as hard sources. Within that level of trans-state communication moreover , the possibly neutral – sounding ‘lesson drawing’ is also contested, to the extent that it tends to sit apart from the core policy transfer literature. Rose (2002) presenting a “lesson” as an “action oriented conclusion about a programme in operation elsewhere”, emphasises the need for a cause and effect model to show how a programme elsewhere can achieve a desired goal in the policy maker’s jurisdiction, with desirability *and* practicality both central. However, Evans, (reviewing Rose,

2004), notes that Rose argues that the first logical response of a policy maker in attempting to deal with a problem will be to look for similar examples elsewhere, with lesson drawing an intentional exercise, involving research. Yet, Evans argues in turn, this makes the boundaries of lesson-drawing very hard to draw, and the evidence of whether a lesson has been drawn difficult to gather; so that policy makers who then go on to draw instinctively or deliberately on their own experience cannot be said to be lesson-drawing. For Evans (ibid., 519) “lesson drawing can be a rational and progressive learning activity but only if the programme that is transferred is compatible with the value system of the recipient organisation, culturally assimilated through comprehensive evaluation andbuilds on existing organisational strengths”. Earlier, Oliver and Lodge (2003, 189-190) argued that lesson –drawing is broadly similar to conventional accounts of policymakers seeking rational policy making, and policy transfer difficult to disentangle from other elements in the policy making process.

More recently in the literatures, Massey (2009) emphasises the importance of locating policy analysis within its proper context including giving due cognisance to time, chronologically and historically, as well as social culture, political culture, economics and geographical location ; and goes on to discuss why each attempted transfer of a policy is unique. Marsh and Sharman (2009), examine the literatures on policy transfer and policy diffusion , where the diffusion literature privileges structure, while the transfer literature privileges agency in their directions; with neither considering criteria for assessing subsequent policy success or failure. Dunlop (2009) considers the value of the literature on epistemic communities in investigating the influence of knowledge-based experts in international policy transfer, where decision-making instances are characterized by technical complexity and uncertainty. The extent of uncertainty inherent in policy transfer is demonstrated by Prince’s use of the term “policy assemblage”, illustrated in the case of the creative industries policy concept transfer from the UK to New Zealand. Here, “the work of assembly requires a range of different kinds of work, including the alignment of divergent political motivations, the translation of different ideas, and the invention of new concepts and programmes. This demonstrates how policy transfer is political *and* technical, and that its study can benefit from analyses that traverse both these aspects. “(ibid, 169)

In the context of these eclectic literatures, how has the regulatory policy of requiring foundations to distribute a legally fixed quota of their assets been fairing, who are its protagonists and antagonists, and how might it be assessed as evidencing a policy ripe for trans-national transfer?

The foundations distribution quota: developments in the United States

Both the United States and Canadian federal governments require private endowed non-operating foundations to meet an annual minimum distribution quota (or “payout”) from their assets . This is an accountability requirement (operating in the US since 1969) , aimed at preventing foundations’ asset hoarding, whilst benefiting from charitable tax advantages. Gardner (1996, 601) argues that in the US case the postwar growth of foundations “attracted the attention of the US Congress ..(which) surely lusted after the sheltered dollars.....more than that, foundations offered easy targets for either side of the ideological divide. “ The US percentage payout is 5%, and in Canada, 3.5% (reduced from 4% in 2005.) . In Canada, where

the disbursement quota applies to all registered charities (i.e. not only charitable foundations), limited easing of some aspects of the regulations were announced in March 2010

The Council on Foundations (2010) emphasises that the purpose behind the minimum payout requirement is to prevent foundations from simply receiving gifts, investing the assets and never spending any funds on charitable purposes. However “the word ‘payout’ while convenient is somewhat misleading and is not used in the Tax Code ...The word “payout” suggests grants or contributions paid out to other charities. Although these grants normally make up more than 93 percent of the expenditures of most foundations, many other expenses can also qualify in meeting the minimum payout requirement. In short, the 5 percent payout rule need not be satisfied solely with grants.”

Work by the US Aspen Institute in 2006 demonstrated the complexity of this rule, whereby the distribution applies to at least 5 percent of the previous year’s average monthly value of their net investment assets. The “payout” can include both grants and administrative expenditures related to a foundation’s charitable purpose, including such expenses as programme research and evaluation, trustee compensation, and publishing. Further, a “carryover” element allows foundations that exceed the minimum distribution requirement in a given tax year to carry over the excess to help cover their spending obligations for up to the following five years. Reporting on the nature and direction of the federal payout debate., the Institute noted that “The (US) foundation world largely considers the 5 per-cent minimum prudent, assuming that it allows endowments to last in perpetuity so grantmakers can address the needs of the future as well as those of the present. Prior research by Billitieri (2005) had shown a striking conformity in foundations, around the required minimum. For example, in a study of 290 foundations (including the 100 largest) over 25 years, foundations had a 7.6 percent annual return on their assets, but paid out an average of just under 5 percent of assets . The study also showed that more than half of the foundations followed the minimum-distribution requirement to the letter or appeared to use it as a guideline for their spending practices. Moreover, the foundations that spent at the 5 percent level tended to be larger grantmakers.

Academic literature on payout meanwhile has emphasised both the wider public policy environment and policy obligations and roles of foundations, as well as the importance of its placing within the central context of charity and nonprofit regulation generally, and foundations’ regulation especially. Deep and Frumkin (2001) showed that in spite of a period of growing foundation asset values, there had been a convergence amongst foundations towards the minimum 5% payout, and that payout policy appeared determined by this figure and by the tendency towards conserving the value of assets, rather than by responsiveness and flexibility in relation to mission and social need. They concluded that the payout requirement should be dropped altogether. Sansing and Yetman (2003) studied foundations tax returns between 1994 and 1998, finding “substantial variations” in foundations’ administrative expenses, expenses paid to outside experts and to foundation staff and trustees.

Boris and Steuerle (2003,1,), in a period of reassessment of “payout and related policy issues” reported that “..the issue of how to treat existing foundation assets and activities cannot be separated from the broader issue of the development of the charitable sector as a whole,

including the establishment of new foundations and other endowed funds over time". Among their seminar participants, "many felt the 5% payout rate was reasonable, others felt it could be increased. Interestingly, no one argued for reducing it" (ibid, 3.) Other considerations included the possibility of payout adjustability, so that grants could be paid countercyclically; "encouraging foundations to pay out more when the economy is in a down-cycle, while replenishing endowments during good economic times" (ibid, 3); and the case for an intermediary organisation for greater enforcement of the regulations (ibid, 5.)

Further it was suggested that with stricter regulation of private foundations, donors would be more likely to do their charitable giving through community foundations and commercially-sponsored donor advised funds.(ibid.5).Notwithstanding the need to "be looking at the quality of grantmaking not just the payout rates", Boris and Steuerle's report cites one participant's view that "we are 'in the dark ages' when it comes to data on foundations; with current data only allowing limited study of foundation payouts and administrative expenses. Also in 2033, Klausner, exploring the "time value of money" addressed the "central issue of foundation payout rates", as "coming down to a trade-off between charity for the current generation and charity for future generations". (ibid., 52) For Klausner, "the challenge is to come up with an analytic approach that focuses on the factors relevant to the tradeoff to society between current and future charity".(ibid, 56); taking into account the question of "inter-generational equity!". Thus "ideally, each foundation would strike a balance between equity and wealth maximisation as it deems appropriate for society as a whole". (ibid. 58). Moreover, the influence and opinions of individuals prominent in the foundation world is marked out by Klausner, in his view that no minimum payout law would be needed if foundations managers were "guided entirely by welfare considerations". However, "foundation managers..seem to be influenced by the prestige associated with large endowments; and donors seem to be influenced by notions of immortality". (ibid, 58).

Toepler (2004) provides a comparison of U.S. foundation payout requirements to that of foundations in Germany, and illustrates the differences by contrasting data from the Ford Foundation to a hypothetical example in Germany. (Germany has no explicit payout requirements, but foundations, like all charitable organizations, are subject to the *Gebot der Zeitnahen Ertragsverwendung*, or requirement for a timely use of proceeds, with an exception for foundations to retain one third of net income to preserve the endowments. Using these comparisons, he reassesses the debate about the American law; and, critically, emphasised that the payout debates were being fought over incidental rather than fundamental issues, because "there are no other viable alternatives to regulating foundation spending". Against earlier views that the payout requirement should be dropped, Toepler, however, argues that this would only lead to the kinds of allegations about the misuse of funds which led to the imposition of the payout requirement in the first place. He argues for a 'middle ground', in which minimum payouts are enforced up to the level that tax reliefs are recouped. This would mean that 'higher than current payout levels might be less controversial, because foundations could reduce spending and recoup any purchasing power losses after their overall payout obligation is fulfilled. This would then constitute a compromise that would also give some ground to the values on both opposing sides of the debate: providing more money for present-day charity without taking too much away from future needs'. (ibid. 729).

Against this ongoing, specialised debate, it has been the prolonged economic downturn, the resources stretch faced by many charities and awareness of responsive regulatory action in other spheres that has given further life to payout considerations. This may be characterised as

the importance for foundations to behave in an exemplary fashion, in going above and beyond any formal distribution rule. Thus the National Committee for Responsive Philanthropy asserts that “ a grantmaker practising Philanthropy at its Best serves the public good by engaging a substantial proportion of its financial assets in pursuit of its mission.” and “pays out at least 6% of its assets annually in grants”. (NCRP, 2009). A vociferous case for major increases in foundation grantmaking, aired on the Stanford Social Innovation Blog, headlined “*Foundation Hoarding Backfires, Billions Lost*” has also argued that “by hoarding and not paying out a bigger share of their assets in grants, foundations have cost the charitable world billions of dollars, now likely lost forever because of the plunge in the value of their endowments” Cohen 2009).

Cohen’s argument – that in times of unprecedented crisis, foundation boards should be using their discretion to spend more of the assets, not save then for the hypothetical rainy day - is paralleled by Kearns’ (2009) case, on Netcentric Advocacy for this being “time to change the 5% rule for foundations! 10% or bust!” Kearns credits the original idea as that of “... a foundation officer who shall remain nameless ... (who) talked about the idea that the biggest asset base which has not been tapped in this economic crisis is the foundation asset base. “. He argues that “as part of the stimulus plan, the administration should shift the IRS rule so that minimum payout must exceed 10% for the next 3 to 5 years. The money in foundations is money that our society has set aside without taxation to improve our common good. “ At the same time, as the Foundation Center shows, where foundations take the decision to sustain their current giving levels in a period of falling assets, their payout rates would necessarily need to rise:

A foundation with assets of \$100 million that “pays out” at a rate of 5 percent would award approximately \$5 million for grants and program-related expenses each year. (Foundations may carry forward excess disbursements over several years.)

If that same foundation’s assets dropped 25 percent to \$75 million, but it decided to hold its giving steady at \$5 million, then the foundation’s “payout rate” would increase to 6.7 percent. For foundations that have seen their assets decline by 30 percent or more, their payout rates would need to reach or exceed 7 percent to maintain a consistent level of giving between 2008 and 2009.

Foundation Center 2009: About Foundations’ “Payout Rate”

The background of foundation giving in the UK

Grantmaking foundations in the UK provide about 5% of the total funding of the third sector. With assets of more than £35 billion, their annual giving was worth about £3 billion in 2008/09. Investment income provides about 25% of their income if the Big Lottery Fund with its £669 billion of income derived from the National Lottery is included. The limited funding pot of foundations is always under pressure from the high demands of, on the one hand, organisations seeking the independent and often unrestricted funding which it can provide, and on the other, of statutory or quasi-statutory funders looking for matched or exit funding for their own programmes. This pressure has increased considerably in recent months. Lower market returns saw UK foundation investment income fall by around 14% after adjusting for inflation. (At the same time government is looking urgently to philanthropy to help fill gaps left by the hefty spending cuts which are imminent. (HM Treasury, 2010).

Within this context, the question of the role of charitable endowments as a sustainable source of funding for both current and future needs has come to the fore. For example, the UK Department for Culture, Media and Sport has set up a commission to look at the scope for new endowments to provide for future funding for the arts sector. (DCMS 2010)., as part of that department's "Structural Reform Plan" (DCMS 2010a). The demand for immediate post-recession social investment has also seen some leading philanthropy bodies highlight the case for trusts to spend out their capital , for example *The Power of Now, Spend-Out Trusts and Foundations in the UK* (Institute of Philanthropy, 2010) and *Spending-Out: learning lessons from time-limited grant-making* (Association of Charitable Foundations 2010).

Others, such as Grant and Driscoll, have turned to the idea of a more gradual unlocking of UK foundation endowment resources through US-style mandatory annual pay-out levels (Grant and Driscoll, 2009). Drawing on the grantmaking spend of the leading 21 UK foundations, they concluded that a mandatory minimum payout of 5% of assets in the five years leading up to 2007/08 would have led to an increase of £1 billion in UK foundations' grant-making per annum ,without undermining their asset values. Reporting both caveats and concerns in the US, Canada and the UK about this policy, Grant and Driscoll went on to indicate that whilst the case is "unproven" in the question of effectiveness in raising distribution levels, "the possibility of a distribution quota should be further investigated by government"; and, if supported, should be considered as a "comply and explain" good-practice approach, rather than as part of future legislation..

Notwithstanding this mixture of wariness (for a thorough going legally binding approach) and assertion (that the 5% quota would boost funding to charities by £1billion per annum", it has been the headline-grabbing nature of the latter, rather than the caution of the former that has been up elsewhere. For example, Bishop and Green (2010), report these findings partially , endorsing a "five per cent solution" , expressing the opinion that "Liberty-loving America crossed this bridge 40 years ago and a 5 per cent payout rule is now a relatively uncontroversial part of the social contract between philanthropy and wider society. American experience also suggests that the practical concern that a payout rule would deter giving is not something to lose sleep over." Bishop and Green take the argument in favour further by suggesting that "a payout rule could actually be a welcome challenge to endowment managers and trustees over the performance of foundation investments" . Moreover, whilst " another complaint is that a payout rule emphasises quantity over quality" . They assert that UK foundations' grant-making effectiveness is erratic, which needs to be tackled anywayBut that is not an argument against the payout rule. "

It is against these developments that it seems timely to explore further the payout position in UK foundations, in the spirit of Grant and Driscoll 's proposal for "further investigation"; recognising that it is not possible to do detailed studies based on actual comparable practice; and that it is difficult to model how a payout rule might work , since it is not known how such a requirement might be framed in the UK, nor how this might impact on the approach which individual foundations took to calculating it. Without being able to study actual behaviour, more general yardsticks for measuring payout have to be used; and what has been already occurring is central.

A further examination of foundations' payout: methodological considerations

Following from Grant and Driscoll's study of the 21 largest foundations by endowments in the UK, it was decided to look at a larger sample of such foundations and to focus on a relatively homogeneous group of foundations whose activities were funded principally by their investments. Data was drawn from a dataset of UK family foundations which had already been constructed (Pharoah, C. 2008, 2009, Pharoah, C with Keidan, C. 2010. Alliance. London). Figures were drawn from audited accounts lodged with the UK Charity Commission, enhanced with data from organisations' annual reports and websites. Four years of financial data on a panel of family foundations were available, from 2005/06 to 2008/09. A sub-set of the top 50 by asset value was selected for further study, mainly because in this group income was derived almost entirely from investments. These foundations, with figures for their 2008/09 charitable spending and assets, and four-year payout rates, are set out in an appendix to this paper. The total value of the assets of this panel represents just over two-thirds of that for all grant-makers in the UK, and so it was a robust sample by value. Moreover, the characteristics of this panel were reasonably representative of foundations as a whole in the UK, because unlike the US, family foundations constitute the majority of foundations in the UK.

One of the challenges of assessing and comparing payout rates is the variability of approach taken to defining and interpreting the requirement in the US. There is some discretion over the kinds of direct and indirect grant-related expenditure which can legitimately be included, and which can cover programme expenses where charitable, as well as some grant-related administrative overheads. Foundations take a variable approach to their calculation. In addition to this difficulty for a comparative study, while the minimum US payout requirement relates to the previous year's market valuation of assets, foundations can use monthly or quarterly 'in-year' rolling averages, as well as three- to five-year rolling averages to calculate the baseline. The IRS affords foundations up to five years to satisfy payout requirements in any one year. Cohen has estimated, amongst other factors which influence calculations, examples of how the use of rolling averages can have a significant effect on final payout estimations. (Cohen, 2010.)

In a further departure from the previous research by Grant and Driscoll, it was decided to use the charitable expenditure figure, rather than the grant-making figure for calculating percentage payout. The reason for this is that the total charitable expenditure figure was in line with the approach in the US, as it includes foundations' own operating programmes and the significant programme expenses related to certain kinds of funding such as scientific research. In practice for many foundations grantmaking is the main spending, but there are considerable differences between these foundations and the grantmaking and charitable spending figures of major scientific trusts, with ongoing commitments to maintain research facilities, particularly the Wellcome Trust.

Nonetheless, the charitable expenditure figure reported UK foundations' accounts often, though not always, excludes the administrative, support and governance costs associated with grant-making, which are often included within US calculations. This might affect the comparability of the payout rate. The table below sets out some of the key results for the sample as a whole.

Findings

■ (i) annual payout rates for leading family foundations

The figures in the table below show that the average percentage payout rate increased steadily and rather dramatically within the sample over the four years of the study from 4.2% to 5.6%, with growth in the rate seen to persist in 2008/09 after the plunge in the markets hit asset values. While asset values declined in 2007/08 and 2008/09, the proportion spent charitably increased. As the total amount of charitable expenditure did not increase in real terms, this increase in payout rate means that foundations were taking a higher slice out of their reserves to maintain their spending levels.

The results also show that although the average for aggregate foundation spending was comparable to the US mandatory rate, there was a wide variation in the payout rate between foundations within each year. This is illustrated in the minimum- maximum payout range shown for each year. In other words, there is considerable individuality in the approach of foundations to their payout.

Table 1: Summary figures for charitable expenditure and assets of 50 leading family foundations, 2005/06-2008/09

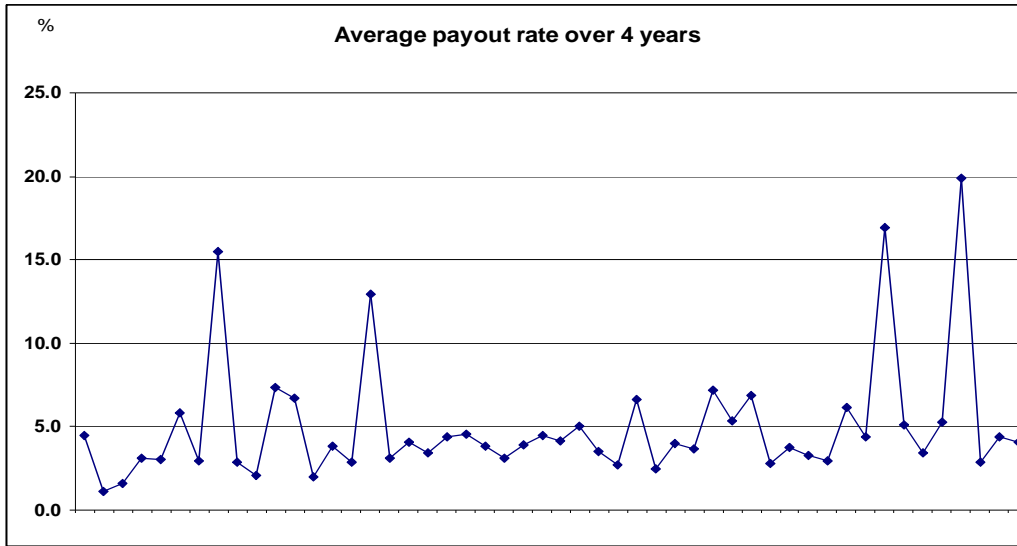
	2005/06	2006/07	2007/08	2008/09
Charitable expenditure £ million	819.3	966.5	1142.9	1150.2
Net assets £ million	24,747.1	27,985.8	26,346.8	24,258.7
Average percentage payout	4.2	4.7	5.5	5.6
Minimum payout rate %	1.1	1.1	1.4	0.9
Maximum payout rate %	29.1	30.8	48.6	25.2

■ (ii) Average payout over four years

To explore this variability further, payout rates were calculated as a rolling average over the four-year period, yielding an average payout rate of 4.9%, a rate converging on the US minimum payout rate.

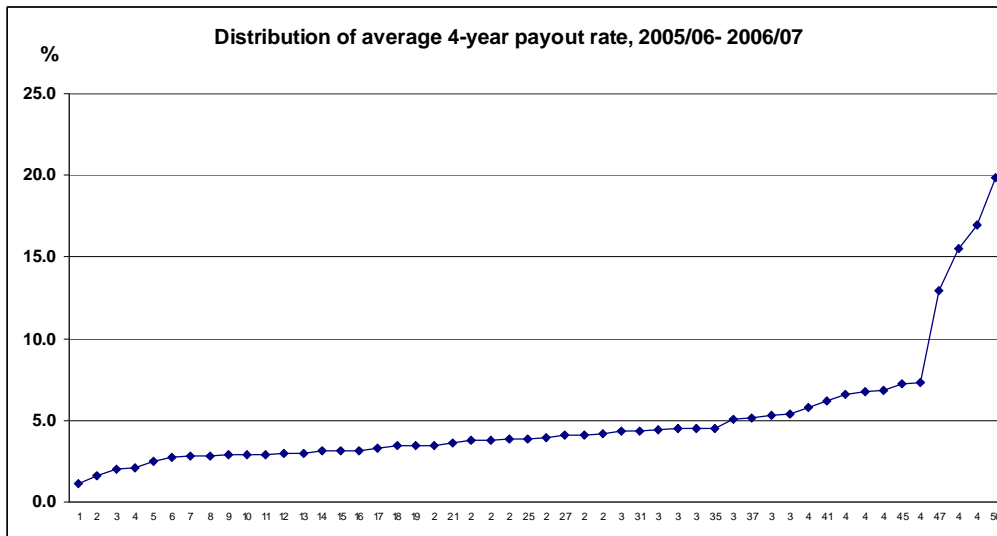
However, the significant variation between foundations in payout rates recorded within in any one year persisted when rolling averages were calculated, and this is illustrated in the graph below, with organisations ranged by asset size, with the largest on the left side of the axis. The chart below also shows that there is no direct positive relationship between the scale of assets which a foundation has, and its payout rate.

Figure 1: Average payout rate over four years: 50 leading family foundations



The next chart orders foundations by the level of their average four-year payout rate, and it illustrates the pattern of spread more clearly. The majority fall into a long and fairly even climb from just over 1% to around 4%, but about one quarter then rise fairly rapidly.

Figure 2: Distribution of average 4 year payout rate 2005/6 -2006/07, 50 leading family foundations

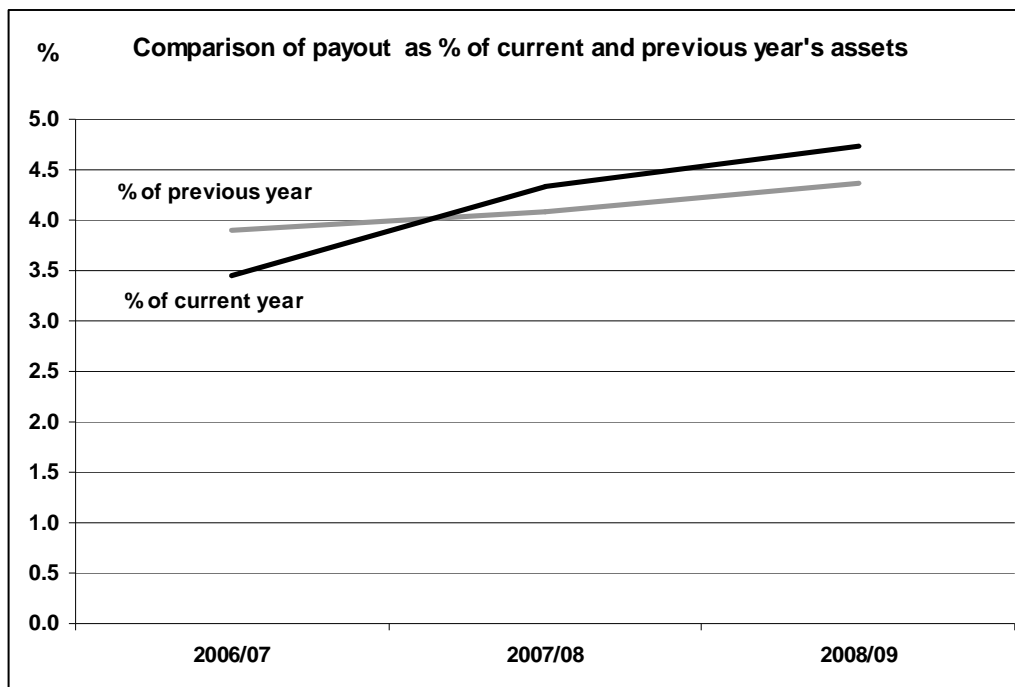


■ (ii) Payout as % of current and previous year's assets

The estimations above were based on calculating spending as a proportion of asset value in the same year. So in order to enhance comparability with the US, payout rates as a proportion of current and of previous year's assets were compared for three years, 2006/07, 2007/08 and 2008/09. The results of this are interesting, because they show what Cohen found for the US (Cohen, *ibid*), that the calculation of payout on the basis of previous years' values, 'smooths out' volatility. Although UK foundations are not required to relate spending to their previous year's investment performance and income, inevitably budgets are to an extent influenced by the previous year's income. Multi-year commitments reduce the scope for year-by-year tailoring, and well over £1 billion of annual funds are restricted, but nonetheless trustees have considerable discretion in setting their budget level. The graph shows clearly that when modelled as a percentage of the previous year's assets, the payout curve is much flatter than when modelled as a percentage of the current year's assets.

This factor helps to explain why payout rates continued to rise in years where asset values apparently fell. They were likely related to the previous year's asset performance. They may also, however, have reflected foundations' commitment to maintaining payout levels (as the Foundation Center example, above, illustrates) and this is discussed further below.

Figure 3: comparison of payout as percentage of current and previous year's assets: 50 family foundations



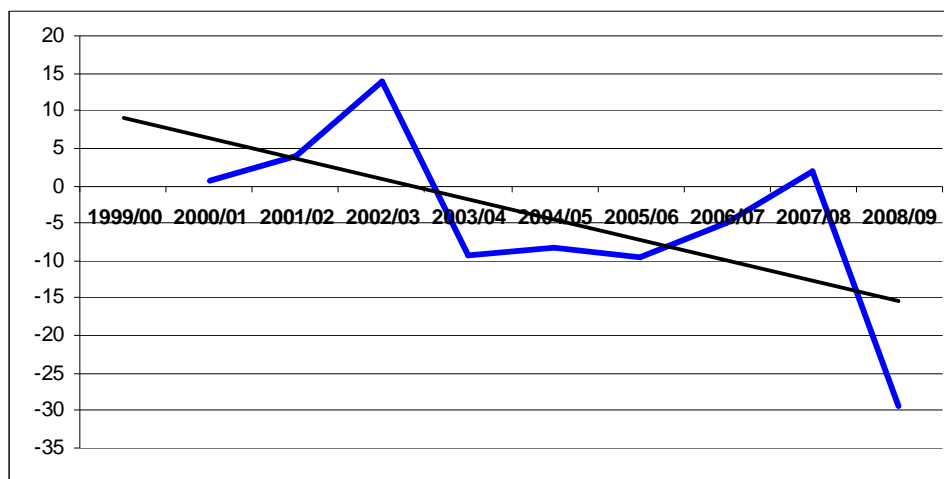
■ (iv) Discussion

Without a mandatory payout rate, these figures show that there appears to be a broad convergence around 5% in UK foundation payout rates. It should also be taken into consideration that this payout rate would be higher if it included those administrative and governance overhead costs related to grantmaking which can be included in US calculations.

There are clearly, however, significantly different payout policies between foundations. Moreover, since some of the very largest trusts in the appendix table appear to have some of the lowest payout rates (eg Garfield Weston, Cluff, Esmeé Fairbairn), a mandatory annual payout at around 4-5% would certainly appear to have the potential to release considerably more funds from particular foundations in particular years. The challenge, however, is modelling what is happening over the long-term, and this requires detailed longitudinal studies.

Other research data, emphasising the value of taking the long-term perspective into account, shows that over the last decade UK charities generally have had to address considerable volatility in the real value of their assets. The chart below is reproduced from a study of a ten-year panel of data on 800 of the largest UK charities with investment incomes, including both grantmaking foundations and operating/ service-providing organisations. (Pharoah, C. (2010a)) The results indicate that there have been some marked peaks and troughs in the return on investments over the last decade, and that when events of 2008/09 are included in the figures, there has been a broadly downward trend in their value.

Figure 4 Growth rate (%) in annual value of endowment funds (adjusted), Pharoah 2010a



This longer-term picture may underlie the perspectives on spending being taken by some of the more conservative spenders, possibly related to their larger and longer-term commitments. The extent to which market uncertainties over the longer-term influence foundation decisions about payout rates needs to be further researched amongst foundation finance managers, along with an exploration of the other factors influencing their decisions.

Some may argue that foundations place too much emphasis on long-term perspectives, but the evidence of this study suggests that in the UK foundations are also responding to short-term changes in the environment and immediate needs to take steps to protect their support for beneficiaries. The data on the payout of 50 leading family foundations shows that in aggregate foundations actually increased their payout rate in 2008/09 when asset values fell. In fact over three-quarters of the sample increased their payout rate. This finding is confirmed by the results of other research on a bigger sample of the largest 500 grantmaking foundations (which includes many of the foundations in this research), which has shown that while aggregate investment income fell by a real 13.6% in 2008/09, their charitable expenditure fell by just 5.2%. (Pharoah, C with Keidan, C. (2010) *ibid*). Further years' data on UK foundation spending in the next few years when low economic growth is forecast, in not a double-dip recession to see how far foundations are willing to draw down their reserves for the future to respond to the needs of today.

Reflections

From the perspectives of this new, more comprehensive data (overall charitable expenditure rather than solely grantmaking) the auguries for any early policy copying across from the US to the UK do not bode well. The importance of longitudinal data as evidence prior to *any* regulatory change will be stressed by many. However, in this case, the comparisons and contrasts within the UK family foundation field suggest the difficulties of building in understanding of the variations in spending rationales which such foundations will legitimately display in any legislative move. The degree of convergence, on average spend, with US foundations is interesting; but this pattern may only apply to these years for which data is held, and offer no particular long term norm. It follows that there must be a marked uncertainty that mandated policy change of this kind would achieve anything like "billion pound windfalls".

This uncertainty implies, further, that the kinds of lesson –drawing that mandatory-payout advocates are supporting should be quite different from those which seem initially to be expected from a direct policy transfer or copying from US to UK jurisdictions i.e. that such a policy would *not* necessarily induce a new (non governmental) source of sectoral resource safety and security. Paradoxically it seems possible that any moves towards a mandatory payout could both stimulate *and* inhibit the release of funds in the UK. However it is also not clear whether a self-regulation led compromise of aiming to meet a certain level of payout as a sign of good or exemplary practice would catch on either; as foundations continue to be able to choose their own financial directions, and to choose their own degrees of balance between enabling spending for today's needs and spending for the likely needs a decade hence. Whether this counts as likely to be "erratic" alongside the erratic nature of grantmaking effectiveness which Bishop and Green allege, is a major matter of judgment; and will be made according to one's closeness to or distance from the foundation world.. Ironically, another form of policy halfway house, the 'comply and explain approach', which Grant and Driscoll raise, might make for more rather than less confusion as to what exactly is being required and by whom. (A parallel with the challenges concerning the levels of reserves which charities should hold emerges.)

The literature on the mechanisms and rationales for policy convergence, discussed above, stresses the extent to which some forms of convergence occur because of “a problem to be solved”. For Toepler (op cit), this relates fundamentally to the core means of regulating foundations. In the light of Grant and Driscoll’s and the further research reported in this paper, the need for regulation does not seem at the heart of the matter; and the practical question of which body might oversee such a change is anyway raised, with the announcement of reductions in the Charity Commission’s own budget (HM Treasury , op. cit). The ‘problem’ can be presumed one of deep resource pressure as demand rises and governments pull funding away. For the present, it seems that payout with an English accent (of any sort) will not suffice, and that any transatlantic learning will need to discern the underpinning nuance of this whole debate- the desirability of the role and growth of private foundations as vehicles for still, essentially, private philanthropy, and whether their resources are essentially public or private.

References

Attwood, R.(2009),Let us create a British Ivy League, says former government adviser, *Times Higher Education Supplement*, July 16,
<http://www.timeshighereducation.co.uk/story.asp?storycode=407421>

Aspen Institute Nonprofit Sector Research Fund, (2006) Newsletter, February/March 2006, no.40,Addressing the Foundation Payout Debate

Association of Charitable Foundations (2010), *Spending-Out: learning lessons from time-limited grant-making*,

http://www.acf.org.uk/uploadedFiles/Publications_and_resources/Publications/Publication_repository/Spending%20Out%20February%202010%20-%20for%20web.pdf

Billitteri. , T.J. (2005) *Money, Mission, and the Payout Rule: In Search of a Strategic Approach to Foundation Spending*. Washington, DC: Aspen Institute. 2005.

Bishop, M. and Green, M. (2010), The five per cent solution, *STEP Journal*, April

http://www.stepjournal.org/journal_archive/2010/step_journal_april_2010/the_five_per_cent_solution.aspx

Burrows, M. (2010), The End of the Endowments? *The Philanthropist*, 23, 1 ,
<http://www.thephilanthropist.ca/index.php/phil/article/viewArticle/808>

Cain, M.(2010) ‘Dig deep’ to boost arts funding, government asks, *Channel 4 News*, September 8,
<http://www.channel4.com/news/dig-deep-to-boost-arts-funding-government-asks>

Clark, J., Dobbs, J. Kane, D. and Wilding, K. (2009) *The State and the Voluntary Sector: Recent trends in government funding and public sector delivery*, National Council for Voluntary Organisations, London, <http://www.ncvo-vol.org.uk/publications>)

Cohen, R. (2010) Foundation Payout Depends on How You Average, *The Non-profit Quarterly*, 16, July 15
http://www.nonprofitquarterly.org/index.php?option=com_content&view=article&id=2906:foundation-payout-depends-on-how-you-average&catid=149:rick-cohen&Itemid=117

Cohen, T. (2009), Foundation Hoarding Backfires: Billions Lost, *Stanford Social Innovation Opinion Blog*, March 26
http://www.ssireview.org/opinion/entry/foundation_hoarding_backfires_billions_lost/

Cook, I (2008), Mobilising Urban Policies: The Policy Transfer of US Business Improvement Districts to England and Wales, *Urban Studies*, 45, . 4 773-795

Dolowitz, D.P. and Marsh, D 2000, Learning from Abroad: The Role of Policy Transfer in Contemporary Policy Making, *Governance*, 13,1, 5-24

DCMS (2010) *Developing Endowments*, Department for Culture, Media and Sport, July 10
http://www.culture.gov.uk/news/news_stories/7269.aspx

DCMS (2010a) *Strategic Reform Plan*, July 21
http://www.culture.gov.uk/news/news_stories/7249.aspx

Dunlop, C.A. (2009) Policy transfer as learning: capturing variation in what decision-makers learn from epistemic communities, *Policy Studies*, 30,3, 289 - 311

Evans, M. At the interface between theory and practice: policy transfer and lesson drawing, *Public Administration* 84,2, 471-515

Foundation Center 2009, About Foundations' "Payout Rate",
http://foundationcenter.org/gainknowledge/research/econ_outlook4.html

Foundation Center (2010) *In Their Own Words: Foundation Giving Forecast*, Focus on the Economic Crisis, http://maps.foundationcenter.org/economic_crisis/forecast.php

Freeman, R.(2006) Learning in Public Policy, in eds Moran, M., Rein, M. and Goodin, R. E. *The Oxford Handbook of Public Policy*, 367-388

Gardner , J.R. (1992) Oral History and Philanthropy: Private Foundations *The Journal of American History*, 79,2 , 601-605

Harrow, J. and C. Pharoah (2009). Recession and charities; the paradox of charitable opportunity. London, ESRC Research Centre for Charitable Giving and Philanthropy, Cass Business School. <http://www.cass.city.ac.uk/philanthropy/recession-charities.pdf>

HM Treasury (2010) *Comprehensive Spending Review, 2010, Building the Big Society*, www.cabinetoffice.gov.uk/media/407789/building-big-society.pdf.

Institute for Philanthropy, The (2010), *The Power of Now, Spend-Out Trusts and Foundations in the UK*, http://www.instituteforphilanthropy.org/cms/pages/documents/The_Power_of%20Now_Spend%20Out_Trusts_in_the_UK.pdf

James, O. and Lodge, M. (2003), The Limitations of 'Policy Transfer' and 'Lesson Drawing' for Public Policy Research *Political Studies Review*, 1, 2, 179-193

Kearns,M. (2009), Time to change the 5% rule for foundations! 10% or bust! Netcentric Advocacy, January 8
<http://www.network-centricadvocacy.net/2009/01/time-to-change-the-5-rule-for-foundations-10-or-bust.html#tp>

Klausner, M.(2003) When Time Isn't Money : Foundation Payouts and the Time Value of Money, *Stanford Social Innovation Review*, 1,2, 51-59

National Committee for Responsive Philanthropy(2009) *Criteria for Philanthropy at its Best: Benchmarks to Assess and Enhance Grantmaker Impact*, Executive Summary , page 16
http://www.ncrp.org/files/paib-execsum_lowres.pdf

Oxford English Dictionary, online, 'payout';,
http://oxforddictionaries.com/view/entry/m_en_gb0611840#m_en_gb0611840

Pantazis, C. and Pemberton, S. (2009) Policy transfer and the UK's 'war on terror': a political economy approach, *Policy and Politics*, 37,3, 363-387

Pharoah, C. *Family Philanthropy 2008, 2009 editions*, and Pharoah, C with Keidan, C. *Family Foundation Giving Trends 2010*. Alliance. London

Pharoah, C. (2010) *Charity Market Monitor, 2010*, Caritasdata, London

Pharoah, C. (2010a) 'Now and forever...' *Caritas*, Issue 34, pp 21-23. London

Prince, R. (2010) Policy transfer as policy assemblage: making policy for the creative industries in New Zealand, *Environment and Planning* 42, 1, 169-186
http://econpapers.repec.org/article/pioenvira/v_342_3ay_3a2010_3ai_3a1_3ap_3a169-186.htm

Rose, R. (1991) What is Lesson Drawing? *Journal of Public Policy*, 11,1, 3- 30

Rose, R. (2002) *Lesson-Drawing in Public Policy: A Guide to Learning Across Time and Space*, Ctham House, NJ

Rose (2004) *Learning from Comparative Public Policy: a practical guide*, Routledge, London

Sansing R.C. and Yetman, R.J. (2002) Prudent Stewards or Pyramid Builders? Distribution Policies of Private Foundations, Tuck School of Business Working Paper No 02-18 ,SSRN: <http://ssrn.com/abstract=329161> or doi:10.2139/ssrn.329161

Toepler, S. (2004) Ending Payout as We Know It: A Conceptual and Comparative Perspective on the Payout Requirement for Foundations , *Nonprofit and Voluntary Sector Quarterly*, 33, 4, 729-738

Appendix One

Largest 50 UK Family Trusts, by assets: payout percentage of charitable expenditure, 2005/6, 2006/7 and 2008/9 (Source, Pharoah, 2008, 2009 and 2010)

Largest 50 UK Family Trusts (by assets) 2008/09		Assets £m	Char Exp £m	Payout % 2008/09	Payout % 2007/08	Payout % 2006/07	Payout % 2005/06
1	Wellcome Trust	11949	680.6	5.7	5.5	3.3	3.5
2	Weston, Garfield Weston Foundation	2895	25.3	0.9	1.4	1.1	1.1
3	Children's Investment Fund Foundation	1440	23.1	1.6	2.2	1.3	1.4
4	Leverhulme Trust	1256	45.1	3.6	3.7	2.6	2.5
5	Fairbairn, Esmee Fairbairn Foundation	725	21.5	3.0	2.5	3.0	3.6
6	Wolfson Foundation	561	39.2	7.0	5.3	5.2	5.7
7	Hamlyn, Paul Hamlyn Foundation	466	13.4	2.9	2.8	3.5	2.6
8	Gatsby Charitable Foundation	466	50.0	10.7	6.6	30.8	13.9
9	Robertson Trust	340	9.6	2.8	2.5	2.9	3.1
10	Khodorkovsky Foundation	289	10.6	3.6	2.1	1.4	1.1
11	Monument Trust	208	35.2	16.9	7.6	1.9	2.8
12	Tudor Trust	205	16.8	8.2	7.2	5.6	5.9
13	Rowntree, Joseph Rowntree Foundation	202	3.5	1.7	2.0	2.0	2.2
14	Nuffield Foundation	192	9.5	4.9	3.9	3.4	3.0
15	Rank Foundation Limited	190	7.4	3.9	2.5	2.0	3.1
16	Christian Vision	188	14.1	7.5	6.6	8.5	29.1
17	Linbury Trust	159	5.5	3.4	1.8	3.9	3.4
18	Wolfson, Charles Wolfson Charitable Trust	127	4.4	3.5	4.7	3.9	4.2
19	Rowntree, Joseph Rowntree Charitable Trust	117	6.0	5.1	2.4	3.3	2.9
20	Gannochy Trust	107	4.2	3.9	5.5	5.0	3.1
21	Stewards Company Ltd	104	5.2	4.9	5.1	4.3	3.8
22	Rhodes Trust	104	5.2	5.0	3.7	2.9	3.7
23	Waterloo Foundation	95	4.8	5.0	1.5		
24	Ellerman, John Ellerman Foundation	93	4.3	4.7	4.0	3.7	3.2

25	Eranda Foundation	87	5.7	6.6	3.4	4.5	3.4
26	29th May 1961 Charitable Trust	83	4.6	5.6	4.5	3.5	3.0
27	The Henry Moore Foundation	81	5.0	6.1	4.8	5.0	4.1
28	P F Charitable Trust	80	2.9	3.7	2.7	4.4	3.2
29	Thorn, Sir Jules Thorn Charitable Trust	80	3.1	3.9	2.2	2.4	2.3
30	Clore Duffield Foundation	77	4.7	6.1	5.8	8.7	5.9
31	Zochonis Charitable Trust	76	2.2	2.9	2.3	2.1	2.4
32	The Ernest Cook Trust	76	3.3	4.3	4.0	3.3	4.2
33	Dunhill Medical Trust	75	3.1	4.1	3.6	3.6	3.3
34	Foyle Foundation	73	5.0	6.9	8.2	7.3	6.5
35	Thomas, Baily Thomas Charitable Fund	72	4.7	6.5	5.8	5.3	4.0
36	Wohl Maurice Wohl Charitable Foundation	72	7.2	10.1	15.3	0.8	1.2
37	Jerusalem Trust	67	2.3	3.4	2.2	2.5	3.1
38	The Camelia Botnar Foundation	62	2.2	3.6	3.3	5.0	3.1
39	Hadley Trust	62	2.2	3.5	3.3	3.2	3.2
40	Joseph Rank Trust Ltd	62	2.2	3.6	3.0	2.8	2.5
41	A W Charitable Trust done	62	3.6	5.8	7.6	4.5	6.7
42	Headley Trust	61	2.9	4.7	5.6	4.1	3.2
43	Laing, Rufford Maurice Laing Foundation	61	5.3	8.7	48.6	6.4	4.2
44	Rothschild Foundation Europe	60	4.0	6.6	5.4	5.2	3.3
45	Cadbury, Barrow Cadbury Trust	60	3.1	5.2	2.9	1.7	3.9
46	Raphael Freshwater Memorial Ass'n Ltd	59	3.2	5.5	5.5	6.8	3.4
47	The Atlantic Charitable Trust	59	14.8	25.2	19.0	25.7	9.6
48	Bernard Sunley Charitable Foundation	59	2.5	4.3	2.9	2.2	2.1
49	Dulverton Trust	59	3.4	5.7	3.6	3.5	4.6
50	Childwick Trust	58	2.6	4.6	4.3	4.0	3.5

About CGAP

The ESRC Centre for Charitable Giving and Philanthropy (CGAP) is the first academic centre in the UK dedicated to research on charitable giving and philanthropy. Three main research strands focus on individual and business giving, social redistribution and charitable activity, and the institutions of giving. CGAP is a consortium including the Universities of Strathclyde, Southampton and Kent, University of Edinburgh Business School, Cass Business School and NCVO. CGAP's coordinating 'hub' is based at Cass Business School. CGAP is funded by the ESRC, the Office for Civil Society, the Scottish Government and Carnegie UK Trust.

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