

Paul Gray
DG Health and Social Care and Chief Executive
NHS Scotland
Scottish Government
St Andrews House
Regent Road
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Dear Paul

Thank you for your letter of 12 April about Tayside NHS Board Endowment Funds (SC011042), and the wider position. I welcome the constructive engagement we have had with your team so that we can pursue our respective interests here. We share your concerns about possible abuses and would view any transgressions as serious matters – our ultimate aim is to preserve and enhance public trust and confidence in charities.

As you are aware, it is the responsibility of the charity trustees to comply with their legal duties in managing the charity – as regulator we will intervene where we judge it to be in the public interest to investigate possible misconduct (our Inquiry Policy, available on our website, sets out the position in more detail). In particular, trustees must ensure that they act in the best interests of the charity at all times, that all expenditure is in line with the charity's purposes and that any grants or donations are used for the purposes for which the charity accepted them, and in line with any conditions imposed. This is what we are investigating with the Tayside Endowment Funds and, in light of the strong public interest in this case, we are pursuing it as a top priority.

As you have recognised, there are wider issues here. In 2012, following a review of Lothian Health Board Endowment Fund and some work with all the NHS Endowment Funds in Scotland, we wrote to the Chairs of each of these charities reminding them of the trustee duties, specifically in the context of the unique, statutory structures of endowment funds and health boards. We also engaged with NHS Scotland in 2013 around the production of a report regarding governance and good practice for NHS Endowment Funds in



Scotland. This report included recommendations regarding the expenditure of charitable funds, and the management of conflicts of interests.

I am grateful for your willingness to share with us the responses to your letter of 5 April seeking assurances from the Chairs of Endowment Funds. This information will assist us with our risk-assessment of these charities and our decisions about whether regulatory action is merited in these cases. We would hope to be able to give you a response by the end of May. Any formal inquiries will be conducted in line with our policy. I am writing today to the Chairs of the other Endowment Funds setting out this position.

Thank you also for your offer to provide support and resource – we will be better able to assess our needs after 30 April. I note also your expectation that funds inappropriately passed to NHS Boards for general use would be paid back – this may help restore public confidence in the system in the short term.

Longer term, OSCR will review lessons learned to see how future problems in this area can be solved or at the very least minimised. Doubtless NHS Scotland will wish to do the same.

Yours sincerely



David Robb
Chief Executive