

**Q & A's re: PGT Temporary Guidance on
Accessing Restricted Purpose Funds**

April 20, 2020

1. Question regarding how the charity can show it's in danger of closing and what steps it should take prior to accessing funds:
 - o The charity should be able to foresee that it will not be able to pay its bills due to a significant drop in its income. It does not have to be on the verge of turning off the lights and locking its doors. If after examining its financial situation and accessing all reserve and non-restricted funds and applying for government funding, the charity can say 'we will have to file for bankruptcy or receivership in the next 30 to 60 days unless we get new funding', then it could be said to be in danger of closing.
 - o We do not expect staff lay-offs or selling assets prior to accessing the funds, however, temporarily halting programs and any other cost cutting measures (short of laying off staff) that are not pandemic response related is expected. As an example, a contract with a cleaning company for daily cleaning that can be reduced owing to non-use of a facility should be renegotiated/cancelled.

2. Can the charity use the funds to assist non pandemic-responsive programs to continue?

No, we expect that programs that are not responsive to the pandemic will be temporarily halted.

3. Will the charity be expected to replenish the fund?

No. The guidelines do not require that the charity re-pay the funds to the restricted purpose fund, although it can be structured as a loan if the charity wishes and expects it will be able to re-pay the funds overtime once the pandemic is finished.

4. How will the PGT respond if the PGT disagrees with the charity's decision to access the fund?

This is difficult to answer outside of a specific fact scenario. We will look at the reasonableness of the decision and the good faith of the directors at the time and decide what measures to take at that point. Possible consequences could include requiring the charity to replace the funds, finding the directors in breach, requesting removal of directors (in cases of bad faith). PGT counsel is available for discussions with directors/counsel if they are unsure.

5. Is a charity allowed to use its restricted purpose funds for pandemic-response related programs if it's not in danger of closing?

All charities must fulfill the requirement to be in danger of closing prior to accessing any funds.

6. If a charity administers a restricted purpose fund for the benefit of another charity, can it use the PGT's temporary guidelines?

Yes. In this case the trustee charity would be required to contact the PGT and provide the requested information. The trustee charity would have to review the circumstances of the beneficiary charity and satisfy itself that the criteria have been met and the funds will be used in compliance with the guidance. Also, all of the directors of both charities would be required to consent.