



01-405 7641 Extn

Prime Minister 4 Home Affairs  
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ROYAL COURTS OF JUSTICE.

LONDON, WC2A 2LL

The Rt. Hon. Margaret Thatcher, M.P.,  
Prime Minister,  
10, Downing Street,  
LONDON, SW1.

9 March, 1982.

Dear Prime Minister.

DISASTER APPEALS

I enclose for your information a copy of my memorandum,  
which I am now circulating.

This is a revised edition following  
conservation.

Yours etc.

Mickel.



## DISASTER APPEALS

Action to set up a public appeal following some tragic accident or disaster or an occasion on which some special misfortune is brought to the public eye is generally taken with little time to prepare the ground. The community may well feel an urgent need to give practical expression to its sorrow and respect; and the response may well exceed expectations.

In these circumstances it is not unnatural that questions should arise over the precise status of appeals after they have been set up; and events following the tragedy of the loss of the Penlee Lifeboat show how much unhappiness can be caused by these questions.

The Attorney General is anxious that doubts about the nature of appeals should be avoided if at all possible, and that those who answer an appeal should know that their generosity will have the results which they intend.

Accordingly, the Attorney General, after consultation, has prepared the following guidelines which might usefully be taken into account by those faced with the responsibility of making appeals in the future.

### 1. THE MAKING OF THE APPEAL.

1. Those who use these guidelines must remember that no two appeals can ever be quite the same, and should do all that they can to ensure that their own appeal is appropriate to the particular circumstances of their case, and runs into no unforeseen difficulties, whether personal, administrative, or fiscal. Amongst the most important and urgent decisions which must be made will be whether or not a charitable appeal is called for, and it may well be desirable to take advice on such questions before the appeal is issued. Generally speaking, the terms of the appeal will be all-important in deciding the status and ultimate application of the fund.
2. Once the terms are agreed, it will generally be desirable to publish the appeal as soon as possible, and as widely as appropriate in the circumstances.
3. Sometimes gifts may be sent before publication of the appeal. If there are more than can be acknowledged individually, the published appeal



should indicate that gifts already made will be added to the appeal fund unless the donors notify the organisers (say within ten days) that this is not their wish.

## 2. PROS AND CONS OF THE TYPES OF APPEAL.

1. Charitable funds attract generous tax reliefs; donations to them may do so (and in particular will for the most part be exempt from capital transfer tax). But charitable funds, being essentially public in their nature, cannot be used to give individuals benefits over and above those appropriate to their needs; and the operation of a charitable trust will be subject to the scrutiny of the Charity Commissioners.
2. Non-charitable funds attract no particular tax reliefs and donations to them are subject to no special tax treatment (and will have to be taken into account for capital transfer tax purposes unless, as is likely to be the case for the bulk of donations, they are within the normal reliefs). But under a non-charitable trust there is no limit on the amount which can be paid to individual beneficiaries if none has been imposed by the appeal; and only the Court acting on behalf of the beneficiaries will have control over the trust, which will not be subject to scrutiny by the Charity Commissioners.
3. The terms of the non-charitable appeal must be prepared with particular care to ensure that there is no doubt who is to benefit, whether or not their benefit is to be at the discretion of the trustees, and whether or not the entire benefit is to go to the beneficiaries, and if not, for example because specific purposes are laid down and the funds may be more than is required for those purposes, or because the beneficiaries are only to take as much as the trustees think appropriate, what is to happen to any surplus. If specific purposes are laid down, and after they have been fulfilled a surplus remains for which no use has been specified, the surplus will belong to the donors, which may lead to expensive and wasteful problems of administration.

## 3. FORMS OF APPEAL.

1. If a charitable fund is intended then the appeal could take the following form:-



"This appeal is to set up a charitable fund to relieve distress caused by the accident/disaster at \_\_\_\_\_ on \_\_\_\_\_. The aim is to use the funds to relieve those who may be in need of help (whether now or in the future) as a result of this tragedy in accordance with charity law. Any surplus after their needs have been met will be used for charitable purposes designed:-

- (i) To help those who suffer in similar tragedies.
- (ii) To benefit charities with related purposes.
- (iii) To help the locality."

2. If a non-charitable fund is intended and those affected are to take the entirety of the fund in such shares as the trustees think fit the appeal could take the following form:-

"This appeal is to set up a fund, the entire benefit of which will be used for those injured or bereaved in the accident/disaster at \_\_\_\_\_ on \_\_\_\_\_ or their families and dependants as the trustees think fit. This fund will not be a charity."

3. A non-charitable fund in which the trustees would have a discretion to give as much as they think fit to those who have suffered with any surplus going to charity could be set up on the basis of the following form:-

"This appeal is to set up a fund for those injured or bereaved in the accident/disaster at \_\_\_\_\_ on \_\_\_\_\_ and their families and dependants. The trustees will have a discretion how and to what extent to benefit individual claimants: the fund will not itself be a charity but any surplus will be applied for such charitable purposes as the trustees think most appropriate to commemorate those who died."

#### 4. APPEALS FOR INDIVIDUALS.

1. It sometimes happens that publicity given to individual suffering moves people to give. In such a case it is particularly desirable for those



who make appeals to indicate whether or not the appeal is for a charitable fund. It is also desirable for those who give to say whether their gift is meant for the benefit of the individual, or for charitable purposes including helping the individual so far as that is charitable; if no such intention is stated, then the donation should be acknowledged with an indication how it will be used if the donor does not dissent. Those who make appeals should bear in mind the possibility that generous response may produce more than is appropriate for the needs of the individual, and should be sure to ask themselves what should be done with any surplus.

2. Thus, if a child suffers from a disease, there are two alternatives, to appeal for the benefit of the child, or to appeal for charitable purposes relating to the suffering of the child, such as may help him and others in the same misfortune, for example by helping find a cure. It may be that the child will not live long, and so may not be able to enjoy generosity to him as an individual; alternatively, he may be intended to receive as much as possible, because he faces a lifetime's suffering. Once again, the pros and cons of setting up a charitable fund or a non-charitable fund should be considered before the appeal is made and the appeal should indicate which alternative is intended; once again, even if a non-charitable appeal is made, it may be thought right to make it on terms that any surplus can be used for charity.

5. GENERALLY.

The suggestions made in this memorandum are only examples of forms which can be used; and before making an appeal it is always wise to seek advice on what form to use. The Charity Commissioners will always be ready as a matter of urgency to advise on the terms of any intended charitable appeal, or to consider whether a proposed appeal is likely to be charitable, and if so to advise on the likely consequences.

In conclusion, the Attorney General would like to emphasise that those organising an appeal should do all they can to make sure that the purpose of the appeal is clear and that donors know how their gifts will be used. This will do much to reduce the risk of confusion and distress. It is considered undesirable to make a general appeal postponing until the size of the fund is known decisions whether the fund ought to be charitable



and whether those affected should take the entire benefit; this can all too easily lead both donors and beneficiaries to form the view that the ultimate result is not what was intended, as well as giving rise to legal problems.

This memorandum is being provided to local authorities' associations, the Law Society and the major banks, amongst other bodies, in the hope that it may become available to all those who may be concerned with making public appeals.

11 MAR 1982



15 February 1982

Disaster Appeals

The Prime Minister has seen the Attorney General's letter of 10 February, and the memorandum he enclosed, designed to assist those organising disaster appeals. She has noted this without comment.

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Jim Nursaw, Esq.,  
Law Officers' Department.

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01-405 7641 Extn

ROYAL COURTS OF JUSTICE,  
LONDON, WC2A 2LL

MS

The Rt. Hon. Margaret Thatcher, M.P.,  
Prime Minister,  
10, Downing Street,  
LONDON, S.W.1.

10 February, 1982.

Dear Prime Minister.

DISASTER APPEALS

I enclose a copy of the memorandum I have prepared to assist those organising disaster appeals. It has now gone out for consultation and I hope to be able to circulate it in the very near future.

As you suggested, I am seeking the co-operation of the major banks to ensure the widest possible circulation.

Yours etc.

Michael.

Enc.



ROYAL COURTS OF JUSTICE  
LONDON: W.C.2A 5LT



REGISTERED MAIL

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COMMUNICATIONS

LONDON



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Draft MEMORANDUM

1. The setting up of a public appeal following some tragic accident or disaster or an occasion on which some special suffering is brought to the public eye is generally undertaken with little time to prepare the ground.
2. In these circumstances it is not unnatural that questions should arise over the precise status of appeals; and events following the tragedy of the loss of the Penlee Lifeboat show how much unhappiness can be caused by these questions.
3. The Attorney-General is anxious that doubts about the nature of appeals should be avoided if at all possible, and that those who give in answer to an appeal should do so with the fullest knowledge how their donations will be used.
4. Accordingly following consultations . . . the Attorney-General has prepared the following guidelines which might usefully be taken into account by those faced with the responsibility of making appeals in the future.

Guidelines

- (i) If a charitable fund is intended then the appeal





could take the following form:-

"This appeal is to set up a charitable fund to relieve suffering caused by the accident/disaster at \_\_\_\_\_ on \_\_\_\_\_ .

The aim is to use the funds to relieve the distress of those who may be in need of help (whether now or in the future) as a result of this tragedy so far as charity law permits. Any surplus will be used for charitable purposes designed:-


- (i) to help those who suffer in similar tragedies
- (ii) to benefit charities with related purposes or
- (iii) to help the locality."

(ii) If a non-charitable fund is intended the appeal could take the following form:-

"This appeal is to set up a fund, the entire benefit of which will be used to help those injured or bereaved in the accident/disaster at \_\_\_\_\_ on \_\_\_\_\_ , or their families, as the trustees think fit. This fund will not be a charity."

(iii) It would be possible to combine these by appealing for the personal benefit of the injured and






bereaved and their families but stating that any surplus which remains after the trustees have made such provision as they think proper for those who have suffered will be used for charitable purposes. Again, this type of fund will not itself be a charity, even though any surplus will go to charity.

5. Pros and cons of the types of appeal.

- (i) Charitable funds attract tax reliefs; and donations to them attract tax relief. But charitable funds which are essentially public in their nature cannot be used to give individuals benefits which pay no regard to their needs and suffering; and the operation of a charitable trust will be subject to the ultimate control of the Charity Commissioners.
- (ii) Non-charitable funds attract no tax reliefs nor are donations to them subject to special tax treatment. Their terms must also be prepared with care to ensure that there is no doubt who is to benefit, whether or not their benefit is to be at the discretion of the trustees and what is to happen to a surplus. If specific purposes are laid down, and after they have been fulfilled a surplus remains for which no use has been specified, the surplus





will belong to the donors, which may lead to expensive and wasteful problems of administration. But under a non-charitable trust there is no limit on the amount the trustees can pay to beneficiaries if none has been imposed by the appeal; and only the Court acting on behalf of the beneficiaries and not the Charity Commissioners will have control over the Trust.

6. Other appeals.


- (i) It sometimes happens that publicity given to an individual's suffering moves people to give. In such a case it is particularly desirable for those who give to say whether their gift is meant for the individual's benefit or for the charitable purposes including helping the individual so far as that be charitable, and for those who make appeals to indicate whether or not the appeal is for a charitable fund. They should bear in mind the possibility that a generous response may produce more than is appropriate for the immediate needs of the individual and ask themselves what should be done with any surplus.
- (ii) Thus, if a child suffers from a disease there are two alternatives, to give for the child's



benefit or to give for charitable purposes relating to the child's suffering, which may help him and others in the same misfortune, or may help find a cure. It may be that the child will not live long and so may not be able to enjoy generosity to him as an individual; alternatively, he may be intended to take as much as possible, because he faces a lifetime's suffering. Once again, the pros and cons of setting up a charitable fund or a non-charitable fund should be considered, and appeals made on the basis that they indicate which alternative is intended; and once again, even if a non-charitable fund is intended, it may be thought right to ensure that if there is a surplus it can be used for charity.

#### 7. Generally

The suggestions made in this memorandum are only examples of formulae which can be used and before making an appeal it is always wise to seek professional advice to see whether some alternative may be preferable. In particular, the Charity Commissioners will always be ready as a matter of urgency to advise on whether a proposal is likely to attract charitable status and if so the likely consequences.



In conclusion, the Attorney-General would like to emphasize that those who organize an appeal should do all they can to make sure that the purpose of the appeal is clear and that donors know how their gifts will be used. This will greatly reduce the risk of confusion and distress.

This memorandum is being provided to Local Authorities the Law Society and the major banks, who have undertaken to make it available to all those concerned with making a public appeal.