Foundations in the United Kingdom: Organisations and Nations in a State of Flux

**Journal:** American Behavioral Scientist

**Manuscript ID:** ABS-18-0065

**Manuscript Type:** Accepted Article

**Keywords:** philanthropy, philanthropic foundations, trusts, public policy, third sector

**Abstract:** In the absence of a legal foundation form, and with differing national legal contexts, researching UK foundations presents major conceptual and practical challenges. This paper maps and critically discusses the UK foundation landscape; it highlights the blurred boundaries of foundations as an organisational form and outlines the different expressions of charity laws that foundations face across the UK’s constituent parts. Examining data on foundation characteristics, the paper shows that although data on foundations indicate that the organisational characteristics and activities of UK foundations resemble those in Germany and the US, there remains an urgent need for more, and for more robust, data and insights on UK foundations to allow for meaningful comparison. Pointing to increased socio-economic challenges and changes in political perspectives on foundations, the paper explores the shifting attitudes towards, and expectations and roles of, UK foundations and reflects on the issues ahead. 

http://mc.manuscriptcentral.com/abs
Foundations in the United Kingdom: Organisations and Nations in a State of Flux

Tobias Jung

Centre for the Study of Philanthropy & Public Good, School of Management,

University of St Andrews, Scotland, UK

Correspondence concerning this article should be addressed to Tobias Jung

Contact: tj3@st-andrews.ac.uk
Abstract

In the absence of a legal foundation form, and with differing national legal contexts, researching UK foundations presents major conceptual and practical challenges. This paper maps and critically discusses the UK foundation landscape; it highlights the blurred boundaries of foundations as an organisational form and outlines the different expressions of charity laws that foundations face across the UK’s constituent parts. Examining data on foundation characteristics, the paper shows that although data on foundations indicate that the organisational characteristics and activities of UK foundations resemble those in Germany and the US, there remains an urgent need for more, and for more robust, data and insights on UK foundations to allow for meaningful comparison. Pointing to increased socio-economic challenges and changes in political perspectives on foundations, the paper explores the shifting attitudes towards, and expectations and roles of, UK foundations and reflects on the issues ahead.

Keywords: philanthropy, philanthropic foundations, trusts, public policy, third sector
Foundations in the United Kingdom: Organisations and Nations in a State of Flux

When exploring philanthropic foundations in the UK, lyrics from the late-19th century comic opera *The Pirates of Penzance* come to mind: 'A paradox, A paradox, A most ingenious paradox'. First of all, despite widespread reference to UK foundations, there is no such thing as the organisational form of 'a foundation' in the UK. Unlike some jurisdictions, such as Germany and other civil law countries, the UK has no separate legal category, framework, structure, or status for foundations: their creation, registration, governance and supervision simply form part of general charity law (Dunn, 2014). Secondly, the UK is anything but 'united' as regards foundations' legal contexts. Despite a common origin in the 1601 Statute of Charitable Uses, charity law has developed along different trajectories within the UK's constituent parts; Scotland, Northern Ireland, and England and Wales have their own bodies of charity law and their own charity regulators (Breen, Ford, & Morgan, 2009; O'Halloran, McGregor-Lowndes, & Simon, 2008). Nonetheless, the UK presents an interesting setting for exploring foundations within the comparative context of these papers.

From a scholarly perspective, looking at the UK provides insights for examining foundations' origins, organisational characteristics and operating contexts. Alongside Scotland giving birth to one of the key drivers in global foundation philanthropy, Andrew Carnegie, and the UK being home to one of the three wealthiest foundations in the world, the Wellcome Trust, English charity law provides a historic nexus between Germany and the United States. The fifth-century German civil law code *Lex Salica*, which addressed the transfer and use of property for pre-defined purposes during or after the lifetime of its conveyor, is widely considered as playing a central role in establishing English charity law and in the development of the English concept of a trust (Gaudiosi, 1988; Rounds & Rounds III, 2012). In turn, English acts and statutes on charity and trusts that evolved from the 13th century onwards and cumulated in the 1601 Statutes of Charitable Uses provided the roots
and basis for US charity law, as well as inspiration for developments in Canada, Australia
and even Japan (Kelley, 2005; Simon et al., 2016). On top of historic links, contemporary
charity law in England and the United States has also tended to develop along parallel paths:
‘there is more that is similar than different’ (Fremont-Smith, 2004, p. 114; see also Garton,

In the absence of a legal foundation form, this paper begins by outlining the different
ways in which the idea of a UK foundation is approached and cast. Thereafter, the legal
differences for foundations across the UK’s constituent parts are examined. Turning attention
to Anheier’s (this issue) exploratory framework, the paper then moves towards mapping the
UK foundation landscape and discussing the associated practical and conceptual issues. After
outlining and reflecting on the wider shifting context for UK foundations and their place
within the socio-political landscape, concluding thoughts on the challenges ahead are offered.

**Defining UK foundations**

With no specific legal definition or framework, the question of how to identify and
demarcate UK foundations presents itself. Firstly, in general debates about the charity sector,
the notion of a 'foundation' is frequently used interchangeably with, and indiscriminately
from, the idea of a 'trust'. This masks that the former originates in civil law while the latter is
an idea derived from common law; it ignores that a foundation is a separate legal entity while
a trust is not. However, to the extent that both a foundation and a trust share the underlying
aim of managing and providing resources for others’ benefits, the basis of such conceptual
conflation can be appreciated.

A second approach, also recognisable in other European countries' discussions on
foundations, is to simply transfer foundation labels and categories from the US (see Prele,
2014). Especially the idea of a 'private foundation' has seen widespread adoption. However,
as illustrated by the recent English House of Commons' International Development

http://mc.manuscriptcentral.com/abs
Committee's (2012) report on 'private foundations', transferring such labels to a context where they have no legal relevance can be problematic, a source of confusion.

A third path is taken by the UK's membership association for philanthropic foundations and grantmaking trusts, the Association of Charitable Foundations (ACF). This simply acknowledges that 'there is no distinct legal definition of a charitable foundation' (Association of Charitable Foundations, 2018). Instead, ACF emphasises that UK foundations are identified through a combination of how they derive their funding and by the activities they pursue. As regards the former, foundations are usually considered to be charities with sustainable, independent and private income; in relation to the latter, they pursue their aims through 'funding or otherwise supporting individuals or other organisations'. Such activities can include campaigning, policy and influencing work (Charity Commission for England and Wales, 2008). Reference points for identifying and demarcating foundations are thus ambiguous and flexible rather than specific. As ACF concedes, this leads to 'great diversity' (Association of Charitable Foundations, 2018).

Such 'great diversity' is of limited use when trying to bound research on foundations. Thus, in research on and from the sector, reference is often made to Anheier's (2001) casting of foundations (i.e. an asset that is: non-membership based, relatively permanent and has an identifiable organisational structure; a private entity; non-profit distributing; and serving a public purpose – see for example SMART, 2010), or attention is drawn to the definition used in the only regular annual survey of UK foundations. This defines foundations more broadly as 'independent grantmaking charities, whose income derives mainly from private sources' (Pharoah & Bryant, 2012, p. 9). While either of these approaches can assist in roughly separating foundations from other charities, a need for further clarification remains.

To strengthen meaningful and relevant research on UK foundations, the spectrum of foundations' varied organisational characteristics – including differences in age, size, and...
approach – needs to be more strongly established, recognised and taken into account (Jung, Harrow, & Leat, 2016). Although still an emergent area for academic research, such differentiation between various foundation types is evident in the self-clustering by foundations in umbrella bodies and membership associations. This can be by region, such as the Scottish Grant-Making and the Northern Ireland Trusts Groups; by foundations' perceived organisational characteristics, exemplified by the national network for accredited community foundations, UK Community Foundations, and by ACF's Corporate Foundations and Smaller Funders networks for trusts and foundations associated with corporates and businesses and for those giving less than £500,000 per annum respectively; and by areas of interest or activity – from funders working in the areas of asylum, refugee and migration, to mental health and school funders (Association of Charitable Foundations, 2017b; Scottish Grant-Making Trusts Group, 2017; UK Community Foundations, 2017). An integrative theory of the area is, however, missing (Jung et al. 2016).

National legal differences for foundations

As UK grantmaking trusts and foundations tend to be registered charities (Traynor & Walker, 2015), it is necessary to understand the wider legal context for UK charities. This is complex. With the country composed of four nations – Scotland, Northern Ireland, England, and Wales – there have always been inherent tensions between, and questions about, the national and administrative unity of the UK (House of Lords, 2016). These have become more prominent since the 1990s, a time when the UK set off on a major devolutionary journey.

While maintaining the sovereignty of the UK's Parliament in Westminster, devolution over the last two decades has seen an increasing transfer of powers to Scotland, Northern Ireland and Wales (House of Lords, 2016). The result is that the four nations are covered by three bodies of charity law and by three separate charity regulators: the Office of the Scottish
Charity Regulator (OSCR), an independent non-ministerial department established as part of the Charities and Trustee Investment (Scotland) Act 2005, registers and regulates charities in Scotland and answers directly to the Scottish Parliament (Office of the Scottish Charity Regulator, 2017); the Charity Commission for Northern Ireland, established as part of the Charities Act (Northern Ireland) 2008, fulfils this role for Northern Ireland (Charity Commission for Northern Ireland, 2017); while the remaining two nations, England and Wales, are covered by a joint regulator, the Charity Commission for England and Wales (Charity Commission for England and Wales, 2017). The latter has been described as 'the mother of all charity commissions' (Simon et al., 2016, p. 1151). Its origins go back to the Charitable Trusts Act of 1853 and to the body of Commissioners set up to inspect and supervise charitable trusts by the 1601 Statute of Charitable Uses (O'Halloran et al., 2008). Its current statutory objectives, functions, powers and duties are set out in the Charities Act 2011 as amended by the Charities (Protection and Social Investment) Act 2016 (Charity Commission for England and Wales, 2017).

Notwithstanding that historically, and in its contemporary expressions, charity law within these three jurisdictions has a lot in common, there are differences in relation to the definition of, requirements for, and recognised structures and forms of charitable organisations. These become especially noticeable when a charity registered in one of the jurisdictions intends to become active in one of the others: despite being registered in the UK, it faces and needs to address cross-border regulation requirements (Breen et al., 2009; Office of the Scottish Charity Regulator, 2016).

The precise variations, nuances and expressions of UK charity law, and the ways in which the UK's charity sectors have evolved, have been widely explored in the literature (Peter Alcock, 2009; Pete Alcock, 2012; Breen et al., 2009; Garton, 2009; Morgan, 2012; O'Halloran et al., 2008). Within this body of work, there is a small subset focused on
foundations. While this has emphasised developments in England and Wales (e.g. Boddington, Bater, Khan, & Wellcome Trust, 2014; Dunn, 2014; European Foundation Centre, 2007, 2015), it points to the importance of variations in the idea of ‘public benefit’ (see Morgan, 2012).

Unlike in the US, where statutory agencies tend to emphasise exclusion rather than inclusion criteria to determine whether an organisation should be considered a foundation or not (Internal Revenue Service, 2018), in the UK emphasis is placed on whether a 'charitable purpose' is met and a 'public benefit' is provided. As outlined in Table 1, the idea of 'public benefit' is cast relatively broadly within each of the three UK jurisdictions. While these national differences highlight that ideally a nation-specific approach to exploring UK foundations would be pursued, the knowledge-base for doing so in an appropriate way is currently insufficient.

Table 1 about here

Mapping the UK foundation fields

In order map the UK against the categories highlighted by Anheier (this volume), it is important to examine foundation numbers. However, obtaining reliable and relevant data remains challenging. Although the last few years have seen growing research activities to address this, one is still frequently reminded of Anthony Sampson's description of British trusts and foundations as 'underground rivers in a barren countryside', where the only indications of their existence 'are the green fields they make fertile in unexpected places' (cited in Nielsen, 1985, p. 9).

According to the regulators' latest available numbers, there are around 180,000 registered charities in England and Wales plus another 24,000 in Scotland (Charity...
Commission for England and Wales, 2017b; Office of the Scottish Charity Regulator, 2017b). As the register for Northern Ireland is still in the process of being set up, a list of organisations deemed to be charities puts the number of charities in Northern Ireland at around 6,200 (Charity Commission for Northern Ireland, 2017b). Of these, 5,590 have been confirmed and listed on the Charity Commission for Northern Ireland's register at the time of writing (Charity Commission for Northern Ireland, 2017c). Given the exclusion of small charities from official registers and cross-border charities' need to register with multiple regulators (Morgan, 2012), all of these numbers have been repeatedly called into question. Some sector commentators have even argued that the number of charities in the UK could easily be twice as large (Ainsworth, 2015). Combined with the aforementioned definitional hurdles surrounding UK foundations, there is thus no reliable way for identifying the precise nature, size and scope of the UK foundation landscape.

Bearing in mind that the idea of a 'foundation' and of a 'trust' tend to be used interchangeably in the UK, and that within organisational research labels can be indicators of organisational forms, a crude starting point for gathering information about the size of the UK foundation landscape is thus to look for charities that bear either of those titles. While this approach results in both false positives (e.g. the British Heart Foundation, a predominantly fundraising charity) as well as omissions (e.g. The Henry Smith Charity, a major UK grantmaker), the picture that emerges when searching for 'foundation' and 'trust' on the regulators' registries is as follows: Scotland lists 692 organisations with the title 'foundation' and 5,220 with the title 'trust' (Office of the Scottish Charity Regulator, 2017b); in Northern Ireland, 76 foundations and 523 trusts are registered (Charity Commission for Northern Ireland, 2017c); while in England and Wales the numbers increase to 14,362 for foundations and 53,952 for trusts (Charity Commission for England and Wales, 2017b).
Another approach is to examine the membership numbers of the national umbrella bodies for foundations, the Association of Charitable Foundations (ACF) and UK Community Foundations (UKCF). As membership of these bodies is elective, numbers are necessarily smaller: on their webpages ACF refers to around 340 members, while UKCF lists 46 community foundations.

Somewhere in between those two extremes sits information available from national charity support organisations, such as the Directory of Social Change, and international membership bodies, such as the European Foundation Centre. The former estimates that there are currently around 8,000 grantmaking trusts and foundations active in the UK (Traynor & Walker, 2015), while the European Foundation Centre's latest available estimate, dated 2013, points to around 12,000 to 13,000 – albeit unspecified – public benefit foundations across the UK. If so, the number of foundations in the UK is substantially below the 22,000 and 87,000 foundations in Germany and the US respectively (Bundesverband Deutscher Stiftungen, 2017; Foundation Center, 2014).

Amongst these numbers and across these sources, a variety of organisational expressions can be identified. These include the labels of family, corporate and community foundations. Furthermore, when looking at foundation categories in Germany and the US (e.g. Bundesverband Deutscher Stiftungen, 2016; Council on Foundations, 2016; Toepler, 2016), it becomes clear that the UK's foundation forms, while not formally cast, do strongly overlap with, and are similar to, organisational differentiations in the other two countries. For example, the German notion of 'Anstaltsträgerstiftung', organisationally-bound foundations, such as hospitals whose resources usually derive from endowments and/or the provision of public services, is prominently illustrated in the UK education and healthcare landscapes (see Checkland, 1980; Gaudiosi, 1988); the idea of 'Kirchliche Stiftung', i.e. ecclesiastic foundations, runs through British history (see Rex & Armstrong, 2002), while the idea of a
'Verbrauchsstiftung', or limited-life foundation is prominently illustrated by the UK's Diana, Princess of Wales Memorial Fund which spent out in 2012. Foundation forms that remain prominent in Germany but are generally extinct in the US – such as industrial foundations, i.e. business-owning foundations such as Germany's Robert Bosch Stiftung – can also be easily identified within the UK: the Edrington spirits group and the Guardian newspaper are just two such examples. This places UK foundations' flexibility closer to the German than the US model. Even the underlying rationales for such industrial foundations' establishment in the UK, such as protections from takeovers, appear similar (e.g. Anheier et al. this issue; Maclean, 2001).

Comparing and differentiating UK foundations' approaches

To examine, differentiate and structure foundation discourse within, and across, diverse contexts, Anheier (this volume) points to the Foundation Triangle as a potential organising framework. This distinguishes between foundations’ approach (operating, grantmaking, mixed), roles (innovation, complementarity, substitution, build out), and wider purpose (relief, protection, change). The idea is that foundations’ choices vis-a-vis these categories will allow for a clustering, and subsequent examination and comparison, of foundations’ national and international expressions. While intuitive and appealing, the application of this and comparable frameworks to the UK is problematic. First of all, trying to examine foundations’ activities and roles has been a longstanding problem in the UK, an irritating, irrelevant and ‘academic’ question to the foundation field: 'Foundations don't see it as their role to have roles and visions' (foundation commentator cited in Leat, 2007, p. 103). Secondly, there are broader conceptual questions about the typological rigour and relevance of foundation frameworks, classifications, and typologies (Jung et al., 2016) that also need to be considered when trying to apply the Foundation Triangle.
Central to the Foundation Triangle is the distinction as to whether a foundation pursues a grantmaking, an operating or a mixed role. A grantmaking foundation funds other organisations to achieve its aim(s); an operating one runs its own programme(s); a mixed approach combines both grantmaking and operating functions. There is no doubt that all three approaches exist within the UK. Examples of major UK grantmakers are the Wellcome and Leverhulme Trusts; UK operating foundations include the Prince’s Trust and the Carnegie UK Trust; mixed forms are illustrated by Guy’s & St Thomas’ Charity and the Royal Society (Pharoah, 2009; Pharoah, Walker, & Goddard, 2017). Mirroring global research traditions (see Toepler, 1999), the common perception is that within the UK the grantmaking form is the dominant one amongst these. This is illustrated by the findings from a broader survey looking at foundation funding for research and innovation across Europe by Pharoah and Zimmeck (2015): within their sample of 58 UK foundations, 57% emphasised grantmaking, 7% were operating foundations, while 36% were hybrids and pursued both.

Whether or not operating and mixed foundations are a useful label in contexts where no legal forms of the foundation exists is, however, debatable. As the focus shifts away from grantmaking, the distinction between a foundation and other organisational labels in the third sector becomes increasingly blurred (Toepler, 1999). Furthermore, the bases and rationales for casting and demarcating these foundation forms in the UK contexts appear abstruse and conceptional problematic. For example, UK universities, religious institutions, as well as early alms houses and residential charities tend to be registered as charities, often take the form of a trust, frequently have an endowment, and can, and indeed do, make grants. Theoretically, they should therefore be considered as either operating or mixed foundations. In practice, however, this is not the case: they tend to be ignored or excluded. This is evident in the latest survey of UK foundations (Pharoah et al., 2017), where those that are operating, direct service providing, support a single institution, beneficiary or cause, or devote less than
50% of their charitable spending on grants are not taken into account. As such, concerns arise as to whether UK foundation research, policy and practice have been too narrow in their approach to, and understanding of, the foundation field to-date. Alternatively, it could be argued that the inclusion of operating and mixed foundations unnecessarily blurs the boundaries; that these should be considered separately rather than alongside pure grantmaking ones.

Exploring foundations’ activités, roles and purposes

Moving away from ‘approach’ towards the areas that receive foundations’ attention, a number of insights can be learnt from foundations’ grantmaking activities. Such information usually concentrate on certain subsets of foundations, such as the top-300 grantmakers (Pharoah, Jenkins, & Goddard, 2014; Pharoah, Jenkins, Goddard, & Walker, 2016), top-100 family foundations (Pharoah, Goddard, & Jenkins, 2015), or corporate foundations (SMART, 2010). However, as Pharoah and colleagues, authors of the only major ongoing survey of the UK’s top-300 foundations' giving trends, have repeatedly highlighted, the material from which one can glean such insights resembles a patchwork quilt: data come from a variety of sources, are derived using a diversity of methods, and cover different timeframes (Pharoah et al., 2014; Pharoah et al., 2016; Pharoah, Jenkins, & Goodard, 2015). While this leaves knowledge gaps, the survey's repeat application of the same approach and method – using financial figures from annual reports, accounts and foundations' webpages, press releases and media reports, as well as tax statistics, estate date and other relevant surveys and research (ibid.) – allows for the identification of some key and recurring trends.

In general, the total of the top-300 UK foundations' annual giving stands at around £2.7bn; it makes up 15% of the total of private charitable giving in the UK (Pharoah et al., 2016). This is roughly comparable to the percentage of foundation grantmaking amongst private giving in the US (Pharoah et al., 2014). It is estimated that around 71% of UK
foundations' grantmaking is given to the UK, the rest overseas (Traynor & Walker, 2015). Of the UK allocation almost all, 69%, is available to the different parts of the UK; the remaining 2%, ca. £580m, is allotted unevenly across the UK, with England receiving approximately £418m, Scotland around £80m, Wales £65m, and Northern Ireland £3m, with further awards designated for specific parts of Britain, such as the Channel Islands and the Isle of Man (Traynor & Walker, 2015). While foundation giving is dwarfed by government funding for UK charities - government providing around £13.3bn to England and Wales and £2.3bn to Scotland and Northern Ireland (Pharoah, Goddard, et al., 2015) - with government funding increasingly taking the shape of contracts rather than grants, foundations now provide more grants, measured by value, compared to the state (Association of Charitable Foundations, 2016).

The dominant position amongst UK foundations is held by the Wellcome Trust. In 2015, it gave away £673 million, one-quarter of the top-300 foundations' grants; with £17.13bn in assets, it also held one-third of all the assets amongst the top-300 foundations (Pharoah et al., 2016). According to the Wellcome Trust's latest available accounts, these numbers now stand at £856m worth of grants, with the Trust holding total assets net of bond liability of £20.85bn (Wellcome Trust, 2016). Looking at the second largest endowed foundation, the Garfield Weston Foundation with an endowment of £10.85bn, and at the second and third largest UK grantmakers, the Leverhulme Trust and the Children's Investment Fund Foundation with grantmaking worth £81.37m and £80.81m respectively (Pharoah et al., 2016), the UK's long tail of philanthropy becomes apparent (and that the richest foundations are not necessarily always the biggest grantmakers). Mirroring the US, a small number of large foundations dominate the picture, with 20 foundations accounting for 51% of all top-300 grants (Pharoah et al., 2016).
The causes that receive the majority of funding from the top-300 UK foundations are 'education and training', around 24%, followed, with 11% each, by 'health' and 'arts/culture'; at the bottom of the list sit 'religion, rights and environment' with 3%, 2% each for the categories of 'mental health' and 'international', and finally 1% go to 'elderly' as well as to 'animals' (Pharoah et al., 2016). A slightly different picture emerges from other sources. For example, there are indications that 'education' alongside 'community/social welfare' and 'children and young people' tops the causes supported by corporate foundations (Walker, 2013), and the areas of 'health', 'social welfare' and 'religion' are the highest-ranked recipients of foundation funding in the report by Traynor and Walker (2015).

Given differences in focus, sample size, classification and method, comparison is once again difficult. A picture akin to the German landscape (Anheier et al., this issue) seems impossible to draw. In addition to the philanthropy potpourri that results from the UK's use of the umbrella ideas of charitable purposes and public benefit to identify charities in the first place, the kaleidoscope of activities that can be found within individual foundations present an additional complication. This is prominently illustrated by the RS Macdonald Trust's (2017) simultaneous focus on social issues (tackling child abuse), medical issues (visual impairment, neurological conditions and medical research in general), animals (animal welfare and pet ownership) and rescue operations (funding for RNLI lifeboats, lifeboat stations and crew training) and by the Wellcome Trust's (2017) 47 different funding schemes. The latter cover the areas of biomedical science and population health research, product development and applied research, humanities and social science, and public engagement and creative industries. Here, even the notion of 'multi-purpose foundations' and the categorisation of their respective role(s) (see Anheier et al., this issue) seems to be a stretch. This then points towards some of the conceptual challenges inherent in the Foundation Triangle and this issue’s frameworks.
Broadly, the Foundation Triangle’s categories resonate with a number of other frameworks put forward to map and differentiate UK foundations. The extensive body of work by Leat (1999; 2007) for example identifies five characteristics of British foundations’ activities (doing what the state doesn’t do, pump priming, innovation, unpopular causes, and emergency funding), points to three forms of grantmaking cultures (gift givers, investors, and collaborative entrepreneurs), and argues that foundations’ roles can be considered as providing complementarity, substitution, redistribution, innovation, social change, preservation of traditions and culture, and safeguarding of pluralism. The challenge with such categories is that they tend to fall short on benchmarks for typological rigour and relevance (Jung et al., 2016). Reviewing and examining the field of foundation classifications, typologies and taxonomies, Jung et al. (2016) thus point to the criteria for assessing typological quality put forward by Eppler et al. (2011). Accordingly, to be rigorous, explicit classification principles need to exist, clusters need to be unique, the scope needs to be specified, categories’ membership needs to be clearly defined, and clear and explicit category boundaries need to be provided; to be relevant, classification systems need to offer simplicity, clarity, usefulness, typicality, and unique and unambiguous labels.

In this regard, the utility of using foundations’ purposes, activities and roles within the Foundation Triangle as well as the differentiation between foundation and approach in the foundation typology (Anheier, this issue) warrant further conceptual development before being applied to the UK. Ideas such as ‘innovation’, ‘complementarity’, ‘substitution’ and ‘build-out’ within the Foundation Triangle, and notions of ‘smaller’ and ‘larger’ foundations appear too broad. While indicative ideas for each category are provided (Anheier, this issue), the clarity, bounding, uniqueness and usefulness of these distinctions is less obvious. Furthermore, it means that the accompanying foundation matrix (Anheier, this issue) which brings together approach (operating and mixed foundations; grantmaking foundations) with
size (smaller foundations; larger foundations) currently also appears to be of limited utility for the UK context.

**Examining the socio-political landscape of UK foundations**

Alongside the organisational characteristics and expressions of foundations, this special issue’s introductory paper points to the importance of foundations’ wider operating contexts. Within the UK, foundations live in ‘interesting times’ (Association of Charitable Foundations, 2016, p. 3).

In addition to the wider tendency of foundations becoming a central component of the ‘private welfare state’ in Europe and the US (Boesso, Cerbioni, & Kumar, 2014), UK foundations face major shifts in Britain’s policy landscape, a changing socio-political atmosphere towards and perception of foundations, and pressures towards remodelling the roles and approaches of foundations. Even prior to the Westminster government's decision to proceed with Brexit - the UK's withdrawal from the European Union - and initiating this process by triggering Article 50 of the Treaty on European Union in March 2017, foundations had witnessed major shifts and changes in the UK's social, political and economic landscapes over the last decade. Alongside the aforementioned process of devolution, a key issue has been the 2008 recession and Westminster's Conservative-led coalition government's subsequent implementation of controversial austerity measures aimed at reducing the UK's deficit.

Whether or not these measures were based on conceptual fallacies (Boyer, 2012), they have emphasised ongoing funding cuts for charities and the public sector, a shift from government grants to contracting, and the wider transfer and implementation of market ideas and ideals to charities. These have been sitting side-by-side with rising demands for, and pressures on, the charity sector as the sector tries to counterbalance a ‘perfect storm’ of interlocking problems: a stagnating economy, increasing unemployment, declining incomes,
rising prices, housing crises, controversial welfare reforms, as well as cuts in benefits and in public and social services (Jones, Meegan, Kennett, & Croft, 2015; Macmillan, 2011; Oxfam, 2012). These will continue to be major issues for charities in general, and for foundations' funding decisions more specifically: poverty in the UK is perceived as 'endemic' (Bunyan & Diamond, 2014, p. 5), with the UK being considered to be 'one of the most unequal nations in the developed world' (Belfield, Cribb, Hood, & Joyce, 2016; see also OECD, 2015; Oxfam, 2016; The Equality Trust, 2017). On this basis, Hayman (2016, NP) has equated the Westminster government itself to 'an old-style philanthropic foundation: an entity built around a delicate truce between a benevolent rich and a grateful poor'. While this generalisation appears unflattering and unfair to large numbers of UK foundations, it does highlight some of the popular preconceptions and prejudices about the UK foundation sector.

Within this context of pressing social, economic and political challenges, a simplistic political 'enchantment with philanthropy' has been noticeable (Harrow & Jung, 2011, p. 1055). Policy debates in the UK show more than a passing resemblance to Macdonald's (1956, p. 3) sentiment of a foundation being 'a large body of money completely surrounded by people who want some': there is a strong interest by policymakers in accessing foundations' resources for their own policy agendas and ambitions. While a recurring comment from the foundation field has been that they are reluctant to be 'sucked into replacing what government ought to be doing' (Askeland, 2010) and that 'replacing money' for government is not their role (Espinasse, 2017), the longstanding US critique of foundations as 'warehousing assets' has gained increased policy traction in the UK (Gaul & Borowski, 1993; Kail, 2017); the question as to whether the UK should follow the US and implement a mandatory annual minimum payout for foundations has become a recurring political issue (Bishop & Green, 2012; HM Government, 2010, 2011).
Senior foundation stakeholders have compared the minimum payout idea to 'dawn raids on both our [foundations'] assets and our [foundations'] independence', arguing that the proposal was 'plucked out in the hope of finding more money to support charities, and came without deep thought' (Emerson, 2011). The evidence-base and need for a minimum payout requirement has also been questioned by recent research of foundations' grantmaking levels. Comparing available longitudinal data, this has found that UK foundations already tend to meet the proposed minimum payout level of 5% (Pharoah, Harrow, & Jung, 2017). With strong opinions prevailing amongst proponents and opponents of minimum payout arrangements for foundations (see Alliance, 2017), there is, however, an understanding and acknowledgement that foundations do need to clarify their role and contribution to UK society more prominently (Emerson, 2011). Demonstrating impact, legitimacy and accountability have become 'operational necessities' for UK foundations (Tomei, 2013, p. 9). While these are longstanding and recurring issues in global and UK philanthropy, going back to at least the last quarter of the 19th century (see Bremner, 1956), they have gained renewed prominence in UK foundation discourse.

Legitimacy and accountability also sit within growing questions about the nature of 'charity'. While within the UK trust in charities appears to remain higher than trust in other sectors (Charity Commission for England and Wales, 2017d), there are clear indications that recent high profile charity scandals have led to growing concerns about the ways charities raise and spend their money (Charity Commission for England and Wales, 2016). In relation to foundations, these scandals have tended to focus on questions about the use of foundations as creative tax management vehicles (e.g. Charity Commission for England and Wales, 2016b) and on a general tightening of laws and regulations.

A major 2013-2016 investigation into the London-based advocacy organisation Cage and its perspectives and commentaries on terrorism led to trenchant critiques of two major
UK foundations, the Joseph Rowntree Charitable Trust and the Roddick Foundation. The resulting case reports point to the difficulties that foundations and their trustees increasingly face in weighing up numerous issues: their founders' intentions and values, the interpretation and enactment of their charitable responsibilities, 'good faith' in their grantees, external expectations of in-depth scrutiny and assessment of recipients' actual and potential objectives, and stronger regulation (see Charity Commission for England and Wales, 2016c, 2016d).

To strengthen evidence of, and knowledge on, foundations' positive contribution to society, various developments geared towards identifying, tracing and measuring impact have taken place. On the one hand, foundations, sector bodies and think tanks have worked together in developing Inspiring Impact, a UK-wide initiative aimed at advocating impact measurement to, and developing more appropriate impact measurement tools for, charities. Their vision is that within the next five years, by 2022, the planning, measurement and assessment of impact, defined as 'the difference an organisation's work makes to those it seeks to help' will become the norm across the majority of UK charities and social enterprises (Inspiring Impact, 2017).

While intuitive and appealing, there are, though, also indications that the wider focus on charities', and especially on foundations', impact could become problematic for foundations, particularly, when government gets involved. This is illustrated by a recent 'working paper' and accompanying 'tool' published by the UK's Cabinet Office. The declared intention for this material is to enable foundations to achieve 'total impact' through highlighting 'latest practice' and outlining 'crucial steps' that foundations seeking to achieve total impact need to take (Cabinet Office, 2014a, 2014b). When examining the working paper more closely, uncertainties about governmental agendas for, and expectations of, philanthropic foundations arise: it is reminiscent of a proxy intervention and points towards increased oversight and control for foundations (Harrow & Jung, 2015).
As the state takes a stronger interest in foundations, the evolving relationship between
the state and foundations warrants further exploration. While within academic discourse it is
widely appreciated that foundations' activities are better suited to complement rather than
substitute state spending, such understanding has not necessarily been reflected in the UK's
recent and contemporary policy discourse and approach (Daly, 2011; Healy & Donnelly-Cox,
2016). Indeed, the regime type associated with the UK appears to be shifting.

Building on the work of Esping-Andersen's models of the welfare state in capitalist
societies, the UK's regime type for foundations has previously been described as being
'liberal' (Anheier & Daly, 2007). However, as Esping-Andersen's original classification has
been criticised for ignoring that the UK's welfare system combines both inclusive and
individualistic aspects (Wickham, 2005, p. 4), the extent to which the liberal regime type
label has been the most appropriate for UK foundations is open for discussion. Instead, a
more nuanced perspective of the UK's context might have been a 'liberal collectivist' one:
while the economic model has some resemblance with the US's, public attitudes towards the
roles and responsibilities of the state have tended to be more comparable to those in European
countries than to those in the US (Grimshaw & Rubery, 2012; Wickham, 2005). Thus, the
recasting of the UK as being 'liberal-market economy like' (Anheier, this volume) seems
preferable. The extent to which the UK's liberal collectivist approach will survive is,
however, uncertain. With the Westminster government's intensified pursuit of, and reinforced
emphasis on, neoliberalism, the UK's model is in a flux: it could easily turn into a full liberal
market economy (Grimshaw & Rubery, 2012). Indeed, there are increased public questions as
to whether the Westminster government's approach to Brexit is merely a veil for further
'exposing the UK to the full rigours of the market and global capitalist forces' (Crook, 2017;
Merrick, 2017).
Simultaneously to being seen as a readily available financial resource, foundations also face the pressure of being asked to act as a conduit for encouraging and facilitating innovation (e.g. Smith Institute, 2013). Recognising the wider need for exploring different ways in which the UK's socio-economic and political challenges can be addressed (Association of Charitable Foundations, 2017a), foundations have thus started to examine a number of new avenues. These mirror the internationally noticeable interest in models of philanthrocapitalism (see Salamon, 2014; also Hammack and Smith, this issue), with widespread UK discussions about the advantages and disadvantages of alternative funding models, such as charity bonds, social impact bonds, social impact investment partnerships, 'try before you buy' approaches and social bridging finance (see Robertson Trust, 2016).

From these, a set of commonalities have been identified in expert exchanges initiated and led on by one of Scotland's largest foundation, the Robertson Trust. Summarised in a 3P model of alternative funding approaches, this argues that all of these approaches: are concerned with prevention as investment, necessitate wider partnerships, and need a rigorous approach for linking investment or funding to performance (Mair, 2016).

Especially, the notion of wider partnerships and collaborations has been noticeable amongst UK foundations. These range from attempts at taking on new roles and trying to work more closely with government (e.g. Jung, Kaufmann, & Harrow, 2014) to improving funders' understanding of the grantmaking landscape and exploration of non-financial support mechanisms that foundations can provide. Thus, alongside a new 360 Giving platform aimed at identifying and mapping disparate foundation activities and developing a complete dataset of all charitable grants in the UK (360 Giving, 2017), a number of leading foundations have started to place special emphasis on taking a more inclusive and applied perspective on working with grantees – from offering advice on strategy development and PR, to working with grantees on building their networks and capacities. Examples include variations on the
FOUNDATIONS IN THE UNITED KINGDOM

Funders Plus framework developed by the Diana Princess of Wales Memorial Fund (DP Evaluation, 2012), the more recent Grants Plus programme advocated by the Esmée Fairbairn Foundation, the Robertson Trust and others (Esmée Fairbairn Foundation, 2017), as well as the John Ellerman Foundation's (2017) emphasis on being a 'responsive funder' and the Rank Foundation's (2017) 'engaged philanthropy' framework.

While these go beyond the 'Make it your own awards' approach trialled by the Case Foundation in the US (Gibson, Levine, & Deitz, 2010) and appear ahead of developments in Germany, were foundations' interest in engaged philanthropy is still more emergent, knowledge on, and for, more collaborative approaches to foundations' activities has seen limited theoretical exploration to-date.

Concluding thoughts

Turbulent times are a recurring theme for UK foundations, from the dissolution of the monasteries and the appropriation of their assets in the early 16th century to the more recent demands that have arisen since the 2008 recession. Foundations' relationship with government remains in a state of flux (Association of Charitable Foundations, 2016). If anything, it is going to become more difficult. To this end, calls for more nuanced and reflective understanding of UK foundations’ organisational characteristics, expressions and practices remain pertinent.

When comparing UK foundation policy, practice and research discourses to those in Germany and the US, it is clear that the diverse foundation forms, approaches and distinctions within the German and US landscapes resonate with a variety of organisations in the UK’s nonprofit and public sectors. Yet, in the UK most of these are currently not considered to constitute foundations – emphasis is placed on the grantmaking form. This not only limits the extent to which the UK foundation landscape can be compared in a meaningful way to developments in Germany and the US, it also appears to restrict the
extent to which UK foundations’ potential can be harnessed in the current and forthcoming shifts in the UK’s socio-political and economic landscapes.

Chiming with wider discussions about foundations that have been articulated in other countries – including the role, rationale and perception of philanthropy, as well as changing perspectives on foundations' governance and practice (see Buchanan, 2016) – there are ongoing tensions in the UK between political traditions of mutuality and reciprocity on the one hand, and the governmental vision of rolling back the state with an expectation that the charity sector will fill the resulting gaps on the other (see Daly, 2011; Macmillan, 2011; Jones et al., 2015). With the recent release of a report on the sustainability of the charity sector and wider challenges of charity governance by the House of Lords Select Committee on Charities (2017), there is also little doubt that on top of the pressing current socio-political issues that foundations already face and try to address, the UK's leaving of the EU will lead to further headaches in the foundation world.

In light of Brexit, substantial shortfalls in funding for all areas of public life are widely anticipated. Not only will this result in an inevitable increase in funding applications and competition for foundation resources, but in a recent series of commentaries on 'Foundations and Brexit', foundation representatives highlight some of the wider effects this is likely to have on the diversity of, and approach to, their funding: funding for science, research, culture and the environment will need to be weighed up against addressing poverty, inequality, and basic public services (Association of Charitable Foundations, 2017a). In addition, Brexit presents UK foundations with questions about their own future organisational identities and self-perception: what will be their role in, and relationship to, the wider European and international foundation landscape (Salole, 2017)?
References


Ainsworth, D. (2015). There are more than twice as many charities in the UK as you’ve been told https://www.civilsociety.co.uk/voices/there-are-more-than-twice-as-many-charities-in-the-uk-as-you-ve-been-told.html


FOUNDATIONS IN THE UNITED KINGDOM

http://www.acf.org.uk/about/what-is-a-foundation/


FOUNDATIONS IN THE UNITED KINGDOM


https://www.stiftungen.org/stiftungen/zahlen-und-daten/statistiken.html


Cabinet Office. (2014a). How foundations are using Total Impact approaches to achieve their charitable mission. London:


https://www.gov.uk/government/organisations/charity-commission/about

http://mc.manuscriptcentral.com/abs
FOUNDATIONS IN THE UNITED KINGDOM


http://apps.charitycommission.gov.uk/Showcharity/RegisterOfCharities/registerhomepage.aspx


http://www.cof.org/content/foundation-basics - what_is_a_foundation
FOUNDATIONS IN THE UNITED KINGDOM


DP Evaluation. (2012). *A Funder Conundrum. Choices that funders face in bringing about positive social change*. London:


http://mc.manuscriptcentral.com/abs
Foundations in the United Kingdom


http://mc.manuscriptcentral.com/abs
FOUNDATIONS IN THE UNITED KINGDOM


FOUNDATIONS IN THE UNITED KINGDOM


Office of the Scottish Charity Regulator. (2016). Cross-border charity regulation in

http://mc.manuscriptcentral.com/abs
Scotland. Guidance on statutory requirements and reporting to the Office of the Scottish Charity Regulator. Dundee.

http://www.oscr.org.uk/about/about-oscr

http://www.oscr.org.uk/charities/search-scottish-charity-register


Office of the Scottish Charity Regulator (2017d). Legal forms factsheet. Dundee


Pharoah, C., Jenkins, R., & Goodard, K. (2015). Giving Trends. Top 300 Foundation Grant-
Foundations in the United Kingdom


[http://mc.manuscriptcentral.com/abs](http://mc.manuscriptcentral.com/abs)
FOUNDATIONS IN THE UNITED KINGDOM


http://mc.manuscriptcentral.com/abs
### Tables

**Table 1 – Charity regulators, criteria and structures across the UK’s jurisdictions**

<table>
<thead>
<tr>
<th>Key legislation</th>
<th>Scotland</th>
<th>Northern Ireland</th>
<th>England and Wales</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulator</td>
<td>Office of the Scottish Charity Regulator (OSCR) - independent, non-ministerial department</td>
<td>Charity Commission for Northern Ireland - independent, non-departmental, public body</td>
<td>Charity Commission for England and Wales - non-ministerial government department</td>
</tr>
<tr>
<td>Criteria used in determining whether an organisation constitutes a charitable body</td>
<td>Requirement to pass charity test's two requirements of 1. It must have only charitable purposes 2. Activities must provide public benefit in Scotland or elsewhere</td>
<td>Must have purposes which fall under one of 12 descriptions of purposes listed in the Charities Act and the purposes must be for the public benefit.</td>
<td>Requirement to meet two principles: 1. There must be an identifiable benefit or benefits and 2. Benefit must be to the public or a section of the public</td>
</tr>
<tr>
<td>Charitable purposes as defined by regulator</td>
<td>• Prevention or relief of poverty • Advancement of education • Advancement of religion • Advancement of health (including the prevention or relief of sickness, disease or human suffering) • Saving of lives • Advancement of citizenship or community development (including rural or urban regeneration and the promotion of civic responsibility, volunteering, the voluntary sector or the effectiveness or efficiency of charities) • Advancement of the arts, heritage, culture or science • Advancement of public participation in sport (and 'sport' means sport which involves physical skill and exertion) • Provision of recreational facilities or the organisation of recreational activities,</td>
<td>• The prevention or relief of poverty • The advancement of education • The advancement of religion • The advancement of health or the saving of lives • The advancement of citizenship or community development • The advancement of the arts, culture, heritage or science • The advancement of amateur sport • The advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity • The advancement of environmental protection or improvement • The relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantage • The advancement of environmental protection or improvement • The advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity • The advancement of environmental protection or improvement • The relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantage</td>
<td></td>
</tr>
</tbody>
</table>
with the object of improving the conditions of life for the persons for whom the facilities or activities are primarily intended, and only in relation to recreational facilities or activities which are:
(i) primarily intended for persons who have need of them by reason of their age, ill-health, disability, financial hardship or other disadvantage, or
(ii) available to members of the public at large or to male or female members of the public at large.

(Office of the Scottish Charity Regulator 2017c)

<table>
<thead>
<tr>
<th>Charitable structures</th>
<th>Across the UK, four main types of charity structures exist. Two of these are corporate bodies, i.e. perceived as constituting an individual legal entity, two are not. Of these, only three are currently listed in Northern Ireland, though the fourth is forthcoming.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal forms with a corporate body:</td>
<td>Legal forms with a corporate body:</td>
</tr>
<tr>
<td>• Charitable Company Limited by Guarantee (CLG)</td>
<td>• Charitable Company Limited by Guarantee (CLG)</td>
</tr>
<tr>
<td>• Scottish Charitable Incorporated Organization (SCIO)</td>
<td>• (Charitable Incorporated Organization – specified in the Charities Act (Northern Ireland) 2008 but not yet commenced at the time of writing)</td>
</tr>
<tr>
<td>Legal forms without a corporate body:</td>
<td>Legal forms without a corporate body:</td>
</tr>
<tr>
<td>• Unincorporated association</td>
<td>• Unincorporated association</td>
</tr>
<tr>
<td>• Trust</td>
<td>• Trust</td>
</tr>
</tbody>
</table>

Author Biography

Tobias Jung is Reader in Management at the University of St Andrews in Scotland and the Director of the Centre for the Study of Philanthropy & Public Good. He is co-editor of The Routledge Companion to Philanthropy, lead editor of the Global Perspectives on Philanthropy and Public Good book series, and sits on the editorial board of Nonprofit and Voluntary Sector Quarterly (NVSQ).