

Grant or payment?
Bath Festivals Trust Ltd (V20840)

The Trust is a registered charity which was acquired from the Bath Festival Society (the Society) in 1993 from which they also acquired the intellectual rights to the Bath International Musical Festival. Bath City Council, the predecessor to Bath and North East Somerset Council (B&NES), was keen to ensure the survival of the festival and entered into a number of agreements with the Trust. The Society was funded by the council and the Arts council. The issue at dispute was the treatment of amounts received by the Trust and whether they were grants or a supply of services.

HMRC argued the sums paid were not consideration with a direct link to an identifiable service but are a grant and that the supply made by the Trust was to the local community. Both parties accepted the key issue in the case is whether the Trust is providing services to B&NES. In reaching its decision the Chairman noted the legislation gives the concept of supply a broad meaning. She added that the continuation of the festival was considered to be a matter of importance to the B&NES. If the trust was not providing these services B&NES would be required to supply the same services in house. The Chairman also referred to the Business Brief regarding the facts of *Edinburgh Leisure* which states "The payments from local authorities to the appellant constituted consideration for a supply, that of agreeing to take over the provision of leisure services previously supplied by the local authority." The Tribunal concluded that this suggests HMRC accept that agreeing to take over a job previously undertaken by an authority can amount to a supply of services.