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Changing times

Since the last issue of Charity Commission News in May we've seen a lot of activity - both within the Commission and from the process we hope will deliver a new Charities Bill. In this edition we report on some of the findings of the Scrutiny Committee which took evidence on the draft Bill over the Summer and look at the likely progress of the Bill over the coming months. We also explain how we propose to carry out checks into the public character of charities.

We have included updates on a range of revised policy publications which we've been consulting on during the last few months, and news of our latest regulatory reports.

We'd also like to formally welcome our new Chair, Geraldine Peacock and new Chief Executive, Andrew Hind. Both have extensive knowledge of the charitable and voluntary sector and we are pleased to have their experience on board at this time of change both for the sector and the Commission.

Draft Charities Bill under Scrutiny

The Parliamentary Committee looking at the draft Charities Bill spent much of the Summer taking written and verbal evidence from a wide range of people and organisations in the charity sector. It published a report of its findings at the end of September. Amongst their 54 recommendations they proposed that:

- The principles of a definition of public benefit should be set out in either non-exclusive criteria in the Charities Bill or in non-binding statutory guidance issued by the Home Secretary.
- The 'promotion of religious harmony, racial harmony and equality and diversity' should be added to the list of descriptions of charitable purposes.
- The government should commission an independent review of the burden of regulation that charities face to ensure it's fair and proportionate, especially to smaller charities.
- That the Home Office publishes a plain English guide to the new Act aimed at small volunteer charities.
- That the Charity Commission should report on some of the effects of the new legislation.



The Scrutiny Committee's full report can be found on the Scrutiny Committee's website at www.parliament.uk/parliamentary_committees/jcdchb/jcdchb_reports_and_publications.cfm or ordered from the Stationery Office on 0845 702 3890/3474.

Next steps for a new Charities Bill

At the time of writing, we don't yet know if the Bill will be announced in the Queen's Speech later in the Autumn or what Parliamentary time will be available for the passage of

the Bill. We will ensure that updates of the situation are available from our website and through articles in future editions of Charity Commission News.

Proving Public Benefit

The Scrutiny Committee's report has highlighted the issue of how checks into the public character of charities will work. These 'public benefit checks' are an assessment of whether or not a charity can show it's delivering public benefit to the community, or a sufficient section of it.

In September we published a series of practical Q & As on our website which explain how we propose to undertake these checks.

If the proposed Charities Bill progresses to a new Charities Act we'll need to ensure that every organisation entered on to the Register can show that they are set up for public benefit. To do this, we'll be revising the application forms for registration so that all new charities give details of how they'll provide public benefit, as well as enabling us to identify whether their purposes are charitable.

In practice, applications from organisations using well-known charitable purposes, standard activities and model governing documents won't see much

difference in the process. Applications from organisations with more recently accepted purposes - including some of the new descriptions in the draft Bill - may be looked at in greater detail.

All charities will be subject to public benefit checks, but charities cover a diverse range of activities, so different criteria will apply to different charities in different ways. Our starting point will be to revise our publication, **The Public Character of Charities (RR8)** which explains what the public benefit requirement means. We intend to publish it as a draft for comment to ensure this is clear.

After revising RR8 we will start looking at the different criteria which apply to different charities. For each group of charities covered by the charitable headings in the draft Bill we will contact the main umbrella and representative bodies and ask for their views on how particular groups of charities might show public benefit.

We will start by looking at fee-charging charities. Our initial research will include collecting

information on their fee-charging policies and practices. The research will also take into account other relevant factors affecting public benefit, including the measures they take to widen access to their services and facilities by people who might otherwise find taking up their services difficult because of the fees charged.

For different groups of charities we'll identify both areas of best practice and areas of concern and publish our findings in a regulatory report. When the Bill becomes law, we intend to use the findings from our report to assess whether public benefit is being provided and to give guidance on how charities can make sure they are demonstrating its provision. Checks will be carried out on charities which are already registered as well as those applying for registration.

More details can be found on our website at:

www.charitycommission.gov.uk

under 'Strategies, Plans and Reports' and then 'Reforming the Framework'.

SIR steps out

One of the recommendations in the review of the voluntary sector, 'Private Action, Public Benefit' was for charities over £1 million to complete a Standard Information Return (SIR) - although at the time of writing the actual name is under discussion. We issued a pilot SIR for consultation in May 2004 and

invited 183 charities to complete it. We also publicly consulted on our proposals, with consultation closing at the end of July.

We have now analysed the results of the pilot exercise and consultation responses, and further refined the draft SIR following

discussion with sector representatives. We plan to publish the final version of the SIR at the end of 2004, ready for large charities to complete from 2005 onwards. We would like to thank everyone who took the time to comment on the SIR and assist us with the pilot.

Scottish Bill - not only for Scottish Charities

While the charity sector follows the progress of the draft Charities Bill with great interest, many charities may not realise that a draft Bill was also published in Scotland. The draft Charities and Trustee Investment (Scotland) Bill includes a range of proposals for the regulation of charities in Scotland.

The Scottish Executive have considered the results of a consultation last August and the Bill

is part of the Executive's schedule in 2004/05.

One of the Scottish proposals may have an impact on English and Welsh charities. The intention is that all charities with significant operations in Scotland will have to register with the new Scottish charity regulator, OSCR (Office of the Scottish Charity Regulator) even if they're based outside Scotland. This will apply to English

and Welsh charities whether or not they are registered with the Charity Commission and may cover charities who would not usually consider themselves to have a presence in Scotland.

More details of the original draft Bill and its progress can be found on the Scottish Executive's website at:

www.scotland.gov.uk/views/consult.asp

Landing in trouble

A lot of charities have owned land for many years and this land may have a title which hasn't been registered with the Land Registry. A registered title gives a guarantee of ownership.

When the 2002 Land Registration Act was passed it made it more difficult for squatters to prove a claim over unregistered land (known as 'adverse possession'). Since 2002 it has become easier to register the title to unregistered land on a voluntary basis. To encourage applications for

voluntary registration the Land Registry are offering a discount on fees for these, particularly where several pieces of land are being registered.

A contact point has been set up at Nottingham East Land Registry to deal with enquiries and provide help to would-be applicants. This point will also ensure that registrations are processed promptly and allocated to the Land Registry office with the resource to deal with them.

There will inevitably be additional legal charges for charities seeking registration of title to unregistered land. However, trustees should consider whether it would be in their charity's interests to register in the light of the current encouragement from the Land Registry.

For more information contact:

Carl Slevin on 0115 935 3647

or via e-mail at:

carl.slevin@landregistry.gsi.gov.uk

Disability Discrimination Act - what charities need to know

From 1 October it became illegal for an employer to discriminate against a disabled person because of their disability. Before October, the law only applied to employers with 15 staff or more - now it applies regardless of how many staff are employed. This obviously affects charities that employ staff as well as commercial organisations, so charities need to be clear about the new provisions.

The new law prohibits discrimination against someone with a disability in the recruitment process, their terms and conditions

of employment, in chances for promotion, transfer, training or other benefits and in a wide range of other ways. The legal definition of what constitutes a disability is "a physical or mental impairment that has a substantial and long term adverse effect on his/her ability to carry out normal day to day activities."

There are clearly many types of disability and the law also covers people with severe disfigurements and 'hidden' disabilities such as dyslexia and epilepsy, depending on the severity of the impairment.

The Disability Rights Commission (DRC) is an independent body which provides information to anyone with rights or obligations under the Disability Discrimination Act. They have produced information for smaller employers about the new requirements of the Act. They can be contacted on:

08457 622 633

or via Textphone on:

08457 622 644

Alternatively, e-mail on:

enquiry@drc-gb.org

Regulatory reports - snapshots of the sector

Reveal all if you've nothing to hide

Our regulatory report into how transparent charities are when explaining their activities and expenditure was published in June. **Transparency and Accountability (RS8)** looked at the annual reports and accounts of 200 of the largest charities in England and Wales with a combined income of £7 billion. It found that too many were failing to tell their story in a clear and accountable way.

Considering that for many prospective donors and supporters the annual report may be the first contact they have with the charity, it's clearly important that charities of all sizes think about how they tell their story.

Our report emphasises that simply meeting the legal accounting requirements of SORP (the Statement of Recommended Practice) is not enough to ensure accountability if the reporting is unclear. However, the study

concluded that, in some cases, even these legal requirements are not being met by major charities.

Transparency and Accountability (RS8) covers a range of ways in which charities can ensure the information they provide about themselves is as accessible and relevant as possible.

The changing face of village halls and community centres

Charities which provide facilities and services for community use range from village halls in small rural villages to large community centres in inner cities but they can face similar challenges and opportunities. Our latest regulatory report, **Village Halls and Community Centres (RS9)** looks at how these charities can change as the interests and needs of their communities change. Social and economic factors are altering the demographics of many villages and towns, and tastes also change. Trustees of these charities face the

challenge of reflecting these changes in the way they operate.

The report provides a snapshot of the challenges faced by village halls, community centres and similar charities and looks at what they can do in order to adapt. In particular, the report outlines how the Charity Commission can help charities to modernise and provides extensive signposting to where further advice and guidance is available.

The report emphasises the need for trustees of these community charities to plan ahead to accommodate potential user groups. It also stresses the need for trustees to ensure they are genuinely inclusive, both in terms of users and in terms of how trustee boards are made up.

Both these regulatory reports can be found on our website at:

www.charitycommission.gov.uk under 'Promoting Effective Performance'.

Boost for charity campaigns

Charities which want to fight for change received a new boost in October when we published new guidance on how to campaign and undertake political activities.

As previously reported in Charity Commission News, our former approach to these activities was more cautionary and charities may not have been aware of the scope they had for campaigning. After extensive consultation we hope this revised guidance will make it clear to charities that they have flexibility to campaign in support of their aims. **Campaigning and Political Activities by Charities (CC9)** is available from our website at:

www.charitycommission.gov.uk under 'Publications'.

Launch of Welsh website

Following the official opening of our first office in Wales in April this year, we launched our Welsh website in November. This is part of our continuing commitment to provide equal accessibility to customers who prefer to use the Welsh language. Although not everything on the site is available in Welsh, those pages which are most commonly used will be. The eventual aim is to publish key information simultaneously in both Welsh and English.

We would welcome any comments or views on the new Welsh language website facility at:

webcomments@charitycommission.gsi.gov.uk

Questions, Questions ...

A round-up of some of the issues raised with our Contact Centre.

Q. I'm a trustee of a charity with an annual income of less than £5,000. I've heard that new charity requirements mean that all charities with annual income of less than £5,000 will be removed from the Register of Charities. Is this true?

A. No, it's not. One of the proposals in the draft Charities Bill is that the new income threshold at which charities will have to register is £5,000 (at the moment it's only £1,000). As and when the draft Bill becomes law, all registered charities with income over £1,000 will stay on the Register. Charities with income of less than £5,000 can ask to be removed and new charities with income of over £1,000 can register voluntarily - so your charity will stay registered unless you ask for it to be removed.

Q. We have recently registered our organisation as a charity. Do we now qualify for VAT exemptions and Gift Aid?

A. The Commission isn't able to give advice on issues of taxation or VAT; this is for Customs and Excise or the Inland Revenue. The Inland Revenue have a helpline specifically set up to advise charities on taxation and Gift Aid on 0845 302 0203.

Q. Does the Charity Commission hold title deeds to our property especially when the land is vested in the Official Custodian?

A. No, this isn't something we do. The trustees are responsible for the safe keeping of the deeds. If the land is registered and you have a problem then we suggest you contact the Land Registry (www.landregistry.gov.uk). In other circumstances you would need to take advice from a lawyer.

Q. Help! We're a small charity and have received a final warning notice from the Data Protection people telling us we need to send them £95 to register under the Data Protection Act or risk prosecution. We didn't know about this - what do we do?

A. This is a scam. Some, but not all, charities may have to register with the Information Commissioner's Office (ICO) under the Data Protection Act 1998 (DPA) and, for those that do, the statutory fee is just £35 a year.

A number of bogus agencies have jumped on this bandwagon, sending threatening letters to scare organisations into registering through them. This is a long running scam and the ICO's advice is to ignore such letters as they have no legal standing whatsoever.

To see if you need to notify the Information Commissioner's Office, call the notification helpline on 01625 545 740 or visit:

www.informationcommissioner.gov.uk

Q. Can our charity be sent the annual return now as we're ready to prepare our accounts and send them in?

A. We've responded to feedback from charities by issuing the 2004 annual return forms soon after your charity's financial year end to allow for early completion. The annual return will be mailed automatically to your charity's correspondent and you should receive it within three months of the end of your financial year.

Q. I sent in my charity's annual return and accounts over a week ago and they are still shown as being "not received" on the Commission's website. Why is this?

A. At our busiest time it can take up to 10-15 working days for us to record the receipt of accounts and annual returns on our internal systems and update your charity's entry on our website. We always recommend that charities send us their documents at least three weeks before their 10-month deadline to allow for this processing period.

Righting human wrongs

In June we issued our revised guidance on the promotion of human rights for consultation. Our previous guidance was seen as being too restrictive in its approach to when, and how, charities could engage in this type of activity - particularly in countries which don't have human rights legislation. The revision of '**RR12: The Promotion of Human Rights**' - makes explicit

the wide range of ways in which this can be done - both in this country and others.

The consultation period, which originally ran until the 15 September was extended to ensure all interested parties had the opportunity to comment. The finalised guidance will be published on our website early in December.

It clarifies the key differences between political purposes and political activity and makes it a lot clearer how organisations set up to promote human rights can undertake this type of activity. The guidance is available from our website at:

www.charitycommission.gov.uk
under 'Publications'.

Charities SORP - next steps

The Charities SORP (Statement of Recommended Practice) consultation came to an end on 1 October, and we received over 150 formal responses. Sector interest in the consultation was clearly strong, with over 80,000 copies of the documents downloaded from our website during July and August.

At the time of writing we are undertaking a detailed analysis of

the views and comments received. We aim to publish the analysis of these responses on our website in November.

While it's too early to draw firm conclusions about the changes following consultation, it is already clear that careful consideration was given by respondents to the issues raised. We would like to thank everyone who replied to the

consultation. Particular thanks go to the Welsh Council of Voluntary Organisations and the Charity Finance Directors' Group for hosting a series of consultation events. This series of roadshows attracted good audiences which provided active feedback on the SORP proposals.

Opening up the Commission

In the last issue of 'Charity Commission News' we announced that we would be holding our first open Board meetings this year. The first open Board meeting was held at the end of September in our London office followed by the second in November.

Both events were well attended and we look forward to continuing and developing them, providing people with an opportunity to see at first-hand our decision making process.

Board agenda, papers and minutes

for meetings are available on our website at:

www.charitycommission.gov.uk

under 'About the Charity Commission'.

How to find us

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