



# NEWS

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Call 0845 300 0218 [www.charitycommission.gov.uk](http://www.charitycommission.gov.uk)



## Making the most of change

### Introduction by Dame Suzi Leather

Welcome to the spring edition of *Charity Commission News*. So far, 2007 has been an incredibly productive year and this issue includes an update on the first of the Charities Act 2006 provisions to be implemented.

One of the Act's provisions was to make the Commission a corporate body, allowing us to recruit additional Commissioners to make sure we have a broader range of skills and experience on our Board, truly representing the diversity of the charitable sector and of society. We hope to announce these new Board members in the summer.

We've produced some significant publications. The results of our all-charity survey into charities delivering public services make interesting reading, and should provide the evidence to take the debates around this

issue further. We also have details of some key consultations, perhaps the most significant of which is our consultation into the Act's new requirement that all charities must demonstrate that they provide public benefit.

The rest of the year looks like it will prove busy for the Commission and charities alike. I hope this edition of our newsletter saves you some time in keeping your charities up to date.

*Suzi Leather*

Dame Suzi Leather, Chair

# The Charities Act in action

The first tranche of the provisions in the Charities Act 2006 were implemented in February. The last issue of *Charity Commission News* (number 25, Autumn 2006) detailed the major provisions for charities and provided a provisional timetable for implementation. It can be found on our website at [www.charitycommission.gov.uk](http://www.charitycommission.gov.uk) under 'About the Charity Commission' or, for hard copies, by calling **Charity Commission Direct** on **0845 300 0218**. Our website also contains detailed information on the Act and a link to the provisional timetable.

This edition provides more detailed information on the next set of provisions due to come into effect.



## Public benefit at the heart of charity

'Public benefit' is the legal requirement that all charities must have charitable purposes which benefit the public.

The Charities Act 2006, which underlines that requirement, requires us to consult on guidance we produce on public benefit and so, on 7 March 2007, we launched our 3 month public *Consultation on Draft public benefit guidance*. The consultation closes on 6 June.

### Consulting on public benefit

Our consultation is all about our draft guidance on public benefit. This draft guidance explains what the public benefit requirement means, and sets out some proposals on how we think charity trustees should report on their charity's public benefit. It's intended to help charity trustees, and their advisers, better understand what it means to meet the requirement.

### The importance for charity trustees

This consultation is especially important for all charity trustees because, when the provisions in the Charities Act 2006 relating to public benefit come into force, in

2008, all trustees will be required to take account of our guidance on public benefit. This new statutory duty reinforces the general duties trustees already have to act for the public benefit.

Because of this, it's important that charity trustees and their advisers are familiar with, and understand, our draft guidance so that they know how to make sure their charity meets the public benefit requirement, and how to avoid decisions that might adversely affect their charity's public benefit.

### Have your say

We're very keen to receive feedback from charity trustees about our draft guidance to help us get it right. We're also interested in any specific concerns people may have about the ability of certain types of charity to meet the public benefit requirement set out in our draft guidance.

The consultation paper explains where to send comments and sets out a number of questions about which we're particularly seeking comments.

You can find out more about our consultation on the home page of

our website at [www.charitycommission.gov.uk](http://www.charitycommission.gov.uk) or by calling **Charity Commission Direct** on **0845 300 0218** for details.

### What next?

Public benefit is an important requirement for all charities, but we recognise that one size won't fit all; public benefit will look different for different types of charity. After our consultation we'll publish our over-arching guidance, *Charities and public benefit*. We'll then start further consultations on the more detailed aspects of public benefit for specific types of charity, starting with charities that relieve poverty, or advance education or religion, and fee-charging charities.

### When will this happen?

We'll publish our over-arching guidance, *Charities and public benefit*, in autumn 2007. More specific guidance for specific types of charities will be published shortly after the public benefit requirement comes into force in early 2008.

## Removing obstacles to charity mergers

The Act requires the Commission to keep a public Register of Mergers holding details of mergers between charities. The Act also sets out what types of mergers can be recorded on this register. Usually, these will be where:

- one or more charities dissolve and pass their assets to another existing charity;
- a non-company charity winds up and transfers its assets to a newly created charitable company; or
- two or more charities dissolve and pass their assets to a new charity with compatible objects.

In order to record mergers, we'll need charities to tell us they've happened. The Act explains when a merger can be registered with us voluntarily, and when it must be registered with us. In either case, the trustees of the new merged charity need to tell us:

- what has been transferred and the date(s) the transfer(s) took place;
- that appropriate arrangements have been made for meeting any liabilities of the charity that transferred the assets; and

- if a 'vesting declaration' has been made and, if it has, certain details about it.

A 'vesting declaration' essentially means that any charity transferring assets only has to use one deed to cover the transfer of all its assets to the new merged charity, rather than separate transfers to cover the transfer of the various assets included in the merger.

### Register information

The Register will show the dates when any transfers were completed and, if a vesting declaration has been made, the date of the declaration and the date on which any title to assets was transferred to the receiving charity. We can also show additional details if we think this would be useful.

### The benefits to charities

When a merger is registered, gifts and legacies left to the charity which 'disappears' as the result of a merger will automatically be transferred to the new merged charity.

Giving charities the ability to transfer the title to its assets

through a vesting declaration, rather than formal transfers of title, will make the process less onerous for transferring charities.

The Register of Mergers will be available to the public. It will be particularly useful both for people making wills who want to include charitable legacies or donations and for those responsible for making sure legacies are sent to the right place.

### Will registering mergers be compulsory?

If a charity chooses to use a vesting declaration then they will have to register the merger with us, but otherwise registering is voluntary.

### When will this happen?

This provision is due to come in during the second half of 2007. Our website will provide more details nearer the time.

## Changes to charity registration rules

The rules about when charities must register with the Commission have changed. From 23 April 2007, charities with an annual income of £5,000 or less no longer have to register with us.

Other registration changes came into force at the same time. Previously, any charity which had permanent endowment or occupied land was required to register whatever the level of their annual income. This no longer applies.

All charities currently on the register will remain registered,

regardless of whether their annual income exceeds £5,000 or not, unless they ask us to remove them from the register.

We do not usually register any charity which is below the threshold for compulsory registration. Eventually, under changes in the Charities Act 2006, these small charities will have a right to register voluntarily but this right has not yet come into force. However, we recognise that some charities have a particular need to be registered and in the interim we will consider requests from these

charities on a case by case basis.

The right to voluntary registration is delayed so that other work which has resulted from the Act can be dealt with. It is not expected to come into force until changes to registration affecting exempted and exempt charities have been dealt with and is unlikely to happen before 2009.

More details can be found on our website under 'Registering a charity'.

# Fundraising

## Professional fundraiser statements

Currently, professional fundraisers and commercial participators who fundraise for charities must have a written agreement with the charity concerned. As part of the request for funds, they must make a statement – known as a solicitation statement – to the public that collectors are being paid to undertake this fundraising.

To meet minimal legal requirements, both the written agreement with the charity and the statement to the public must include certain information. This includes basic details of the financial relationship between a charity and the professional fundraising organisation or commercial participator it's working with.

The Act changes the requirements for solicitation statements, and the following changes will take effect from the second half of 2007.

## Content of the solicitation statement

At the moment, someone working for a professional fundraising organisation or a commercial participator must explain the financial relationship between their organisation and a charity in 'general terms'. The Act aims to make these statements more specific, making it clear what proportion of donations will actually go to the charity's work and how much to the commercial organisation fundraising for them.

Collectors working on behalf of professional fundraising organisations will have to state the

amount that their organisation will get from the collection. If the actual amount isn't known, they will have to give an estimate which is as accurate as reasonably possible. Similarly, commercial participators must state the amount that will go directly to the charity or an estimate of this. Collectors will have to volunteer the statement, not provide it only if asked.

## Who must make the statement

At present, only collectors working for professional fundraisers and commercial participators have to make a solicitation statement. Later this year this will be extended to most types of collectors, so paid employees, officers and trustees of charities who act as collectors will also have to make this statement in future.

However a paid employee, officer or trustee will only be required to state their role, eg that they're a paid employee and won't have to say how much they're personally paid by the charity.

Volunteers won't have to make solicitation statements.

## Coming up

The Office of the Third Sector is preparing guidance to help charities, professional fundraisers and professional participators to comply with the new requirements and will be consulting on this over the summer.



# Charitable Incorporated Organisations (CIOs)

Charities which want a corporate structure currently have to register both as charities and as companies. The Act introduces a new legal form of incorporation which is designed specifically for charities, the Charitable Incorporated Organisation (CIO).

The CIO will combine the advantages of a corporate structure, such as the reduced risk of personal liability for trustees, without the burden of dual regulation.

## Potential advantages of a CIO

The CIO form will have numerous advantages for charities which choose a corporate structure, including:

- A single registration – a charity which is also a company (a charitable company) has to register with the Registrar of Companies at Companies House and the Commission. A CIO will only need to register with us.
- Less onerous requirements for preparing accounts - small CIOs will be able to prepare receipts and payments accounts, larger charities will prepare accruals accounts.
- One annual return - charitable companies have to prepare an annual return under company law and (normally) a separate return under charity law.
- Reduced filing requirements – CIOs will only have to send accounts, reports and returns to us. Charitable companies have to send these to us and to Companies House.
- Lower costs for charities - we make no charges for registration and filing of information, whereas Companies House does.
- Simpler constitutional form – we will produce model forms of constitution which will include fewer fixed governance provisions than is the case with companies.
- More straightforward arrangements for merger and reconstruction – the Charities Act 2006 contains a number of provisions designed to facilitate merger and reconstruction which are not available to charitable companies.

As well as new organisations being able to register as CIOs, the Act contains provisions to enable charitable companies and charitable industrial and provident societies to convert to CIOs.

Charities wanting an unincorporated form will, as now, be able to set up trusts or unincorporated associations. The CIO isn't an alternative to those.

## When will this happen?

The implementation of CIOs is expected early in 2008. While the new Act sets out part of the proposed legal framework for CIOs, more detail needs to be provided by secondary legislation in the form of Regulations. These will be made by the Minister for the Third Sector and set out how CIOs will be created and run. Draft Regulations will be published and a consultation will take place later this year before the final Regulations are made.

The Charity Commission will also be working on model governing documents for CIOs. Watch our website at [www.charitycommission.gov.uk](http://www.charitycommission.gov.uk) for developments in this area.

# Charity accounting, audit and independent examination

The Charities Act 2006 introduces an increased income threshold for audit and independent examination for accounting periods starting on or after 27 February 2007. Further changes, to be implemented later in 2007, will also extend the scope of independent examination to small company charities incorporated under company law. They'll also require the preparation of consolidated accounts for charity groups which undertake activities through subsidiaries.

## Changes applying to accounting periods which start on or after 27 February 2007

### Charity audits

The 2006 Act simplifies the rules about when a professional audit is required and gives both charities which are companies and those which aren't similar thresholds. The level of expenditure will no longer determine whether an audit is required. Similarly, the level of income and expenditure in the two preceding years will not affect audit requirements of non-company charities.

A non-company charity's accounts will have to be professionally audited if it has:

- gross income over £500,000; or
- gross income of more than £100,000 and the aggregate value of assets is over £2.8 million.

### Audit of company charities

Small charitable companies with an income between £90k and £500k

and a balance sheet total of up to £2.8 million aren't required to have their accounts audited if they provide an audit exemption report by a reporting accountant.

Below £90,000, neither a professional audit nor an accountant's report is required for a charitable company unless the balance sheet total comes to more than £2.8m (but see 'Changes coming up' right).

### Independent examination

For non-company charities below the audit threshold an independent examination can be undertaken instead of an audit. Independent examination is required when gross income exceeds £10,000. If the income is above £250,000 then the independent examiner must hold a professional accountancy qualification specified in the Act or be a fellow of the Association of Charity Independent Examiners.

## Changes coming up

### Harmonised scrutiny requirements

A charitable company which is a small company under company law will become subject to the scrutiny regime of the 2006 Act. This will mean that, in due course, company charities will be subject to the same independent examination and audit regime - depending on their gross income and assets - as all other charities.

### Group accounts

The Act will also require group accounts to be prepared where charities undertake activities through subsidiaries. The relevant threshold at which group accounts must be prepared and scrutinised has not been decided yet and there will be a full consultation to help this decision.

Currently the *Statement of Recommended Practice* (SORP) recommends that group accounts are prepared for groups whose aggregate income is more than £500,000 - the charity statutory audit threshold.

All the thresholds above will be included in a general review of thresholds which both the Commission and the Office of the Third Sector will be carrying out this year. A joint consultation on options for change will be published later in 2007.



# Our strategy in action

## Charities delivering public services

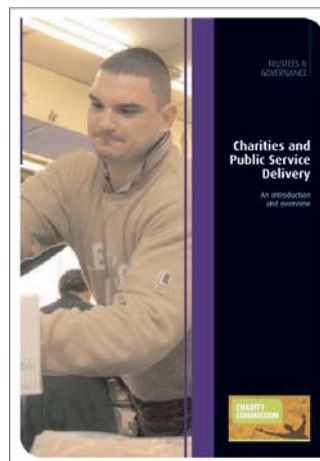
Thank you to the nearly 4,000 charities that responded to our survey about delivering public services. We published the results of the survey, *Stand and deliver: The future for charities delivering public services* (RS15), in February. The findings have significant implications for charities undertaking this kind of work.

We found that over 60% of charities with an annual income of £500k or above were delivering public services but that only 12% of all charities undertaking public services were paid the full costs involved all of the time. In contrast, only 8% of charities with an income below £10,000 (which make up almost two thirds of the Register) were delivering public services.

Needless to say, the report has generated much debate. We hope that the evidence in *Stand and deliver* will generate more work, both by the sector and

government, to ensure that the environment for charities delivering public services respects their independence, mission and financial sustainability.

The Commission has always been neutral about whether charities should deliver public services or not, and it really is a decision for trustees. However, the evidence in our report underlines the need for trustees to carefully agree their charity's approach to public service delivery, including its approach to charging.



### New guidance

To help charities considering taking on public service delivery, we have also published updated guidance *Charities and Public Service Delivery: An introduction and overview* (CC37) which details the issues charities need to consider before taking this work on. These publications are available from our website under 'Publications' or by calling **Charity Commission Direct** on **0845 300 0218**.



## Endorsing high standards in charities

Charities that champion best practice in their quality standards should be applauded and, from January 2007, charities meeting best practice criteria can now apply for Charity Commission endorsement of their quality standards.

Age Concern and YMCA England joined Community Foundation

Network as the first charities with Commission-endorsed quality standards, including areas such as accountable governance structures, conflicts of interest policies and managing staff and volunteers.

We'll now consider for endorsement the quality standards developed by umbrella charities for their members who meet the

criteria for good practice laid down in our publication *The Hallmarks of an Effective Charity* (CC60).

This new accolade for good-practice charities forms just part of our wider partnership strategy which was launched in January. It can be found on our website under 'Strategies, Plans and Reports.'

# Cutting the administrative burden on charities

Readers of *Charity Commission News* may remember our appeal in last summer's newsletter for readers to send us their suggestions of how we could reduce the administration burden on charities.

We're grateful to those who contributed to the exercise and last December we published our *Simplification Plan* which announced our aim to reduce the admin burden on charities by at least 25% over the next three years.

It includes not only the provisions of the Charities Act 2006, but also additional proposals for further admin reductions. These include major changes to financial

thresholds; such as raising the independent examination threshold, subject to further consultation this year.

The Plan is available from our website under 'Strategies, Plans and Reports'. It's ongoing and we'll continue to update it as we identify new measures to help charities. Please continue to send your comments and views to

[simplification@charitycommission.gsi.gov.uk](mailto:simplification@charitycommission.gsi.gov.uk)



## Making the most of Summary Information Returns

Ever wondered what a really effective *Summary Information Return* (SIR) looks like? These are the returns which all charities with income over £1 million are required to send us, helping these charities to communicate their results and achievements to donors, funders and anyone with an interest in their work.

In January we published a review of the first year of SIRs, *In their*

*own words*, which provides examples of the different approaches charities have taken to describe their charitable outcomes, impact and finances.

*In their own words: How charities have responded in the first year of the Summary Information Return* (RS14) is available from our website under 'Publications' (and also in hardcopy) and may provide useful illustrations for those

charities thinking about improving the accessibility and information they provide in their own SIRs.

Trustees may also be interested to know that we have commissioned an independent review of the SIR, which we'll consult on in the autumn. This will form part of our consultation on the Annual Return 2008.



## Modernising Annual Returns

In January, we started a consultation which proposed significant improvements to the Annual Return for this year (AR07), and the results will be published on our website shortly. Because it's been designed primarily as an online process, the AR07 will be easier to complete and using interactive technology we can create instant

guidance links, tailored to each charity's needs.

This year, we will be encouraging charities to use our online service and when your AR07 is ready for completion we will send you an invitation by email or post to go online. Details of how you can request a paper copy will also be

included. If you have not already provided your contact email address, please do so by visiting our website and following the link to 'Update charity details' as part of our online service.

## Extended hours for your charity calls

Since last November, we've significantly extended the opening hours for **Charity Commission Direct**. Trustees, charity advisers and members of the public who aren't able to contact us during normal working hours can now call us when it suits them best.

Our staff are now taking calls from 8am to 8pm during weekdays and from 9am to 1pm on Saturdays, so callers can get quick and effective advice and guidance at a time convenient to them.

We'll carry out a formal review of the impact of the extended service towards the end of this year.



## Questions, questions

**Q. Who actually appoints new trustees?**

- A.** Generally, either the members or the current board appoint new trustees. Ideally, they look at the skills and experience the board already has and actively try to appoint new trustees with the additional skills and experience they need.

Your charity's governing document will specifically state how new trustees should be appointed. If the requirements in the document are complicated then the trustee board may need to contact us to help them appoint. For more detailed information see our guidance, *The Essential Trustee: What you need to know* (CC3), which is available on our website under 'Publications'.

**Q. What types of issues will you consider when someone complains about a charity?**

- A.** Because we have to use our resources where they have greatest impact, we'll generally only consider complaints that involve 'serious risk of harm' to the charity.

This includes evidence of fraud, criminality and maladministration which is putting significant charity assets at risk. It also includes issues such as serious damage to the charity's reputation, misleading the public or the Commission and, of course, failure to keep adequate accounts. This isn't an exhaustive list – to learn more about our approach to complaints view *Complaints about Charities* (CC47) on our website.

**Q. I'm not clear about what constitutes a 'conflict of interest' – can you explain?**

- A.** Charities exist to benefit the public, not their trustees and it's very important that trustees actively avoid putting themselves in a position where their personal interests, or benefit, conflict with the duty to act in the best interests of their charity.

While usually this is fairly straightforward, such as not using charity property for personal gain, there may be instances where it's less clear-cut, such as a trustee's firm undertaking work for the charity. A well-considered policy to manage conflicts of interest for your charity is important here, and we have a number of publications to help. Good starting points are *A Guide to Conflicts of Interest for Charity Trustees* under 'Guidance for Charities' on our website, and *Payment of Charity Trustees* (CC11).

*continued ...*

**Q. You've produced a lot of new guidance since I last looked. Where can I get copies of it all?**

**A.** Our up-to-date guidance can be read and printed off from the 'Publications' or 'Operational Guidance' section of our website.

If you'd like hard copies of our publications please call **Charity Commission Direct** on **0845 300 0218** between 8am to 8pm on weekdays and 9am to 1pm on Saturdays.

All of the publications available from us are free, but please allow 10 working days for

delivery. Please also note that many orders (and all larger ones) are delivered by couriers, so it is important that wherever possible you give us an address at which there will be someone available to physically receive the order.

**Q. A friend is correspondent for another charity and knew about the last edition of Charity Commission News well before my copy arrived. Why?**

**A.** The reason is probably that they had asked us to send them an email alert when the last edition of the newsletter

was published on our website, rather than choosing to have a hard copy delivered by post, which can be up to 2 weeks later.

If you would prefer to receive an email alert at the times of publication, rather than a hard copy, please email us at

**ccnews@charitycommission.gsi.gov.uk**

## Research reports show the way

As well as our publications which give clarification and advice on legal requirements for charities, we also publish 'research reports' which look at specific types of charities and particular aspects of charities' activities.

The reports are based on our own casework experience and internally

held data, supported by large-scale surveys, interviews and consultation with umbrella and advisory bodies. As well as providing a wealth of facts and figures on different aspects of the sector, our research reports provide snapshots of sector development and a range of case studies to help charities as a whole develop and implement best practice.

All the research reports below are available to download from our website under 'Publications' or by calling **Charity Commission Direct** on **0845 300 0218**.

### Trustee recruitment, selection and induction

- Trustee Recruitment, Selection and Induction
- Start as you mean to go on: Trustee Recruitment and Induction

### Order code

RS1  
RS10

### Charity reserves

- Charity Reserves
- Tell it like it is: The extent of charity reserves and reserves policies
- Small Charities and Reserves

RS3  
RS13  
RS5

# Research reports show the way

*continued ...*

## Other topics (latest reports first)

	Order code
• Stand and deliver: The future for charities providing public services	RS15
• In their own words: How charities have responded in the first year of the Summary Information Return	RS14
• The Regeneration Game: The range, role and profile of regeneration charities	RS12
• Cause for Complaint? How charities manage complaints about their services	RS11
• Village Halls and Community Centres	RS9
• Transparency and Accountability	RS8
• Membership Charities	RS7
• Milestones: Managing key events in the life of a charity	RS6
• Collaborative Working and Mergers	RS4
• Charities and Commercial Partners	RS2

## How to contact us

*Charity Commission Direct* for general queries and to contact any of our offices:

### Charity Commission Direct

PO Box 1227  
Liverpool  
L69 3UG

Telephone: 0845 300 0218

Minicom: 0845 300 0219

Email: [enquiries@charitycommission.gsi.gov.uk](mailto:enquiries@charitycommission.gsi.gov.uk)

