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Charity Briefing

Winter 2008/09

Welcome



Sally Jayne Bonner

In recent months there have been a number of significant developments and changes which will affect the charity sector, such as the Charities Act 2006 and the creation of the new Charity Tribunal – yet to be tested. Charitable Incorporated Organisations are still work in progress. The Community Infrastructure Levy, has implications for those of you planning to develop land, and Energy Performance Certificates are now required to be obtained by landlords for all new leases. The conflict of interest duties introduced by the Companies Act, along with

the need to promote the success of the company has further added to the responsibilities of those of you who are trustees of incorporated charities or directors of a trading subsidiary and may require you to update your Memorandum and Articles accordingly. Recent press articles are reminding all employers of the implications on future budgets of the increase in employers pension scheme costs for 2012, and all set against a backdrop of the current difficult economic recession.

The charities team has recently been acknowledged by the Institute

of Chartered Accountants with five more of us obtaining the prestigious 'Diploma in Charity Accounting' and also by Elliot Harris having been admitted to 'The Register of Qualified Mediators' which means he is recognised as having the experience to mediate in a commercial dispute. I look forward to seeing you at one of our many free upcoming charity seminars, details of which are available on our website.

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Fraud - What does it really mean for charities? Part 2



Dr Stephen Hill

In our last Briefing we drew your attention to a survey into charity fraud in which we were involved with the Fraud Advisory Panel. This article looks more broadly into charity fraud.

The impact of fraud on individual charities and the sector as a whole can be devastating. It can damage reputations, lead to the loss of key employees, volunteers and donors, diminish financial reserves and limit the range and extent of charitable activities that can be undertaken.

Defining charity fraud

Charity fraud can be broadly defined as any fraud perpetrated within or against a charitable organisation. This covers both internal and external incidences of fraud, including fake or non-existent charities.

The Oxford Concise Dictionary defines fraud as 'wrongful or criminal deception intended to result in financial or personal gain'. Under the Fraud Act 2006 the criminal offence of fraud can be committed in three ways: by false representation, failing to disclose information, and by abuse of position. The Act also includes offences for obtaining services dishonestly and of possessing,

making and supplying articles for use in frauds. The Act does not extend to Scotland.

The extent of fraud in the charity sector

There are over 213,000 registered charities in England, Wales and Scotland. These range from small local charities to large international organisations. There are also a large number of other charitable organisations which are exempt or excepted from registration with the Charity Commission and/or The Office of the Scottish Charity Regulator. However new provisions under the Charities Act 2006 will require all excepted and some exempt charities in England and Wales with a gross income in excess of £100,000 to register.

Despite the diversity and vibrancy of this sector very little research exists on the nature and extent of charity fraud in the UK. Much of our current understanding is derived from a limited number of governance and risk management surveys which have touched upon fraud rather than any sector-specific fraud research. Findings from available research suggest that there is a large variation

of between 4 – 18% of charities reporting fraud within the sector.

These figures are consistent with a fraud-specific self-report survey conducted in Australia and New Zealand which found that 16% of respondent organisations had suffered a fraud in the previous two years, and that the likelihood of suffering a fraud also increased with turnover. Based upon these figures it appears that fraud in the charity sector, as determined through self-report surveys, is much lower than for other sectors of the economy. For example a recent global economic crime survey found that 43% of organisations reported suffering one or more significant economic crimes during the last two years, increasing to 48% for the UK.

There are two possible explanations for this discrepancy. Either charitable organisations suffer less fraud: or more fraud goes unreported or undiscovered within the sector. Regardless, the cost to the UK economy is likely to be significant.

The Association of Chief Police Officers (ACPO) has estimated that the total cost of fraud to the



economy is at least £13.9 billion per year, increasing to £20 billion when income tax and EU fraud are included. Extrapolating these figures to the charity sector, which accounts for approximately 3.4% of the gross national product (GNP), it is estimated that fraud could cost the charity sector as much as £680 million per year.

Our own Research – what happened?

Has your organisation been the victim of fraud? Currently very little is known about fraud within the sector. It is hoped that the results of our research will enable charities

to better assess the types of risks to which they are exposed and the level of resources required to tackle fraud effectively. The survey also aims to identify low or no-cost actions which can be taken in order to make an immediate impact on fraud losses.

Postal surveys were sent to a range of charities by independent researchers Carol Goldstone Associates with the final results set to be published in early 2009 on which we will be reporting in detail in the next Briefing along with details of a charity fraud health check service, which we will be making available to charities.

The Fraud Advisory Panel and Chantrey Vellacott DFK would like to thank all the charities who completed and returned the survey in what we hope will help this sector gain a better understanding of the risks faced.

If you would like to discuss with us any areas of concern you may have in relation to fraud in your own charity or how to minimise its risk then please contact:

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Public benefit is here!



Helena Wilkinson

The Charities (Accounts and Reports) Regulations 2008 came into force on 1 April 2008. **They are effective for accounting periods beginning on or after 1 April 2008; and extend to only England and Wales.**

These Regulations update the 2005 Regulations and are similar on the whole. However there are two main changes as follows:

- a requirement for charities to report on public benefit in their trustees reports; and
- a requirement for parent charities to prepare group accounts.

Public benefit

As indicated in our previous Briefings, charities now have to report on public benefit for the first time. The Charity Commission has draft guidance available on its website, under 'Public benefit reporting' covering the principles and requirements of public benefit reports. The public benefit must be an identifiable benefit or benefits and must be for the public or a section of the public.

Specifically, a Trustees' Annual Report which covers any period starting on

or after 1 April 2008 must include:

1. a report of those activities undertaken by a charity to further its charitable purposes for the public benefit;
2. a statement by the charity trustees as to whether they have complied with the duty in section 4 of the Charities Act 2006 to have due regard to public benefit guidance published by the Commission.

The Charity Commission website has a wealth of information on public benefit reporting, and specific supplementary public benefit guidance for specific types of charities arising from consultations undertaken which will be added to in 2009. The Charity Commission is also producing an 'examples bank' which will be both fictitious, and in the future will include real life examples of good practice public benefit reporting as they are received by the Commission.

The level of detail included in the Trustees Annual Report is dependent on the size of the charity. Charities below the audit threshold have simpler reporting requirements – to

cover the main activities undertaken; whilst those over the audit threshold need to cover significant activities undertaken which stem from the aims and objectives to the strategies adopted through to achievements measured against these aims and objectives. The extent of changes required to current reports will vary from charity to charity.

Group accounts

The 2008 Regulations have new requirements for parent charities to prepare group accounts where the group income is above the audit threshold (i.e. £500K).

In particular there is a requirement that subsidiary undertakings have the same year end as the parent charity, unless the charity trustees have in their opinion 'good reasons against it'. The Regulations require interim accounts to be prepared for subsidiary undertakings where their financial year ends more than three months before that of the parent charity, and these interim accounts are to be used in preparing consolidated accounts.



The Regulations also go on to specify the circumstances in which a subsidiary undertaking may be excluded from group accounts which are:

- where the inclusion of the subsidiary undertaking is not material for the purposes of giving a true and fair view (Note: two or more subsidiary undertakings may only be excluded if they are not material when taken together);
- severe long term restrictions substantially hinder the exercise of the rights of the parent charity over the assets or management of the undertaking;
- the information which is necessary for the preparation of the group accounts cannot be obtained without disproportionate expense or undue delay;
- the interest of the parent charity in the undertaking is held exclusively with a view to subsequent resale.

Most charities have already been producing group accounts – in line with best practice – so this new legal requirement should not be a surprise or strain, as comparatives are also required.

Other Changes

Finally there are some other minor changes throughout the Regulations which will impact on charities and their accounts. Firstly a new requirement that the accounts must

be prepared in accordance with the methods and principles set out in the SORP – so an expansion to trustees responsibility statements in accounts; they also cover detailed specification of the content of the Trustees Annual Report which is on the whole a replication of the requirements of SORP. However there are some subtle differences in the new requirements, which include:

- Public benefit – as detailed above;
- For auditable charities - details of any significant contribution of volunteers; details of the principle sources of income of the charity (and for group accounts also to cover principal sources of income of the subsidiary undertakings);
- Where any funds are in deficit particular steps taken by the trustees to eliminate the deficit;
- a summary description of the purposes of the charity;
- a description of the organisational structure of the charity – expanded to cover subsidiary undertakings included in group accounts;
- a statement regarding performance during the year of the investments belonging to a charity – again expanded to cover separate material investments held in subsidiaries;
- achievements of the parent expanded to specifically cover its subsidiary undertakings during the year, measured by reference to its

aims and objectives which have been set;

- in respect of reserves which it is appropriate to maintain in order to meet effectively the needs designated by its trusts to cover a description of those policies. These include in particular whether account has been taken of any reserves held by subsidiary undertakings in determining the appropriate level of reserves: and details of the amount and purpose of any material commitments and planned expenditure not provided for in the balance sheet deducted when calculating the amount of reserves.

Independent Examination

The rules for independent examination have changed. For all charities with income between £10,000 and £500,000: the minimum requirement is for an independent examination (but see below re balance sheet) – which now also includes charitable companies!

For all charities the audit requirements are now:

- Gross income over £500,000; or
- Total assets (before liabilities) exceed £2.8M and gross income is over £100K.

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Pre-Budget Report

The November 2008 Pre-Budget Report is a bit of a mixed bag for charities.

VAT

The temporary 2.5% cut in the standard rate of VAT which came into force on 1 December 2008 is a welcome relief for charities. It

is estimated that this will save the sector approximately £70m a year. However this reduction is only for 13 months until 1 January 2010 when the standard VAT rate will return to 17.5%. Charities should consider how they can best make use of this relief particularly if they suffer large amounts of irrecoverable VAT.

The downside is that there will be no benefit on the VAT paid on fuel and power which is taxed at 5%. Duties on petrol will be increased to offset the reduction in VAT.

National Insurance

The proposed increase in National Insurance Contributions for both



Alan Thomson

employers and employees from 2011 will be a real cost to the charity sector which is very staff intensive and the impact is likely to offset the benefit of the VAT reduction.

Small businesses' tax

The commitment that HM Revenue & Customs will enable businesses who are facing financial difficulty to spread their tax on a timetable that they can afford will be of importance to the charity sector. This includes VAT, corporation tax, income and NICs. Of less importance will be the Chancellor's decision to defer the increase in the small companies' rate of corporation tax.

Vehicle Excise Duty

The introduction of new bands of VED, reflecting fuel efficiency, is to go ahead; however, the new regime will be phased in with new rates and lower increases. In 2009, duty rates for all cars will increase by a maximum of £5 and differential increases in duty will start in 2010. Even then, though the more polluting cars will see duty increased, it will be up to a maximum of £30

Gift Aid

It was disappointing that the Chancellor made no reference to improving the Gift Aid scheme or repealing the substantial donor

legislation as maintaining income as much as possible in the current economic climate will be foremost, in many charity finance directors minds. The key will be to ensure that Gift Aid is claimed wherever possible and to ensure that the charity has maintained good links with its donors. A good understanding of why a particular charity's donors give will be essential over the next couple of years if income is to be maintained.

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Website Monitor



Chris Hindle

Credit crunch sees charities squeezed by increased demand for services

Charities are being squeezed by both an increase in demand for their services and increased costs, according to the Charity Commission. A recent survey showed that four in ten charities have reported that they have been hit by the economic downturn.

One in five charities surveyed that deliver services have seen an increase in demand for their services over the last twelve months. At the same time, more than half of all the charities surveyed have reported that they had seen increased costs in things such as energy, food and travel, indicating the squeeze some charities are experiencing.

A representative sample of just over 500 charities of all sizes was interviewed and other findings showed that over the past year:

- One in four charities that collect monetary donations reported a decrease in donations.
- One in twelve of the charities which

reported a decrease in donations generally said they had had to make redundancies as a direct result.

- One in four charities surveyed said they had already put new measures in place to deal with the credit crunch or will do in the future, with more than half of charities surveyed with an income of more than £1 million saying they have already or will put new measures in place.

There are 190,000 charities registered in England and Wales. Two thirds of these have an income of less than £10,000 a year: 9,000 charities have an income of more than £500,000 a year. The survey included charities working in the area of health, social services, community-based work, education or research, religion and arts, culture and sport.

The Commission has been contacted by some charities that had money in collapsed Icelandic Banks, including one charity that had £11 million deposited. The Commission

is providing support and advice to charities via its helpline as well as current information on savings protection and information on the Financial Services Compensation Scheme on its website. The site also provides advice and guidance for charities on investments and managing risk.

Charity information made more accessible than ever

Information on charities is now more accessible than ever before, thanks to a new version of the Charity Commission's online register. The independent charity regulator has launched the new register providing colour graphics and details of activities, trustees, key financial information and whether charities file their accounts and returns on time. For charities with incomes over £500,000, new financial profiles show what they receive and how they spend their money.

The move is aimed at increasing the transparency and accountability of the charity sector and to help people access information about charities.



Previously, the same financial information was available to the public but only in the form of written documents held online.

Key features of the enhanced online Register of Charities include:

- **A detailed profile for charities with an income over £500,000** including easy-to-read graphs and text showing the charity's income and spending, how many volunteers and employees they have and their track record for submitting accounts. A more succinct financial profile is available for smaller charities.
- **Enhanced search facilities** to search for recently registered charities, charities that have not filed their accounts with the Commission on time, and charities working in a particular field or particular geographical area.
- **Trustee cross-referencing and new print options** that show if a particular trustee is also a trustee of other charities, and options to print off copies of a charity's entry in colour or in black and white.
- **A Feedback section on the Welcome Page** which invites users to tell the Commission what they think of the new online register and how it can be further improved.

Last year 98% of the charity sector's income was accounted for in the accounts sent into the Charity Commission. The 9,000 charities that have an income of more than £500,000 are expected to provide more detailed information on their finances due to the larger amounts of money they are responsible for. The new colour graphics are charts generated from this information.

According to recent Ipsos MORI research for the Charity Commission,

96% of people believe it is important that charities provide public information on how they spend their money.

The research, conducted in February 2008, also found that:

- 85% of the public say they give to charity
- nearly half (47%) say they have donated goods in the last year
- nearly one third (32%) say they have given time.

Last year (June 07-June 08) there were nearly 15 million page views of the current online Register of Charities, which accounts for more than half of all page views on the Charity Commission website.

Changes to Financial Thresholds - a Big Difference for Charities

The Government response to the joint Commission/Office of the Third Sector consultation on financial thresholds has been published.

Essentially, it explains the Government's agreement to some key changes to current thresholds in the Charities Acts and their decision to reject two of the consultation's original recommendations. The response contains a full list of the agreed changes of which the most significant are:

- threshold for submission of annual accounts and Trustees Annual Report (TAR) to be raised from £10,000 to £25,000.
- threshold for requiring accounts to be externally examined to be raised from £10,000 to £25,000
- threshold for preparation of accruals accounts to be raised from £100,000 to £250,000

Another notable decision is the rejection of perhaps the most significant recommendation in the

original consultation - that a TAR preparation threshold of £25,000 should be introduced. Preparing a TAR will therefore remain a requirement for all registered charities. It is intended that the changes will be made in time to have effect from 1 April 2009.

Three-year plan for Charity Commission - Refreshed strategic plan sets vision, mission and values to 2011

The Charity Commission, has published its strategic plan for 2008-11, the latest step in the delivery of its 2005 Strategic Review. The new plan confirms the direction established in the original review and sets out details of the Commission's refreshed vision, mission and values for the next three years.

The refreshed strategic plan acknowledges the Commission's achievements since 2005, including the creation of its award-winning contact centre; consultations and guidance on public benefit; and allowing charities to file accounts online. It also reflects on the restructuring and changes made over the last 12 months that will enable the Commission to deliver on its key aims and objectives for the next three years in the current funding climate.

The plan shows how the Commission has taken steps to ensure it can deliver on revised strategic outcomes in line with the new objectives given to the Commission by Parliament in the Charities Act 2006. In addition, it emphasises that the Commission is an independent regulator of the charitable sector, adding Independent as a new value, to run alongside the existing values of



Effective, Expert, Fair, Innovative and Responsive.

It also identifies a number of key strategic themes that will influence the Commission's priorities, shape its performance and ensure it delivers against its mission and strategic outcomes over the next three years.

These include:

- continuing the commitment to modern, risk-based regulation;
- delivering organisational change and valuing people;
- independent, objective decision-making and leadership;
- driving the accountability of charities to the public;
- delivering faster, more efficient services to customers;

- and completing implementation of the Charities Act 2006.

As always the above and other information can be found in detail on the Commission's website.

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Trustee Training



Elliot Harris

There is a requirement in the Trustees Report to disclose the training that trustees undertake to enable them to fulfil their responsibilities. Many charities have very little information disclosed about this and much of it often refers to a "pack" given to new trustees when they join the board of trustees.

Training for trustees is not just something that happens when you become a trustee but is an ongoing need, particularly for the longer-serving trustees who may find

they have to cope with constantly changing rules and regulations.

We at Chantrey Vellacott DFK are proud of our record in providing training facilities for charity trustees. We hold a regular series of training sessions both in London and Leicester which cover a wide variety of topics including both changes in legislation and guidance as well as recurring training topics for newer trustees.

In addition, we provide tailored in-house sessions for clients which can run alongside trustees meetings and which last for an hour, or longer facilitated sessions at trustee's away days which as well as trustee specific training can also cover such areas as risk, corporate re-organisation etc.

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Who to Contact

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This briefing has been written for the general interest of our clients and contacts. It is essential to take advice on specific issues. We believe that the facts are correct as at January 2009 but there may be certain errors or omissions for which we cannot be held responsible.

The opinions expressed in guest articles are those of the respective contributors and their firms. We believe that these should be of interest to our clients and contacts but the articles do not necessarily represent the views of Chantrey Vellacott DFK LLP.

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