



NEWS

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Forward planning for a secure future

Introduction by Dame Suzi Leather

Some economic pointers suggest that the worst of the recession may soon be over. The savvy in the sector will welcome flickers of light at the end of the proverbial tunnel but retain a cautious realism. The value of investments and legacies is unlikely to make a swift return to 2007 levels. It's inevitable that public funding will become tighter next year and will particularly affect those charities which receive local or national government grants, contracts and funding.

Many charities have been badly affected by the downturn and many others have had to make hard

decisions to keep afloat. Charities need to continue keeping an eye on their sources of funding, reviewing services and being clear about their organisational priorities in the months ahead. Inside this issue of *Charity Commission News* we offer some pointers to help trustees do this.

Charities have provided vital services to greater numbers of beneficiaries than ever during the worst of the economic downturn. Many people are turning to charities for the first time - both *for* help but also offering *to* help. Figures on giving suggest that, overall,

people are still trying to give what they can. It's crucial that charities themselves match this approach - doing all they can to plan for the future to enable them to thrive in a more challenging economic climate.

Suzi Leather

Dame Suzi Leather, Chair

Our strategy in action

Assessing public benefit in practice

Trustees of charities whose financial year started on, or after, 1 April 2008 are now considering how they will report on their public benefit for that year. As well as the overarching public benefit guidance for trustees of all charities, we have also published supplementary guidance for charities whose purposes include the advancement of religion or education, those set up to relieve poverty and those which charge fees.

We also have a growing online library of illustrative example Trustee Annual Reports to help trustees in their own reporting.

More recently, we published online the results of our assessments of twelve real-life charities in July. Of the twelve charities assessed, eight are clearly meeting the public benefit requirement and four are currently not. All this material is available from our website.

Public benefit – the context

Some of the media coverage around these assessments has been somewhat misleading, so we'd like to clarify some of the facts for *Charity Commission News* readers.

The public benefit requirement for charities actually came about by Parliament making a change to charity law through the Charities Act 2006. This change had the effect of requiring every charity to demonstrate that its purposes are for the public benefit. Over many months of debate, Parliament decided that the best way to help charities adapt to this new level playing field was through the independent charity regulator – the Commission.

While much of the recent media coverage has focused on the impact on charitable independent schools, the public benefit requirement actually applies to all charities and,

in our initial assessments, along with five schools, we also included four religious charities and three charitable care homes.

The key point about the public benefit requirement is that, whilst it is based in charity law, it reflects what the public expect from charities ie that they operate for public good. The primary role of the Charity Commission as a regulator is to maintain public trust and confidence in charity. We have a long history of making decisions independently, transparently and impartially, based on the legal framework within which we are required to operate. Our approach to our public benefit work continues to meet these principles.

Getting charities back on track

While high-profile investigations are most likely to hit the press, the work of our Compliance staff is much wider than just these formal inquiries. Much of it involves working with trustees to help resolve problems in their charities and get them back to running their services. In October we published our yearly report into this aspect of our work, *Charities Back on Track: 2008-09*.

As well as identifying key trends in our work with charities during the year, the report contains a range of actual case studies along with relevant advice to help trustees avoid similar problems in their own charities. This year, case studies

include problems with financial mismanagement, fundraising, safeguarding vulnerable beneficiaries, and the importance of party political neutrality. Trustees may find it useful to see what problems other charities have encountered and steps they can take to minimise such risks themselves. *Charities Back on Track: 2008-09* is available to download from our website or, for hard copies, by calling **Charity Commission Direct** on **0845 300 0218**.



Help with setting up the smallest charities

Some charity constitutions can be complex and lengthy, putting off the very people who are keen to be involved as trustees of a small, local charity.

To tackle this barrier to participation, we teamed up with nine umbrella organisations to write a new constitution for small charities, which we have published online. All these organisations share a commitment to help small charities run properly, be accessible and flourish in every community.

The constitution is easy to understand, only 700 words long and covers the legal requirements for a small charity which does not intend to own land or employ people. It is designed for charities that expect to stay small, and with incomes under £5,000, which

means they won't have to register with the Commission but must still comply with charity law.

The online *Small Charities Constitution* is accompanied by links to a wide range of guidance, advice and publications, all designed to help new trustees.

We believe this is an important step in supporting a vital and energetic force in society, that of people getting directly involved in their communities where they see a need for positive change.

The *Small Charities Constitution* is available from our website.

Charitable Incorporated Organisation (CIO) – Update

In the last issue of *Charity Commission News*, we reported that a summary of consultation responses and next steps to create a framework for the CIO would be published later in the year.

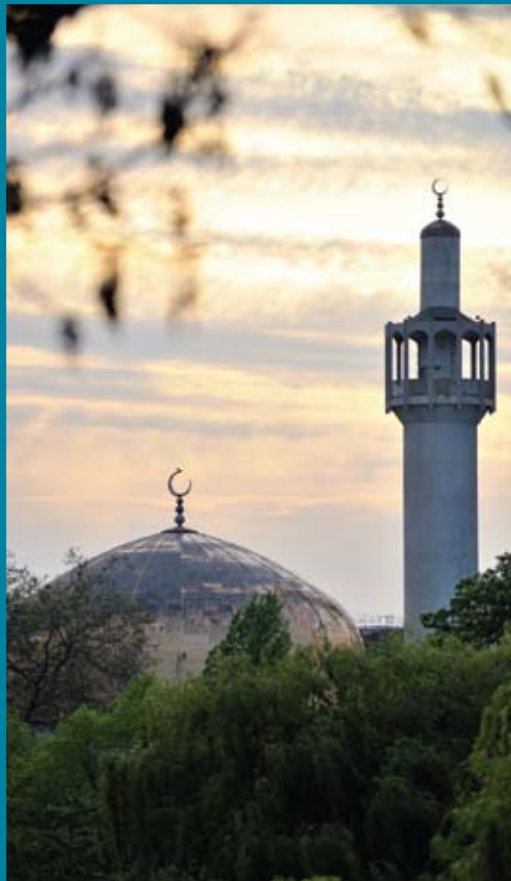
The joint response, from both the Charity Commission and the Office of the Third Sector, was published in September. As a result of the consultation, some important changes have been made, including:

- ensuring a robust, fixed, duty of care – removing the proposal that CIO trustees could take less responsibility for their organisation's activities than the trustees of a charitable company;
- tightening up rules on access to personal information in the registers of trustees and members that CIOs will have to maintain; and
- replacing a number of minor criminal offences for administrative failings with the power for the Charity Commission to direct that they be put right.

The aim is for the CIO to become an option for charities starting from the second quarter of next year. Both new and existing charities will subsequently be able to consider becoming a CIO, although other existing forms of incorporation will also remain available.

We'll ensure updates and developments for the CIO are available on our website as they happen.





Reaching out during Ramadhan

By the end of April this year, 455 mosques had registered as charities with us, but we're sure there are others who aren't aware of either the legal requirement to register as charities or the many benefits that charitable status gives. During the Muslim festival of Ramadhan, which took place during August and September, we ran a satellite television campaign to raise awareness of the issue. To view the campaign clip go to www.youtube.com/TheCharityCommission

We hope more mosques will now be aware of the significant advantages of registration, from generous tax breaks and tax-efficient giving to the free expert

and tailored advice we can provide on running a charity.

Our Faith and Social Cohesion Unit also issues a newsletter to mosques to help keep them up to date and we have also published an online example of the trustees' annual report for a fictional mosque to help others report on the public benefit they provide.

For more information on how to register as a charity see our website.

Ensuring the independence of NHS charities

We have identified some confusion within the NHS around whether trustees of NHS charities, especially the 282 NHS bodies which act as corporate trustees, should consolidate their charity's annual accounts with those of the NHS body itself, which effectively count charitable funds as being within the public purse. Because

independence is one of the key characteristics of being a charity it's not appropriate for charitable funds to be automatically consolidated this way.

To help clarify the issue, in August we published guidance to explain the obligations of trustees in NHS charities. *Maintaining independence* has been developed in consultation

with the Association of NHS Charities and the Healthcare Financial Management Association and is available from our website.

Your views on a new accounting framework

The Charities Statement of Recommended Practice (SORP) applies to all charities preparing accrual accounts. The SORP's accounting recommendations are currently based on UK accounting standards which are developed by the Accounting Standards Board. The Accounting Standards Board is currently consulting on the future of UK accounting standards as the UK moves towards a new framework provided by International Financial

Reporting Standards (IFRS). More than 100 countries now require or permit the use of IFRS or are converging with these standards. The most important aspect of the consultation for charities is the proposal for the development of an IFRS compliant not-for-profit accounting standard which would apply to all UK not-for-profit entities including charities.

We will be publishing our views and our response to this important

Accounting Standards Board consultation on our website shortly. In the meantime, the Accounting Standards Board's consultation, which closes on 1 February 2010, is available from their website at www.frc.org.uk/asb/press/pub2054.html

Good Governance in action

Facing the future

In the last issue of *Charity Commission News* (Summer 2009) we included a supplement, *Big Board Talk*, which set out 15 key questions we think all trustee boards need to ask to help them review their effectiveness in the light of the recession. *Big Board Talk* can also be downloaded from our website.

We know that many thousands of trustees have since used *Big Board Talk* and we hope they found it practical and useful for their charities. But charities now need to plan for a future where public funding may be reduced and in which many may have to do more with less – reviewing and revising will remain an important aspect of charities' strategy for a considerable time to come.

big board talk

...the conversation
all charities need to have

Weathering the storm – latest economic survey

Our third *Economic Survey of Charities* was published in September. While some charities are seeing their situation improve, others continue to experience difficulties.

What is clear is that the proportion of charities surveyed who are being impacted by the recession has risen to 56%, up from 52% in March's survey. Given that 38% reported being affected in September 2008, it's clear the effect of the downturn is still being felt by many charities. Perhaps unsurprisingly, 69% of charities with investment income

cited it as the main source of income which had decreased.

What was encouraging was the evidence that charities have become more proactive when it comes to counteracting the downturn's effects. While only 12% had taken action in September 2008, this has risen to 52% in the latest survey.

A number of different strategies were reported for dealing with the downturn. Over a fifth of respondents had looked at reducing the cost of things like stationery, mobile phones and energy costs and 8% had increased their fundraising activities.

Large charities emerged as far more likely than others to have reduced their outgoings – 57% of those surveyed had done so compared to 21% generally – and also to have reviewed their risk policies, at 40% compared to 13% more generally.

While it's clear that larger charities may have more to gain from efficiencies of scale, all charities can, and should, consider steps to minimise risk and improve efficiency. One of the most obvious ways of doing so, of course, is to consider working collaboratively with other charities.

Collaborating for cost-effectiveness

While the latest *Economic Survey* showed a rise in the number of charities considering working together with other charities, this figure still remains very low at 9%. We would strongly urge more charities to consider ways in which they can work with others to save costs and maximise impact. Many 'backroom' services, for example, may be obvious candidates for a more joined-up approach. Sharing IT services, mailshot provision and fundraising administration are just some of the areas where savings can be made.

To help more charities consider the options of working collaboratively, last month we published a Toolkit, *Choosing to Collaborate*.

Merging with another charity is also an option that more charities are considering. It's a decision which needs thought and planning. To help charities in this position last month we also published a Toolkit on mergers, *Making Mergers Work*.

Both Toolkits are available from our website.



Financing to help charities work together

In February this year the Cabinet Office announced *Real Help for Communities: Volunteers, Charities and Social Enterprises*, an action plan including a series of new funding programmes targeted at managing the impact of the recession on charities and voluntary groups.

This included a £16.5 million Modernisation Fund, managed by The Social Investment Business, to help voluntary organisations cope with to the impact of the economic downturn.

Interest free loans of between £30,000 and £500,000 will be

distributed to organisations with existing plans for merging, collaboration or who want to take forward other activity to help their business prepare for difficult times.

To be eligible, your organisation must be:

- Delivering services that benefit people or communities affected by the recession, in England
- Taking immediate steps to adapt to and meet the challenges of the recession
- Unable to raise funds commercially

- A solvent organisation, willing and able to take on a loan of at least £30,000
- Able to draw down the funds by 31 March 2010

To find out more visit <http://www.socialinvestmentbusiness.org/our-funds/modernisation-fund/> where you can check your eligibility. Alternatively, you can call the enquiry line on **0191 269 2277**.

Good news from grant-making trusts and foundations

While some types of charities are being more severely affected than others by the downturn, the picture for many grant-making trusts and foundations shows forward planning can pay off.

Our research report, *Firm Foundations: A snapshot of how trusts and foundations are responding to the economic downturn*, published in August, showed that levels of grant-making

are, despite the recession, being sustained. Encouragingly, the organisations we spoke to actually said that the downturn had had a positive effect on their governance; they are taking a strategic approach with trustees focusing more on their collective board responsibilities.

While the charities surveyed were maintaining their levels of grant-making, they acknowledged they would need to remain vigilant

in monitoring the full effects of the recession. However, their long experience of managing and monitoring their investments has stood them in good stead, providing a strong example to other charities to build in regular reviews of how their income sources are performing.

Firm Foundations is available from our website.

Updated guidance for charitable shared ownership housing

The impact of the economic downturn on the housing market is causing problems for some registered social landlords (RSLs), making it harder to attract beneficiaries for their shared ownership developments.

Earlier this year, working jointly with HMRC and the Homes and Communities Agencies, we

produced updated guidance, *Affordable Home Ownership – Charitable Status and Tax*. This updated guidance shows how RSLs can comply with charity law and further a charitable purpose by explaining how they can ensure the provision of access to low cost home ownership.

The guidance has also been updated to explain the options available to charitable RSLs with shared ownership housing developments where, due to a major change in circumstances, the properties can no longer be used for their original purposes.

Affordable Home Ownership is available from our website.

Giving inactive trusts a Boost

Charities can become inactive over time. This can happen for a number of reasons but the end result is that charitable assets aren't being used to help neighbourhoods and communities in the way they should.

The Boost Initiative is a national programme aimed at linking trustees of dormant and inactive trusts to local community foundations, enabling them to use the foundation's knowledge and

experience to deliver charitable funds locally.

For more information visit www.boostinitiative.org.uk

Fundraising - the basics

Thank you to everyone who completed our online survey into how useful you found this newsletter. We also asked for suggestions of topics you'd like to see covered in future issues. While some of them – investment advice, for example – are outside our remit, we'll be using many of these suggestions for future issues.

One of the areas that many respondents to the survey said they would appreciate is a refresher on the basic requirements around fundraising.

Fundraising involves a wide range of issues and it's not possible to cover them all in one article. There

are also very many different ways in which charities can raise funds – one of these is when they use other people or businesses to help them to raise funds. Charities can benefit from working with others but there are pitfalls of which they should be aware. This issue of *Charity Commission News* looks at some of the requirements involved when using others to fundraise for your charity; other areas of fundraising will be covered in future issues.



Getting external help to fundraise

Charities can work with professional fundraisers or commercial participators. A 'professional fundraiser' is a person or business that is paid to raise money for charities. The charity may be employing them to do such things as developing and implementing a fundraising strategy which includes asking for donations. A 'commercial participator' is not a fundraising business, but a person or body that, during its normal business, takes part in promotional activity which refers to money being paid to a charity. The commercial participator may be using the charity's logo to

promote their product and giving the charity a sum of money for every product sold or it could be a company which collects old clothing by going from house to house – it uses the charity's name as an incentive to people to give and pays the charity a sum of money related to the amount of clothes they collect.

Unless this is handled well it can confuse the public who may be unclear about the relationship between whoever is asking them for support and the charity. Because of this charities must be careful

about how they fundraise in this way. In particular they should be careful about the agreements which they must follow and the way in which professional fundraisers and commercial participators tell the public about how they are working for the charity. Charities must be sure that they are getting the best deal for their charity, that they protect the reputation of their charity and that the agreements which they enter into and the ways in which the public are asked for support meet the legal requirements.

What should be in an agreement?

If you decide to enter into an arrangement with a professional fundraiser or a commercial participator, you must, by law, have a written agreement with them which spells out the terms of the deal. The agreement must cover how long the charity will work with the professional fundraiser or commercial participator, what

the objectives of the venture are, the methods to be used and, if more than one charity is involved, the proportions each will get. An agreement with a commercial participator must also state either the amount of money a charity will get or the proportion of the proceeds which will be given to charity. It must also cover the amount of

remuneration or expenses which the professional fundraiser or commercial participator can be paid and how that is worked out.

For information about the legal requirements for such agreements look at the guidance published by the Office of the Third Sector.

(see overleaf)

Where can I get more advice about using external help to fundraise?

In our publication *Charities and Fundraising* (CC20) you will find a checklist of issues which trustees should think about. It is available from our website.

The Office of the Third Sector has published guidance about the legal requirements for agreements between charities and professional fundraisers or commercial participators and about the solicitation statements which

they must make. The details can be found here:

http://www.cabinetoffice.gov.uk/third_sector/news/news_stories/081217_guidance.aspx

Details of both legal requirements and best practice can be found from the Institute of Fundraising's website at:

www.institute-of-fundraising.org.uk

Signing up to the Fundraising Standards Board (FRSB), the complaints body for people with complaints about fundraisers, may reassure donors that they are dealing with a charity committed to the highest fundraising standards. Information on the FRSB is available from www.frsb.org.uk



Postal delays and how to avoid them

You will be aware of the industrial action taken in recent months that has affected post. This is a timely reminder that you can email the Commission AND attach any documents you wish to that email. The benefit to you is that unlike the delay you experience when writing

to us we can turn around your email request in a few short days resulting in better service to you: enquiries@charitycommission.gsi.gov.uk

How to contact us

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Your comments and suggestions for improving this newsletter are always welcome. Please write to CC News Editor at the Charity Commission address above or e-mail: cc_newseditor@charitycommission.gsi.gov.uk

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