

12 November 2009

A newsletter for organisations with charitable status

**In this issue:****Sector news**

Independent schools - public benefit

Themes and lessons from the Charity Commission's compliance work 2008-09

Vetting and barring scheme guidance

New e-campaigning website

Skills - Third Sector

**Technical update**

Going concern guidance

Your chance to shape the future of charity reporting

Incorporating your charity – questions and answers

Academy schools – guidance and information

**Scotland**

OSCR consultation

Scottish recession support fund

Model company articles for Scottish charities

**Forthcoming events****Sector news****Independent schools - public benefit**

Dame Suzi Leather, Chair of the Charity Commission, addressed the Headmasters and Headmistresses Conference earlier this month on the issue of public benefit in the independent schools sector. In her speech Dame Suzi refuted allegations that the Commission's approach to the public benefit issue was politically motivated, stating that: "Our motivation comes straight from one of the statutory objectives we are charged by Parliament to deliver - to promote awareness and understanding of the operation of the public benefit requirement. We are the regulator and under the Charities Act this is our responsibility". She also commented that where schools were deemed not to be meeting the public benefit test they were not expected to immediately 'pull a rabbit out of the hat' and that the Commission would be looking for demonstrable commitment to satisfying the public benefit requirement, and would not normally expect the time period for change to exceed five years. This is the first occasion that a time period has been set and contrasts with the three year timeframe given by The Office for the Scottish Charity Regulator (OSCR) for Scottish schools.

Although her speech was widely reported in the press as representing 'a reprieve' for independent schools, the sector has had a mixed reaction, particularly as the new 'policy' was announced in a speech rather than being set out in a Charity Commission news release or revised guidance notes. It is also worth noting that the two schools which 'failed' the public benefit test in the pilot studies have, we understand, now submitted their plans within the required three month period, but that, in the same speech Dame Suzi also stated that in future a nine month period would be given. More detail on Horwath Clark Whitehill's views on this subject can be found in our *Public Benefit Briefing for Schools* available on our website.

**Themes and lessons from the Charity Commission's compliance work 2008-09**

During October the Charity Commission published its second annual report on the themes and lessons from the compliance work it has carried out. The report, covering the period to March 2009, gives an insight into the compliance work of the Commission and also includes a number of examples of specific charities investigated and from them draws the more general issues for the sector. Although the cases included are often at the extreme end of non-compliance, the themes raised may be relevant across the sector and signposts provided to the related Charity Commission guidance are very useful.

The examples provided in the report include inappropriate fundraising arrangements, issues regarding political independence of charities, responsibilities for vulnerable beneficiaries and a dispute about who were actually the trustees of a charity. The report can be downloaded at:

<http://www.charitycommission.gov.uk/news/track.asp>

**Vetting and barring scheme guidance**

October saw the new vetting and barring scheme go live. The Independent Safeguarding Authority (ISA) was formed on recommendation from the Birchard Inquiry which was undertaken following the tragic events in Soham.

12 November 2009

The ISA's role is essentially to vet all applicants for positions which involve working with children and vulnerable adults – a decision process previously carried out by employers.

The scheme brings new legal responsibilities for employers and so the ISA has issued guidance for both employers and employees. Although some of the requirements are to be phased in over the next 18 months or so, those for new employees come into force immediately and we recommend that all charities review the guidance to ensure that they aren't inadvertently in breach of the requirements and also to ensure that they have assessed whether they are involved in any regulated or controlled activities. Further details of the new scheme and the guidance are available at: <http://www.isa-gov.org.uk/default.aspx>

#### **New e-campaigning website**

NCVO has just launched [louder.org.uk](http://louder.org.uk) a site offering a range of online tools for e-campaigning. The site allows a 'one stop shop' including tools for e-petitions, blogging and disseminating video. Users can also update social networking sites such as facebook, twitter and YouTube through the site.

Although in the early stages (currently a 'beta' site), it is likely that this will provide a useful facility for smaller charities, individual campaigns and perhaps charity branches to quickly and simply get a message out there. Larger charities may also want to consider whether they should monitor the site to ensure that only authorised campaigning is being carried out in their name. <http://www.louder.org.uk/>

#### **Skills - Third Sector**

Ensuring the right skills are held across trustee boards, senior management and staff of charities is an ongoing issue for the sector, so the launch of Skills – Third Sector is likely to be warmly welcomed.

The site aims to provide the coherent voice that third sector organisations need to influence strategy and policy in relation to their skills development, underpinned by a strong and credible research base. The site includes tools which are tailored for all levels of a charity (from volunteers to trustees and on a teams level) to help identify training needs. There is also advice on how to best address skills gaps, including details and links for relevant qualifications and a forum for users to raise questions and make comments. <http://www.skills-thirdsector.org.uk/>

## **Technical update**

#### **Going concern guidance**

With the backdrop of the current economic climate, the Financial Reporting Council (FRC) has issued further guidance for directors on going concern and liquidity risk.

Although the report is orientated towards the 'for profit' sector, it remains a useful tool for trustees as it outlines their responsibilities and how they might go about fulfilling them. It will at the very least be thought provoking for trustees and senior management. The issues are generally addressed with focus not only on large companies (which may be useful for the larger national charities), but also across the spectrum to issues for small companies (which will be of practical help to smaller charities).

The report is available at:

<http://www.frc.org.uk/publications/pub2140.html>

12 November 2009

**Your chance to shape the future of charity reporting**

Last month we reported on the Accounting Standards Board's consultation on the future of UK Generally Accepted Accounting Practice (UK GAAP). Following on from that, the Charity Commission has endorsed what it called a set of principles for the successful development of a public benefit standard. These principles are as follows:

- provide a mechanism to ensure charity sector involvement in its development
- recognise and set principles for both the annual report and the accounts
- provide a 'one stop shop' approach for a single coherent and accessible standard for the charity sector
- deliver a standard that is as accessible and relevant as possible, and uses the existing international accounting standard designed for small and medium sized enterprises as its model
- recognise the need for a proportionate approach in the context of smaller charities.

The Commission notes that it will publish its formal response to the consultation early in the New Year and encourages the sector to do likewise.

Coinciding with the ASB's consultation, the Commission is hosting a conference entitled *Shaping the Future of Charity Reporting*, at which delegates will have the opportunity to hear and question the Chair of the ASB, Ian Mackintosh, on the ASB's proposals.

For further details and to book a place at the conference please go to:  
<http://www.charitycommission.gov.uk/tcc/conlink.asp>

**Incorporating your charity – questions and answers**

A question that often comes from our clients is what the advantages and disadvantages are in incorporating and what the steps are to achieve this. The Charity Commission has published guidance on this perennial issue on its website.

The document, which takes the now familiar short answer/long answer format, addresses issues such as the type of incorporated entity available, what the practical changes are on incorporation, director/trustee liability and statutory reporting differences for corporate charities.

If you think that incorporation may be a valuable option for your charity, please contact us and we would be happy to advise further.

The document is available at:  
<http://www.charitycommission.gov.uk/supportingcharities/incqanda.asp>

**Academy schools – guidance and information**

The Charity Commission has recently published model governing documents and funding agreements for academy schools. The documents have been prepared in consultation with the Department for Children, Schools and Families and have their approval.

