

charities fail public benefit test

A third of charities in England and Wales recently assessed by the Charity Commission failed to demonstrate they are providing a public benefit under the Charities Act 2006. As a result they risk losing their charitable status, and were given three months to respond to the Commission's findings, and a further nine months to develop a plan for moving towards meeting the public benefit test. However, in October 2009, Charity Commission chair Dame Suzi Leather announced that charities, not currently meeting the public benefit requirements,



could have up to five years to make the necessary changes.

Although the Act does not define public benefit, Charity Commission guidance gives examples such as providing education, conserving the environment and caring for sick animals. The aims of some charities, such as those providing emergency relief following a natural disaster, are so clearly beneficial that no special evidence would be needed to meet the test. But other charities, such as those devoted to preserving a particular landscape or building, might need to spell out in some detail how they benefit society.

According to the Charity Commission report, four out of the twelve organisations examined did not meet the test although this was for a

variety of reasons. One, a school, is providing education but charges high fees which has the effect of reducing access to those unable to afford to attend. Another, a hotel providing holidays for the elderly and disabled, appeared to be operating towards an aim which was not stated in its charitable objects.

As the public benefit test becomes increasingly important, Sarah Nelson of the Charity Commission recommends reading the guidance it regularly publishes. *"The examples of annual reports available on our website, and the supplementary guidance that clarifies particular cases such as schools, are details of the public benefit test."*

Charity Commission guidance: www.charitycommission.gov.uk/publicbenefit



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a guide to VAT for charities seminar

Thursday 25th February 5pm for 5.30pm
Ashcombe Court, Woolsack Way, Godalming, GU7 1LQ

We are delighted to invite you and any colleagues to a seminar led by Roffe Swayne's VAT Expert, David Moll, covering all aspects of VAT that needs to be considered by charities.

The seminar will also include some real examples of recent cases to illustrate various points.

It will last approximately one hour and will be followed by drinks and canapés and an opportunity to talk to the Roffe Swayne Charities Team and David about any particular issues you have on VAT.

If you would like to reserve a space, please telephone Jane Steel, Events Manager on 01483 416232 or email her on jsteel@roffeswayne.com

There is no charge being made for this seminar but please reserve your space to help us with catering arrangements.

confusion remains over audit exemption

Some of the complexities of charity audit requirements have been explained in a new guide published by the Charity Commission. The guide addresses some of the questions the Commission is often asked since changes to the regime began coming into effect on 1 April 2008.

Under the Charities Act 2006, all incorporated charities (often referred to as charitable companies) with an income exceeding £500,000 must have their accounts audited.

Smaller charitable companies with a turnover between £10,000 and £500,000 can choose to be exempt from audit requirements under the Companies Act 1985, and instead have their accounts audited or independently examined under the Charities Act 1993.

However, the benefits for eligible charities choosing exemption are limited, unless their income falls below £10,000. Then, useful cost savings can be made and time saved by avoiding the paperwork needed for a full audit. This lower limit for charities' gross income increases from £10,000 to £25,000 for 1 April 2009.

There are also exceptions to these rules for charities that have income over £100,000 (£250,000 from 1 April 2009) as well as gross

assets over £2.8 million (£3.26 million from 1 April 2009). These charities will also require an audit.

Confusion has arisen, however, where accounting periods have started since 1 April 2008. In these cases charitable companies that are exempt from the audit requirement under the Companies Act 2006 must nevertheless follow the audit rules of the Charities Act 1993. They are also required to include a statement on their balance sheet declaring that they are exempt from audit under the Companies Act, even if the accounts have been audited under the Charities Act.

Furthermore the requirements differ for charities operating in England and Wales and those based in Scotland, and those in both jurisdictions.

Small Scottish charitable companies can choose exemption under the Companies Act 2006, but will still be required to obtain an audit under the Charities and Trustee Investment (Scotland) Act 2005 and the Charities Accounts (Scotland) Regulations 2006.

The Charity Commission questions and answers explain how audit exemption statements should be worded, how groups of charities may present accounts if they report separately but operate under a parent organisation, and which charitable companies can opt for exemption. They are available online at: <http://snipurl.com/ryox2>



tills ring profits for charity shops

Charity shops are the big winners on the high street as the recession has continued to hit household budgets.

According to the Charity Shops Survey for 2009, leading UK charities, including Oxfam, Cancer Research UK, the British Heart Foundation and the Salvation Army, have increased their profits in the past year, as consumers look to stretch their pressurised budgets by buying from charity shops.

According to David Moir, head of policy and public affairs at the Association of Charity Shops (ACS), charity retail premises have seen an increase in footfall and sales as people trade down to good-quality, second-hand goods.

The ACS findings are supported by

the results of a survey conducted by YouGov for charity insurance firm Ecclesiastical. It found that 13% of people in the UK now purchase items from charity shops, and one in ten are buying more from charity shops than they did prior to the recession.

The research also found that one in five people, who regularly visited charity shops before the start of the downturn, had increased the frequency of their visits.

However, two-thirds of people surveyed claimed they had increased their charity spending to support an organisation's aims, rather than to ease pressure on their household budgets. Just under half (47%) claimed low prices were the biggest draw. Books are the top purchase,



followed by clothes, household items, DVDs and videos, and music.

Steve Wood of Ecclesiastical said: *"The number of new charity shoppers is a reflection of the pressure the recession is putting on people's spending power. We're simply not hitting the high street like we once were so we're turning to better value and cheaper alternatives."*

The survey findings from Ecclesiastical are available at: <http://snipurl.com/ryoz7>

in brief...

VAT waived on text donations

The Mobile Data Association (MDA), the association for the mobile data industry, has produced a framework that will enable donations to UK charities sent via SMS text message be exempt from VAT. The framework is the result of the Treasury's comments in 2008 that SMS text message donations should be treated like other donations and not subject to VAT. The framework, which includes provisions for SMS text donations to be sent to a dedicated five-digit short code, has been approved by major mobile operators including Orange, O2 and Vodafone. <http://snipurl.com/ryqpa>

Increase in .org

The number of registrations for websites ending with the .org domain rose by 27% in the first half of 2009 compared to the same period in 2008, according to web

hosting firm Fasthosts Internet. Steve Holford, CMO at Fasthosts said the increase in demand for the .org domain may be attributed to not-for-profit organisations investing in the Internet to "broaden their reach and safeguard their revenues". <http://snipurl.com/ryqqt>

Virgin's online donations launched

A new not-for-profit online donation service operated by the Virgin Group has been launched with the aim of cutting charities' online fundraising costs. Virgin Money Giving (VMG) will enable charities to set up their own pages via the VMG website and promote the online donations page to potential donors. They can also send e-mail alerts and get help with managing their fundraising events. An initial set-up fee will apply as well as a transaction fee on donations to cover administration costs. Virgin Money Giving believes the service "will cut the costs to charities of raising money online by up to 60%". <http://snipurl.com/ryqq8>

VAT free imports

HM Revenue & Customs (HMRC) has published guidance for charities on importing certain donated goods free of VAT from outside the European Union (EU). The guidance covers who can import goods free of VAT, which goods are covered and those goods that aren't eligible. The guidance also explains how to claim VAT relief and provides contact details for the HMRC's charities helpline. www.hmrc.gov.uk/charities/vat/import.htm

Gift Aid changes from 2010

The period in which a charitable trust can claim back Gift Aid tax is to change after 31 March 2010. Currently, claims must be made no later than five years after the end of the tax year to which the claim relates. After 31 March 2010, claims made by a charitable trust must be submitted no longer than four years after the end of the tax year to which it relates. The change is also relevant for all other types of charity and any Community Amateur Sports Clubs (CASCs).

www.hmrc.gov.uk/charities/gift_aid/reclaim.htm#7

new vetting and barring scheme launched

Charities in the UK are being reminded of the introduction in October 2009 of new vetting and barring schemes increasing safeguards and requirements for registration of staff, contractors and volunteers, before they can work with children and vulnerable adults.

England, Wales and Northern Ireland will see the introduction of a Vetting and Barring scheme, by the Independent Safeguarding Authority (ISA) under the Safeguarding Vulnerable Groups Act 2006 and the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007.

Scotland will have a separate but aligned Protecting Vulnerable Groups scheme, under the Protection of Vulnerable Groups (Scotland) Act 2007. Operated by Disclosure Scotland, which already runs Scotland's Criminal Records Bureau (CRB) it is expected to be operational in 2010.

It will be a legal requirement for people working with children and vulnerable adults (paid or voluntary capacity) to be checked under the

scheme and registered if working in 'controlled' or 'regulated' activities. It will be a criminal offence for volunteer organisations to allow a barred person or someone not registered with the ISA to work in a regulated activity for any length of time.

Organisations will have five years to register employees or volunteers, those who fail to comply will be given time to rectify the situation before criminal proceedings commence.

From October 2009 the ISA must be provided with information of individuals who may pose a threat to children and vulnerable adults. Including records of disciplinary action.

From July 2010, all new and prospective employees (including those changing roles) and volunteers can apply to register with the ISA and employers and voluntary organisations will be able to check that job applicants are on the register.

From November 2010 it will become a legal requirement for all new employees (including those changing roles) and volunteers to register with



ISA. It will be illegal to employ new people who are not ISA registered from this date. The phasing in of the scheme continues in 2011, when existing employees and volunteers including those with and without CRB checks must register.

Confusion in September 2009 over the need for certain volunteers (such as parents) to have ISA checks has prompted Children's Secretary Ed Balls to order a review of the Vetting and Barring Scheme. The review will be overseen by ISA chairman Sir Roger Singleton, who will report by the beginning of December this year.

The ISA toolkit is at www.isa.gov.org/toolkit/

FAQs on the Scottish scheme <http://snipurl.com/ryoyt>

accessing investment

Brokers helping social enterprises to access investment are to be offered financial incentives, following the launch of a new initiative by the National Endowment for Science, Technology and the Arts (NESTA) and the Office of the Third Sector (OTS).

The £90,000 Social Enterprise Access to Investment (SEATI) programme will aim to incentivise investment in social enterprises, ensuring the sector continues to grow despite the recession, by paying 'success fees' to Investment Readiness Providers (IRPs) that help social enterprises to secure funding.

It is hoped that the programme will help to provide valuable information about how IRPs can be financed in the future. Jonathan Kestenbaum,

chief executive of NESTA, claims the programme "*will provide the evidence that social enterprises can achieve sustainable growth with the right kind of support*".

Campbell Robb, director general of the OTS, added that the programme "*will illustrate the real value of investment readiness support not only to social entrepreneurs but other crucial stakeholders in ways that we hope will stimulate further, long-term investment, in this area*".

The establishment of the SEATI programme follows changes in the eligibility requirements for the UK Government's Enterprise Finance Guarantee Scheme, announced in May this year. The changes provide extra support to Community

Development Finance Institutions (CDFIs), by allowing them to access bank loans worth up to £20 million. CDFIs currently provide financial support to businesses and social enterprises unable to access bank lending due to the higher risk associated with supporting disadvantaged groups and communities.

Speaking in May this year, Minister for the Cabinet Office Liam Byrne said: "*Social enterprises, businesses that make a difference as well as a profit, can help Britain emerge from this recession stronger*." Mr Byrne went on to highlight that social enterprises are finding innovative solutions to some of the most challenging social and environmental problems. To find out more about the SEATI programme www.cabinetoffice.gov.uk/third_sector/seati.aspx