



"OVERALL AUDIT SERVICE AWARD" - WINNER 2008
Annual Charity Finance survey

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editorial



Welcome to the latest edition of charity briefing. In this edition we are very pleased to announce two new promotions within haysmacintyre. The first, Kathryn Burton who becomes a Partner in our Charity and Not for Profit Team

on 1st April. Kathryn joined haysmacintyre as a graduate trainee and was promoted to charity manager in 2004. Kathryn has managed a portfolio of charity clients in the education, religious, grant making and service delivery sectors. She will be a valuable addition to the partner team.

The second promotion is that of Martin Merry who joined the firm in January 2008 as a part qualified accountant and has now successfully completed his training contract. Martin is to be promoted to Assistant Manager within our Charity and Not for Profit Team on 1st April.

The promotions are the result of continued growth within our practice. The team now consists of eight partners and nine managers, all based in one office in central London. A full list of the partners and their contact details is included on the back of this briefing.

Within this edition both Kathryn and Martin have contributed to articles on the Northern Ireland Charities Bill, and the Environmental Responsibilities of Charities : a recent review conducted by the Commission. David Haines, our Charity Internal Audit Manager, also considers IT disaster recovery practices and there is the usual update on VAT and Tax areas affecting charities.

Finally, we would draw your attention to the schedule of events that we are hosting in the coming year. Rather than host an Annual Charities Conference in 2009 we are hosting events aimed at particular sub sectors of specific relevance for attendees. Each session will include a legal/public benefit update specific to that sector, in addition to VAT/Tax and financial reporting updates. We also list other events that we are co-hosting in collaboration with other organisations for your information.

We look forward to seeing you at a forthcoming event, and as ever, if there are particular areas of interest for future editions of charity briefing please let me know.

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charities act (NI) 2008



The Charities Bill received Royal assent in September 2008 and became the Charities Act (NI) 2008. In summary the Act details the statutory definitions of charity and charitable purposes; establishes a Charity Commission for Northern

Ireland and a Charity Tribunal; creates a Register of Charities for Northern Ireland; introduces the Charitable Incorporated Organisation; and sets out new rules with regards to fundraising and collections.

The Act also includes the accounting thresholds and auditing requirements and the provisions for the use of independent examiners. Future secondary legislation is expected which will include audit requirements for small charitable companies.

The key elements of the current timetable for implementation of the Act together with the impact on charities which operate across different jurisdictions is detailed below.

March 2009 – the Charity Commission is to be established

The importance of building on and maintaining strong links to other regulators in the UK and Republic of Ireland have been recognised. This will be essential for the provision of and access to information for charities that operate across the different jurisdictions, especially with regard to registration and reporting.

April 2009 – Charity Commission is expected to consult on the public benefit test

In order to register as a charity in Northern Ireland, an organisation must have one or more of the charitable purposes as listed in the Act and it must provide public benefit in Northern Ireland or elsewhere. The public benefit test is set out in the Act. The Commission is to consult before issuing guidance on the public benefit requirement.

September 2009 – establishment of register with first registrations anticipated in April 2010. It is anticipated that larger charities will register first

The Act states that: “every institution which is a charity under the laws of Northern Ireland must be registered in the register of charities.”

At the time of consultation on the draft Order, there were concerns from UK wide and all Ireland bodies about accounting and reporting requirements of all regulators in different jurisdictions. However there was an understanding of the need for all charities which operate in Northern Ireland to be on the register. See below for reporting requirements.

Charity Tribunals are also expected to be established in September 2009.

2011 – first financial returns and reports to the Commission

All charities will be required to keep proper accounting records. As far as possible, the accounting thresholds and audit requirements have been brought in line with the rest of the UK which is a considerable change from the draft Order.

In addition, at the time of the consultation, there was concern from UK wide charities and those that operated throughout Ireland that they may be required to draw up Northern Ireland specific accounts. However Article 167(3) (a) and (b) of the Act requires a charity established outside the jurisdiction of Northern Ireland to prepare a financial statement along with a statement of activities relating to its operations for charitable purposes in or from Northern Ireland.

This Act relates to Northern Ireland only. A separate Charities Bill for the Republic of Ireland is currently under consultation.

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key themes & lessons - Charity Commission's compliance work in 2007-08



The Charity Commission recently published a report which highlights the key themes and wider issues arising from its compliance work. The aim of the report is to help build an understanding of the Commission's compliance work by

demonstrating the sort of regulatory action it can take and the impact it has in protecting charities from abuse and harm.

The Commission has identified the following as issues that are most serious and of greatest risk to charities:

- significant financial loss
- serious harm to beneficiaries and, in particular, vulnerable beneficiaries
- threats to national security (specifically terrorism)
- criminal and/or illegal activity involving a charity
- sham charities set up for illegal or improper purpose
- charities used for significant personal benefit
- where a charity's independence is seriously called in question
- issues that could damage the reputation of the charity or the sector as a whole
- issues that could damage public trust and confidence in charities or in the Commission

Issues of concern in the management and administration of charities are brought to the attention of the Commission through various means including charity trustees and employees, donors, general public, other regulators, auditors and the media.

From the Commission's 799 assessments in the period: "deliberate wrongdoing in charities remains rare." The key themes identified in their report are:

- governance - good governance is key to an effectively run charity and often helps to avoid confusion
- fraud - organisations with weak internal controls and poor collective responsibility are always likely to be more vulnerable to fraud

- fundraising – trustees should be actively involved in making key decision in relation to agreements with professional fundraisers
- vulnerable beneficiaries – trustees have a personal and collective responsibility to protect their beneficiaries. A charity should be the last place where vulnerable beneficiaries are put at risk
- terrorism – the UK's anti-terrorism legislation applies to all organisations including charities
- disputes – trustees are responsible for the management of their charity – they should work collaboratively and make sure their actions are in the charity's best interests rather than driven by personal agendas
- protection – the Commission is just as likely to take up serious issues of concern with small charities as with large ones

so what are the Commission's key priorities going forward?

They plan to:

- ensure the effective resolution of compliance issues and maximise the impact of outcomes in all casework
- develop and implement a comprehensive outreach programme to explain their compliance work internally and externally
- publish and implement their Counter-Terrorism strategy, monitor progress and delivery and report publicly on this
- continue to develop and improve working relationships with other regulatory bodies and agencies to assist in all compliance work
- review use and effectiveness of their interim managers when they appoint them for charities

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surviving disasters....



The current economic climate has affected almost every charity in a variety of ways. Those with investment portfolios have seen significant reductions in the valuation of their portfolios, the ones who receive grants have noted

a tightening of belts by funders and those delivering government services have seen an increase in the number of bidders for new contracts.

The impacts on charities are myriad and there are a number of key issues that should be considered on an ongoing and regular basis:

- treasury management and cash-flow
- investment returns
- security of income and bid preparation
- cost base (and any forward planning required to reduce this if necessary)

- potential procurement savings
- potential fraud (which historically is more prevalent during economic downturns)

In addition to the economic downturn, February saw much of the country come to a standstill as local authorities battled to keep roads open in the face of the arctic weather. This experience highlighted a number of risks that should form part of any organisation's risk management plan and these include the need for well executed disaster recovery procedures, tried and tested back up systems, and remote access systems for IT.

The haysmacintyre internal audit team regularly assess and advise clients' systems to manage the risks associated with disaster recovery, whether that be flooding, fire or IT failure. For some charities, a one-off review of potential risks will be sufficient to meet the needs of the organisation though for larger charities, a rolling programme is recommended to ensure that trustees' potential exposure is minimised.

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VAT penalties



The penalty system that applies when a VAT return is submitted which is subsequently found to contain an error has changed. Under the old system a misdeclaration penalty could be imposed if an error was made and the amount of VAT

involved was at least £1,000,000 or 30% of the sum of the input tax that should have been claimed and the output tax that should have been paid. A penalty could be avoided entirely if the error was voluntarily disclosed to HMRC.

For returns that are due to be submitted after 1 April 2009, a new system applies and provides for a penalty to be imposed if the return contains an inaccuracy of whatever amount which is careless or deliberate. An inaccuracy is careless if it was the result of a failure to take reasonable care.

The new system therefore introduces the concept of reasonable care into the penalty regime for VAT. HMRC's limited guidance says that reasonable care cannot be identified without consideration of a given person's abilities and circumstances, and so the new regime is inherently less certain than the old system.

Where the error is careless, the penalty is 30% of the potential lost revenue. HMRC have to reduce the penalty if an unprompted disclosure of the error is made to them, and can reduce it to nil, but unlike the old system, there is no automatic right to expect that a voluntary disclosure will avoid the imposition of a penalty.

The importance of ensuring returns are correct is therefore greater than ever.

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charities and environmental responsibility

All parts of society are being encouraged to think about environmental sustainability and the expectations on charities to address these issues are growing. The Charity Commission recently published its findings from research into ways in which charities are 'Going Green'. The report considers the drivers and barriers to environmental responsibility, how charities are taking responsibility, charities developing environmental themes and environmental charities themselves. It contains ideas that The Commission believes charities may wish to consider adopting, taking into account their own particular situation.

Charities cited the need to maintain their reputation as their key driver although a lack of resources, time and money were highlighted as barriers to carrying out more environmental activities.

The key findings of the research are detailed below:

- charities are increasingly recognising and responding to environmental concerns. The research identified a range of ways in which charities are becoming 'greener' and enhancing their environment sustainability. Some activities undertaken by charities included: recycling (paper, printer cartridges), transport initiatives (cycling facilities, car sharing) and technology changes (flat screen computers to reduce energy use, electronic filing to reduce paper use, use of video conferencing and Skype to reduce travel for meetings).
- often charities implement environmental initiatives as a result of pressure from key individuals who either work within or are closely associated with the charity, rather than as a result of a strategic decision by trustees.
- charities reported a range of practical, financial and attitudinal barriers to taking environmental responsibility; however it was possible to overcome barriers if the charity showed a willingness to change or if there was pressure from key individuals.

- some charities support their approach through asking or formally tasking staff with encouraging environmental activity within the organisation.
- there is evidence of charities developing environmental themes to their work where this approach is relevant to, and enhances, their purposes.
- some charity trustees are reluctant for their charity to carry out environmental work, as they are concerned that it may not be a legitimate use of the charity's resources.
- just under a half of the charities surveyed either had, or were developing, written statements that covered environmental issues.
- some charities are carrying out environmental audits, but only a few appear to be carrying out energy efficiency tests.
- some charities (including seven of the top thirty charities) now incorporate an Environmental Statement in their Trustees' Annual Report.

There is currently no SORP requirement for charities to include this information in the annual report. However, the new environmental duty for directors in the Companies Act 2006 (s172 (1) (d)) requires directors of charitable companies to take into account the impact of the company's operations on the community and the environment. It is good practice, certainly for larger charities, to think about this issue in relation to their accounting information. For example, charities may choose to participate in good practice initiatives such as the *Accounting for Sustainability* project and the *ACCA awards for sustainability*.

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A list of partners' names is available for inspection at Fairfax House, 15 Fulwood Place, London WC1V 6AY.

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future events

accounting and legal updates for:

- arts related charities: 2 April 2009
- grant making charities: 27 April 2009
- form P11D workshop: 29 April 2009
- service delivery charities: 30 April 2009
- institutes and societies: 1 June 2009

For further information on these events please contact Juan Muguerman on 0207 969 5668, jmuguerman@haysmacintyre.com or visit www.haysmacintyre.com



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