

CIOs: implementation timetable announced

The long awaited legislation enabling charities to take advantage of limited liability by becoming Charitable Incorporated Organisations was finally laid before Parliament last October. This means that, since January 2013, the Charity Commission has been able to start accepting staggered applications for registration (see timetable below).

The Charitable Incorporated Organisation (CIO), a new legal structure under the Charities Act 2011, has been designed specifically for charities and will be registered and regulated by the Charity Commission alone. It relieves charities of the administrative burden of dual regulation by both Companies House and the Charity Commission and it is hoped that it will make it easier to set up and run charitable and not-for-profit organisations. In addition, the fact that CIOs will benefit from limited liability should also make it easier for charities to attract and retain trustees.

The regulations governing the CIO (an idea originally introduced under the Charities Act 2006) were subject to a Charity Commission consultation in 2008 which gave interested parties the opportunity to comment on them. Following the consultation, a number of regulations were developed which delayed the implementation of the initiative.

Trustees and senior management of charitable trusts and unincorporated associations need to be aware that conversion to a CIO is not a simple process: the activities, assets and liabilities of the existing charitable

trust have to be transferred to a CIO, usually followed by the dissolution of the unincorporated charity and its removal from the register of charities. Although the legislation for the conversion of charitable companies is not yet in place, it is anticipated that they will simply need to re-register as a CIO without the need for a transfer and dissolution.

The new timetable for implementing the CIO

The timetable has altered considerably since the regulations were first drafted. So that the Charity Commission is able to consider each application fully, the implementation is being phased over a 12 month period.

2 January 2013 - Applications accepted from brand new charities with anticipated income of over £5000.

1 March 2013 - Existing unincorporated charities with annual income over £250,000.

1 May 2013 - Existing unincorporated charities with annual income between £100,000 and £250,000.

1 July 2013 - Existing unincorporated charities with annual incomes £25,000 - £100,000 to set up a CIO and transfer assets into it.

1 October 2013 - Window opens for existing unincorporated charities with annual incomes £5,000 - £25,000.

1 Jan 2014 - Existing unincorporated charities with annual incomes of less than £5,000 and for brand new charities with anticipated annual incomes of less than £5,000.

During 2014

Conversion of charitable companies into CIOs (subject to Parliamentary approval of separate conversion regulations to be made during 2013). This may also need to be phased by income bracket.

We will continue to keep a very close eye on developments and are already advising our charitable clients on the best way forward so that those wishing to convert can do so quickly and efficiently.

Mark Lewis
UK200Charities Group Committee member



number of academies still rising

A growing number of schools are converting to academy status, with more than 2,600 academies already in England and a further 500 set to join them soon, according to figures published by the Department for Education (DfE) in January 2013. Existing academies are made up of more than 2,000 schools that have converted to academy status in order to take advantage of the benefits and freedom from local authority control. The remaining 600 are sponsored academies, which are failing schools specifically targeted by the Government for improvement. This includes 200 of the weakest primary schools, which are reported to be beginning to thrive on the challenge of having to control their own budgets, curriculum, facilities and recruitment.

This year, the DfE will strive to find sponsors for 400 more of the weakest primary schools to aid further improvement. In January

2013, Education Secretary Michael Gove highlighted the promising future for academies: *"We gave teachers the opportunity to take on more freedom and responsibility and they have grabbed it with both hands. Many are now going even further and taking on responsibility for turning around less successful schools. These outstanding converters are becoming the new academy sponsors of the future raising standards across the state sector."*

With the rising number of academies, an increase in the demand for business managers and accountants is expected. Although academies remain publicly funded, they are required to take on business responsibilities previously dealt with by local authorities such as supplier contracting, financial reporting and payroll. The majority of academies recruit a professional with experience in the business sector to handle these operational duties.



Regional and local authority breakdowns reveal the areas with the highest proportion of open academies, indicating where the greatest demand for school business managers and accountants is likely to occur. They include Darlington, with nearly two thirds and North East Lincolnshire, with around half. In Darlington, Rutland and Bexley every secondary school is an academy.

Read more at:
<http://snipurl.com/26ugc6v>

charities need clear processes to combat fraud

Fraud cost the charity sector in England, Scotland and Wales £1.1 billion in 2011, equivalent to around 1.7% of the sector's £65 billion annual turnover, according to the National Fraud Authority's (NFA) 'Annual Fraud Indicator (AFI)'. The impact of fraud on charities' reputations can lead to reductions in donations, support and income. Incidents of fraud reported to the Charity Commission almost doubled in 2010/11, but according to the NFA, many cases of fraud go undetected so the actual figures could be a considerably higher.

Charities are especially vulnerable to fraud as they typically rely on a small team of staff and volunteers and lack the transparency and rigorous financial controls and procedures necessary to handle

large numbers of cash donations and fluctuating incomes.

Charities face the threat of fraud from both inside and outside the organisation. For example volunteers and staff employed within the charity are able to intercept donations or make false expenses claims, while people outside the charity carry out unauthorised fundraising in its name or submit false invoices to obtain money.

Trustees of charities are legally responsible for safeguarding the income and assets of their organisation and must be able to demonstrate that they have taken adequate steps to prevent fraud. A variety of controls are needed to help charities meet their obligations and tackle fraud. These include having robust

recruitment and vetting procedures in place; communicating a clear policy on how fraud will be detected and dealt with; putting financial controls, audit trails and records in place to document how money has been spent and developing a whistle blowing policy to ensure any incidences of fraud are reported and dealt with promptly.

Read more at:
<http://snipurl.com/26x3eur>



in brief..

Crisis helpline receives more calls from charity leaders

Calls to a crisis helpline set up for chief executives of charity organisations have increased by 40% during the past year, according to the Association of Chief Executives of Voluntary Organisations (ACEVO). The established ACEVO helpline provides advice and access to legal services for charity leaders concerned about losing their jobs, as a result of conflict with their trustee boards. ACEVO identified recent changes, such as restructuring and the pressure of cuts as key factors that, in most cases, have led to a breakdown in communication between chief executives and trustee board members. However, despite ACEVO setting up a separate governance helpline to resolve any issues before they reach crisis point, only 12 chief executives have used that particular service so far.

There is more on the helpline at: <http://snipurl.com/26ug9ef>

Community Amateur Sports Clubs: one rule change down, more to come

HM Revenue & Customs (HMRC) has changed the eligibility criteria for registration as a Community Amateur Sports Club (CASC), allowing clubs to offer junior memberships without voting rights, while still being able to qualify for CASC status. Further changes to the criteria are to be introduced following an HMRC consultation opened in March 2013. Issues covered by the consultation include the maximum annual fees CASCs can charge, the rules and limits on the way CASCs can generate income from non-sporting and social events, and the introduction of more generous rules for travel expenses. The Sport and Recreation Alliance has welcomed the consultation and forthcoming changes as a 'positive opportunity for sport to make its voice heard', describing itself as hopeful for 'a

reinigorated, clearer and more flexible CASC scheme'.

<http://snipurl.com/26ugawz>

Health Secretary to consider extending VAT refunds to charities

Health Secretary Jeremy Hunt has promised to consider extending VAT refunds to charities providing NHS services. Public sector providers contracting out eligible services can recover the VAT paid under the Contracted Out Services (COS) scheme. However, private and charitable providers are excluded from recovering VAT when contracting out the same services, making provision of these services more expensive. The commitment to look at extending the tax refunds to charitable organisations providing non-business NHS services has been welcomed by the Charity Tax Group <http://snipurl.com/26uga9h>

Are you ready for Gift Aid Online?

From 22 April 2013 charities can sign up to make repayment claims electronically using **Charities Online**. The new service promises to make repayment claims faster and easier, and will have built-in checks to highlight mistakes before the claim is submitted.

The new online facility will replace the current R68(i) form and provides three options for making claims:

1. Claim using an online form – for this option charities will need to sign up to use HMRC's Online Services and enrol for **Charities Online**.
2. Claim using a paper form – a new paper form, ChR1 will replace the current R68(i) form and these new forms can be ordered from the HMRC Charities Helpline (0845 302 0203). These forms will be scanned by HMRC and therefore they will not accept old R68(i) forms or photocopies of the ChR1 form.

3. Claim through your own database – this option is for larger charities where charities can submit Gift Aid claims on a daily basis using their own compatible software package.

HMRC will continue to accept R68(i) print and post forms until 30 September 2013. These forms will be processed in 30 working days whereas Charities Online forms will be processed in 15 working days.

Budget 2013 – Good news for charities

The Budget 2013 included three key announcements for the charity and not-for-profit sector.

The Chancellor announced the launch of a consultation on plans to make it easier to claim Gift Aid on donations made through digital channels. The plans include options for allowing donors to complete a single Gift Aid declaration for multiple donations to different charities through a single channel, such as JustGiving. Existing rules mean that donors must make the relevant declaration each time they give online.

Calculations by the Charities Aid Foundation estimate that charities could gain £735m a year in extra Gift Aid claims if the online declaration process is simplified in line with the proposals.

Secondly charities are set to benefit from a £2,000 employment allowance towards their bill for national insurance contributions from April 2014.

Finally a consultation on tax relief for investment in social enterprises was announced. The consultation will be launched in the summer of 2013 with the intention for proposals to be finalised in time for include them in the Finance Bill 2014.

volunteers: no legal protection from discrimination

The Supreme Court has refused an appeal from a volunteer worker who claimed she was protected from discrimination by employment legislation. In *X v Mid Sussex Citizens Advice Bureau*, the volunteer claimed she was dismissed from her role due to a chronic health condition and sought to bring a case for disability discrimination at an employment tribunal.

She argued that the Disability Discrimination Act 1996 (DDA) protected workers in her position from discrimination, as her voluntary activities constituted an 'occupation' under the European

Council Directive 2000/78/EC (the Framework Directive).

However, after a thorough analysis of the relevant law, the Court rejected the case, saying that protection from discrimination does not extend to volunteers. Key grounds included the original proposal leading to the creation of the Council Directive failing to address voluntary activity in any way, the European Commission (EC) making a 'notable' amendment to draft provisions of the Directive to exclude the words 'unpaid or voluntary work', and the lack of any suggestion from the EU that the UK had failed to fully introduce the Directive by not covering volunteers.

Interestingly, the Court raised the

possibility that individuals receiving guidance, training or work experience would be within the scope of the Framework Directive under Article 3(1)(b). However, the theory that such individuals are protected from discrimination by law has yet to be tested.

The Court's decision was welcomed by Volunteering England, which claimed that giving volunteers the same legal status and protection as employees would 'fundamentally undermine the nature of volunteering' and 'create significant practical barriers and additional costs for charities and other volunteer-involving organisations.'

Read more at:

<http://snipurl.com/26xtvjs>



Edmund Carr LLP
146 New London Road
Chelmsford
Essex
CM2 0AW

Tel: 01245 261818
Fax: 01245 492812
www.EdmundCarr.com

If you would like further information on any of the articles in this newsletter please contact Eric Williams on the telephone number above or email EWilliams@EdmundCarr.com

Registered to carry out audit work and regulated for a range of investment business activities by the Institute of Chartered Accountants in England and Wales.



The UK200Group is a modern and proactive professional membership association of chartered accountants and lawyers which provides training and business services to enhance the performance of member firms. As well as being focused on the general small to medium businesses, members have specialist knowledge and experience of the agriculture, healthcare, charities, legal and property and construction sectors to provide effective support and advice in the areas of tax, financial management, business planning and legal issues.

www.uk200group.co.uk

This newsletter has been prepared for general interest and it is important to obtain professional advice on specific issues. We believe the information contained in it to be correct. While all possible care is taken in the preparation of this newsletter, no responsibility for loss occasioned by any person acting or refraining from acting as a result of the material contained herein can be accepted by the UK200Group, or its member firms or the author.

UK200Group is an association of separate and independently owned and managed chartered accountants and lawyer firms. UK200Group does not provide client services and it does not accept responsibility or liability for the acts or omissions of its members. Likewise, the members of UK200Group are separate and independent legal entities, and as such each has no responsibility or liability for the acts or omissions of other members.

Scotland's 500th charitable incorporated organisation

Around a third of charitable registrations in Scotland are now Scottish charitable incorporated organisations (SCIOs), according to the Office of the Scottish Charity Regulator (OSCR). The OSCR recently registered the 500th SCIO, following the introduction of the new legal form in Scotland in April 2011. In addition, the OSCR reported that 30% of all new charity applications it receives are now for registration as SCIOs.

SCIO status enables charities to employ staff, incur debts and enter into contracts as corporate entities, but with limited liability for their trustees and members.

Eveline McNair of the South East Integration Network said it had sought SCIO status to provide protection against personal liability for trustees, without the need to report to regulators. "Becoming an SCIO allowed us to bridge that gap but also, as a corporate entity, to enter

into contracts. We're very pleased with our new charitable status and our legal form."

She added that, although the charity had faced challenges adjusting to a new funding structure, SCIO status had helped them to support local organisations and charities to provide services in the local area. "We believe our charitable status and being a SCIO equips us for future challenges," she added.

David Robb, Chief Executive of the OSCR, said: "It's encouraging to see that, despite the economic climate, interest in charitable status remains high at about 120 applications a month. It's also heartening to see that about a third of new applications are for SCIOs, and we will be watching closely to see if this increases in the future."

Read more at:

<http://snipurl.com/26wubrb>