

2017 HAS NOT BEEN DULL FOR THE CHARITY SECTOR

The sector has been busy with the issuing of the Charity Governance Code and news that disqualification is being sought for the ex-trustees and Chief Executive of Kids Company

Breach of a Trustees duties

Charity Commission enquiries can start for a variety of reasons and often go in unexpected directions. The Commission as part of their role review a selection of accounts and, if there are signs of financial distress and the risk of insolvency can institute a compliance visit. One such visit arose in respect of a small national charity.

The charity's accounts had received a "going concern" emphasis of matter statement on its audit report which triggered the review. As a result, the investigation started and not only did they confirm that the charity was in financial difficulty but they also found: -

- Lack of appropriate financial controls
- Charity shops running at a loss
- An unsustainable financial model
- Unauthorised payments made to Chair of Trustees
- The Chair being the only authorised signatory
- Interest free loans from a trustee without formal agreement
- No regular meetings of trustees
- No notes of discussions between the chair and trustees

Subsequently the Chair resigned as a trustee but continued to operate the charity. The trustees made some changes but failed to implement all the recommendations of the Commission and were issued with an Official warning specifying actions to be taken in the future, non-compliance with which would result in further action.

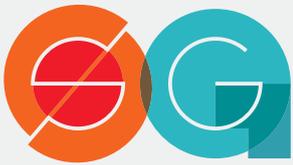
Yet again we have an example of a charity failing to undertake basic control procedures and as a result, getting, itself into unnecessary financial difficulty. Being a trustee is being part of a team and no one trustee should be allowed to dominate.

GDPR- The Clock is ticking



GDPR or General Data Protection Regulation is coming into force on 25 May 2018. It will replace the current Data Protection Act and although it is an EU regulation, it will still apply even after Brexit. Charities are not specifically exempt from this legislation so being exempt under Data Protection legislation will not automatically make you exempt for GDPR purposes.

It applies both to those who control data and those who process data. If you have not already done so, you should speak to those who advise you on your IT Systems and processes as soon as possible to ensure that your systems are sufficiently robust so that you do not breach any rules. Meanwhile the Information Commissioner's Office (ICO) can provide an overview of GDPR, a self-assessment toolkit and other assistance including a helpline. NCVO and The Institute of Fundraising are providing paid-for training.



Charity Code of Governance

The Commission recently withdrew their Guidance on Hallmarks of an Effective Charity (CC10) and replaced it with the Charity Code of Governance on 13th July. Interestingly this Code was not drawn up by the Charity Commission themselves but by a collaboration of several Charity Sector bodies and was an overhaul of a document first published in 2010. The Commission held a watching brief over the updated code and has now endorsed it and encourages charities to use the new code.

The code sets out 7 core principles of good governance: -

- Organisational purpose
- Leadership
- Integrity
- Decision making, risk and control
- Board effectiveness
- Diversity
- Openness and accountability

The Trustees of a charity are expected to regularly discuss and consider the principles and recommended practice and to "make well considered decisions about how these should be applied in their charity". The full code can be found at

www.charitygovernancecode.org

Given the number of issues arising in recent years which has damaged the reputation of the sector, this is a golden opportunity to refocus your charity by a self-assessment based on the principles of the code.

If you require an independent review, and/or some relevant training, please do not hesitate to contact me.



If you are a charity trustee and you and your charity are in need of advice on a strategic or governance matter, please telephone **Elliot Harris** on **07896 894711** or email **elliott@strategyandgovernance.co.uk** for a no obligation conversation.

Other Charity Commission News

The last few months has seen the Commission issue updated guidance for different types of charities which include the following: -

- Independent Examination of Charity Accounts: some new guidance for examiners(CC32)
- Guidance on How to Report a Serious Incident in your Charity
- Updated Guidance on Preparing a Charity's Annual Return
- Updated Guidance on Preparing a Charity's Annual Accounts
- Updated guidance for the Gift Aid small donations scheme: How to claim Top-up Payments
- How to claim Gift Aid on-line

The Charity Commission has also issued some interesting statistics about the 435 monitoring cases opened by them in 2016/2017. Of those cases, at least 29% were charities subject to an audit and 52% were well established charities over 5 years old who should know better than to breach the rules.