Strategy & Governance

Charities Bulletin
Spring 2017

A BUSY FEW MONTHS FOR THE CHARITY SECTOR

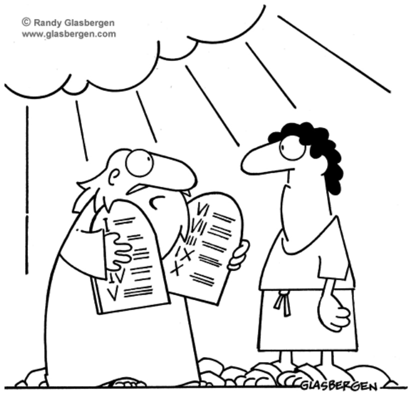
Some interesting developments over the last few months have been keeping the sector busy. This has included a House of Lords Report on charities which is worth reading.

Religious Charities in the Firing Line

An increasing number of charities which have religion as a central part of their objectives are increasingly coming under the scrutiny of the Charity Commission for administrative and other failures. These religious charities are not limited to one specific religion but are across a whole spectrum of religions. Failings include: -

- Failure to file annual accounts
- Failure to file annual return
- Lack of controls over cash collection
- Proper application of funds
- Acting ultra vires

Such failings are not limited to religious charities but when you read some of the detail of these cases the sense is very much that the trustees in these cases, seem to think that the rules somehow do not apply to them and they are in some way exempt from the system. It is important that whether it is a charity promulgating its religion, providing religious education or helping with the welfare of its own adherents either in the UK or overseas that the same rules apply to all.



"I downloaded them from a cloud."

Grant-Making Charities

Some new rules are potentially now in force for those charities who receive more than half of their income from financial investments. If that is the case and those investments are managed for you in whole or in part by a broker or other investment advisor then you may need to carry out checks on your grant recipients and make a report to HMRC under the "Common Reporting Standard".

This standard is a global agreement to help combat off-shore tax evasion through the sharing of financial information between various tax administrations. There is a lot of confusion as to how this is being applied to charities and CC News 56 where this information comes from merely refers you to HMRC guidance which I have found neither easily accessible or particularly helpful.

If in doubt, you should of course refer to your auditor or independent examiner for help. However, I have found some very helpful guidance as a first port of call from the Association of Charitable Foundations whose news brief dated 23 January 2017 can be found at www.acf.org.uk/news

Tel 07896 894711
Email elliot@strategyandgovernance.co.uk
Website www.strategyandgovernance.co.uk
Address 40 North Street, Barrow upon Soar, Leicestershire LE12 8QA

Failure of Basic Governance

The Commission has recently reported on an inquiry which commenced following a referral from the executor of a will that a large legacy had been left to a charity which had not been recorded in that charity's accounts. Despite efforts by the executor to engage with the founding trustee, no satisfactory explanation could be obtained as to why the legacy failed to appear in the relevant accounts or subsequent years. An investigation was launched which found that the donation had been dispersed into various personal bank accounts and the trustees had failed to secure this money for the charity.

There were three trustees; the founding trustee and two others. These two had moved away from the area making oversight of the actions of the founding trustee difficult. The personal bank accounts were in the name of the founding trustee and one non- trustee. The inquiry found that part of the legacy had been invested in properties in the name of the non-trustee. The founding trustee sought to blame the charity's accountant who disputed that responsibility for the charity's finances had been delegated to him and the inquiry established that the charity's bank account had the founding trustee as the sole signatory. The matter was passed to the police who were investigating when the founding trustee died. Subsequently with the help of the other two trustees a substantial amount of the misappropriated funds were recovered.

Once again, the lesson is one of a dominant trustee riding roughshod over the other trustees despite the constitution and charity law. Likewise, the lack of financial controls meant that only the sharp eyes of the executor prevented a larger fraud. Trustees are jointly and severally liable and must not allow one dominant trustee to over-ride the rest.

Other Charity Commission News

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

- New fundraising reporting by auditable charities (CC15D & CC20)
- Guidance on Social Investment (CC14)
- Updated Guidance for Trustees & Trading (CC35)
- Charity reserves: building resilience(CC19)
- Updated guidance on managing charity's finances (CC12)

- The Latest Public Benefit report issued by the Commission in April showed that there has not been much improvement in Public Benefit reporting by charities. Only 46% of reports demonstrated a clear understanding of the Public Benefit reporting requirement and 42% of all reports did not contain a public benefit statement. For details of what should be disclosed, please see the Public Benefit guides on the CC website.

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 **elliot@strategyandgovernance.co.uk** for a no obligation conversation.