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Charities Act 2006 Implementation in 2008

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Supported by:



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About us & our roles in implementing the Charities Act

- The Office of the Third Sector in the Cabinet Office
 - leads work across government to support a thriving third sector, enabling the sector to campaign for change, deliver public services, promote social enterprise and strengthen communities.
 - Responsibilities include the legal and regulatory framework for charities in England and Wales.
- The Charity Commission
 - is the independent regulator for charities in England and Wales
 - promotes the public's trust and confidence in charities

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Definition of Charity & Public Benefit

- Strategy Unit recommendations
 - charity be redefined in law, based on the principle of public benefit and falling under one of purposes of charity.
 - Charity Commission should undertake ongoing checks on the public character of charities.
- Government's intention:
 - clear definition of what a charity is – with public benefit at its heart
 - all charities should be able to demonstrate their public benefit
 - Non-statutory definition preferred on consultation – gives greater flexibility and capacity to accommodate diversity of the sector

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Public Benefit – Charities Act 2006

- defines a charity as an organisation with a charitable purpose that is for the public benefit
- removes the presumption that relieving poverty or advancing religion or education is for the public benefit
- gives the Commission a new public benefit objective “to raise awareness & understanding of the operation of the public benefit requirement”
- requires the Commission to consult on and publish public benefit guidance
- requires charity trustees to have regard to the Commission’s guidance on public benefit

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Public Benefit – trustees’ public benefit duties

Charity trustees must:

- ensure they carry out their charity’s aims for the public benefit
- have regard to guidance we publish on public benefit
- report on their charity’s public benefit in their Trustees’ Annual Report

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Public Benefit – reporting

- First reports will be due 31 March 2009 onwards
- Reporting requirement begins for charities with financial years starting on or after 1 April 2008
- Charities above audit threshold – a review of the activities undertaken by the charity to further its charitable purposes for the public benefit
- Charities below audit threshold – a brief summary of the activities undertaken by the charity to further its charitable purposes for the public benefit
- A chance to tell their public benefit story well

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Public Benefit – Commission's guidance

The Charity Commission's general guidance on public benefit

Published January 2008



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Public Benefit – the principles (1)

There must be an identifiable benefit or benefits

- It must be clear what the benefits are
- The benefits must be related to the aims
- Benefits must be balanced against any detriment or harm

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Public Benefit – the principles (2)

Benefit must be to the public, or a section of the public

- The beneficiaries must be appropriate to the aims
- Where benefit is to a section of the public, the opportunity to benefit must not be unreasonably restricted:
 - by geographical or other restrictions
 - by ability to pay any fees charged
- People in poverty must not be excluded from the opportunity to benefit
- Any private benefits must be incidental

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The Charity Tribunal (2)

- Tribunal President and Panel members
- Procedural rules
- Types of Cases
 - Appeals
 - Reviews
 - References
- Role of Attorney General
- www.charity.tribunals.gov.uk

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Audit, Accounting and Reporting (1)

- Increased thresholds for audit and independent examination
 - Audit thresholds doubled for company & non-company charities to £500,000 income or £2.8m assets
 - Independent examination – qualified if income over £250,000
 - for financial years beginning on or after 27 February 2007

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Audit, Accounting and Reporting (2)

- Harmonisation of audit and examination arrangements for small company and non-company charities – a simpler regime
- A statutory group accounts preparation and scrutiny framework – reflecting the operating structure of many charities today and existing sector practice (where group net income is £500,000 or more)
- for financial years beginning on or after 1 April 2008

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New powers for charities

- to change the purposes of the charity
- to alter the governing document
- to register a merger
- to mortgage property for a loan or grant
- to purchase trustee indemnity insurance

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New powers for the Charity Commission

- to relieve trustees from personal liability in certain cases
- to help charities resolve problems such as:-
 - outdated purposes
 - donations which cannot be used as intended
 - incomplete or confusing membership records
- to protect charities by directing certain actions or to apply property in certain ways
- to act quickly and effectively when investigating charities

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Trustee remuneration

- power for charities to pay trustees for providing goods or services
- not about paying trustees for being a trustee
- applies to all charities unless prohibited in their governing document

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Trustee remuneration

Conditions which must be met before a payment can be made:-

- Written agreement setting out exact or maximum amount to be paid
- Trustees satisfied that payment is in the best interests of the charity
- Payment is reasonable
- Trustees follow the “duty of care” in the Trustee Act 200
- Total number of trustees receiving payment must be in a minority
- Trustee(s) concerned must not be involved in decisions about this

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Fundraising - Statements

- Clearer statements must be made by:
 - professional fundraisers
 - commercial participators
- Simple statements to be made by trustees & employees during the course of a public charitable collection
- No statements need be made by volunteers
- Came into force 1 April 2008

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Fundraising - Self-regulation

- The Strategy Unit recommended self-regulation backed by a reserve power (now in the Charities Act 2006)
- Why is it needed?
- The sector, led by the Institute of Fundraising, has established the Fundraising Standards Board (FRSB)
 - Promote high standards in fundraising practice
 - Mechanism for resolving complaints about fundraising
- What are the benefits for the sector?

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Fundraising - Self-regulation



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Fundraising - Self-regulation

“The FRSB’s first annual review reports good progress, and I congratulate those charities that have shown their commitment to high standards by joining the scheme” said Phil Hope MP, Minister of the Third Sector. “The FRSB’s first year gives it a good platform to take self-regulation forward, and we are confident it has the potential to succeed. However, many more organisations will need to join in the coming year to convince us that the sector has the will to fully embrace self-regulation and make it work. The alternative, as set out in the Charities Act, would be statutory regulation.”

What does the future hold?.....

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Charitable Incorporated Organisation (CIO)

- A very brief summary for those of you who will miss our presentation specifically on the CIO this afternoon
- New legal form available exclusively to charities with the benefits of incorporation and limited liability for trustees.
- Avoids the need for dual registration
- Simpler, cheaper, less bureaucratic
- Special procedure for existing charitable companies to convert
- Consultation in July 2008
- Coming into force in 2009

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Registration changes

- Income threshold for registration raised to £5,000
- Creating a level playing field by removing anomalies
- From October 2008 – currently excepted charities will have to register
- From late 2009 – currently exempt charities will be regulated either directly or indirectly by the Charity Commission
- Transitional arrangements will ease the burden
- Later – right to voluntary registration

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Looking to the Future: Thresholds review

- De-regulatory package of threshold changes proposed:
 - Accounts & Annual Report submission
 - Annual Report preparation
 - Accruals accounting
 - Accounts scrutiny
 - Need to include registered charity status on documents
- Summary of consultation responses
- Changes to be implemented late 2008 / early 2009

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Looking to the Future: Remaining Implementation

- Excepted Charities – October 2008
- Exempt Charities – October 2009
- Public charitable collections – from 2009
- Consolidation Bill – 2009/10
- Evaluation – 2011

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Where to go for more advice

- “Charities Act 2006: what trustees need to know”
 - Pick one up here today or
 - Tel. 0845 300 0218 for a free copy (quote URN 07/Z2)
- Websites for further info:
 - www.trusteenet.org.uk
 - www.charitycommission.gov.uk
 - www.cabinetoffice.gov.uk/thirdsector
- Sign up to our implementation e-mail update group
- Please give us your views on consultations

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Questions & Answers