

PUBLIC BENEFIT REPORTING

For accounting periods commencing on or after 1 April 2008 every charity is required to include within the trustees report;

- a statement that the trustees have had regard to the Charity Commission's guidance on public benefit.
- an explanation of how the charity fulfils the public benefit requirement.

For a charity below the audit threshold a brief summary explaining how the charity provides public benefit is sufficient. Charities that exceed the audit threshold are expected to provide greater detail on how their aims and achievements provide a public benefit.

The explanation of how the charity provides public benefit may be in a separate paragraph addressing this specific point. Alternatively, this may be covered, without direct reference to public benefit, within the review of the aims and activities of the charity during the year and its plans for the future.

Whichever approach is adopted the following principles as laid down within the Charity Commission guidance need to be addressed;

1. There must be an identifiable benefit or benefits

- a. It must be clear what the benefits are.
- b. The benefits must be related to the aims of the charity (not accidental benefits e.g. improving health when holding a sponsored walk to raise money for the charity).

- c. The benefits must be balanced against any detriment or harm.

2. The benefit must be to the public, or a section of the public

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

The Charity Commission have various guides on providing public benefit which are as follows;

- Charities and Public Benefit (this is general guidance).
- The Advancement of Religion for the Public Benefit.
- The Prevention or Relief of Poverty for the Public Benefit.
- The Advancement of Education for the Public Benefit.
- Public Benefit and Fee Charging.

In addition the Charity Commission has produced various example accounts incorporating the public benefit reporting requirements.

The guidance and example accounts may be obtained from the Charity Commission website www.charity-commission.gov.uk.

CHARITY COMMISSION ASSESSMENTS OF PUBLIC BENEFIT

The Charity Commission have recently published the results of their first public benefit assessment which covered the following sectors;

- fee charging schools
- charities promoting religion
- fee charging residential care homes

Of the twelve charities assessed, eight

fulfilled the public benefit test whilst four did not.

The Charity Commission report of their findings, Public Benefit Assessments; Emerging Findings, together with copies of the assessment reports for each of the twelve charities may be obtained from www.charity-commission.gov.uk/publicbenefit/assessemerge.asp.

REPORTING SERIOUS INCIDENTS

It is now a requirement for any charity that suffers a 'Serious Incident' to report the event to the Charity Commission as soon as possible.

A charity that fails to report a 'Serious Incident' to the Charity Commission risks action being taken against the Trustees.

The Charity Commission have identified certain matters that they consider to be 'zero tolerance' incidents and should always be reported;

- fraud and money laundering.
- not having suitable procedures in place to protect vulnerable beneficiaries.
- abuse of vulnerable beneficiaries.
- misuse of a charity to promote criminal activity.
- support of, or links with, terrorism, either financially or otherwise.
- connections with banned organisations.
- sham charities set up for illegal or improper purposes.

Generally, a report should also be made to the Charity Commission if an incident has been reported to the police or if it represents a significant risk to the activities, assets, beneficiaries or reputation of the charity.

Events that may require reporting include the following;

- the loss of significant amounts of cash, property or other assets. Significant is quantified as being amounts exceeding the lower of;
 - (i) 20% or more of annual income or
 - (ii) £25,000.

Losses below this should be reviewed to determine whether they have a significant financial or operational effect on the charity. If so they should be reported. (Losses on investments arising from normal investment activities are excluded from this reporting requirement).

- fraud, theft or other criminal activity occurring within the charity or involving the charity. There is no de-minimus level for the reporting of such events.

- significant donations received of either cash or assets from an unidentified source.
- a past or present trustee is found to have been disqualified from acting as a trustee.
- the charity is the subject of a criminal investigation, an investigation by a regulatory body, or sanctions have or may be imposed on the charity by a regulatory body.

A report to the Charity Commission is required even if you only have a suspicion that any of the above have occurred.

Charities with income over £25,000 are required to confirm on their Annual Return that there have been no serious incidents during the year. A charity must not wait until submission of their Annual Return to report that a serious incident has occurred.

If you have to make a report to the Charity Commission they will require details of what has happened, when, the actual or potential effect on the charity and steps taken to mitigate the effect on the charity.

The action taken by the Charity Commission as a result of the report will depend upon the incident and its effect on the charity.

Further information is available from the Charity Commission publication 'Reporting Serious Incidents – guidance for trustees'.

If you require further information or assistance on the subjects covered in this newsletter please contact Brian Carruthers or Elizabeth Smith at

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