

LEGAL ALERT

CHARITY BULLETIN

Rollits
SOLICITORS

CHARITIES BILL UPDATE

The House of Commons committee stage of the Charities Bill was duly completed on 13 July 2006.

Some minor amendments were made to the Charities Bill at committee stage, but none of these propose to fundamentally alter it.

The next step is the report stage in the House of Commons. It is expected that the report stage will happen this October and it is hoped that the Bill will be enacted before the end of the parliamentary session this November.

If the Charities Bill becomes the Charities Act this November, it is not expected to take effect immediately. It is expected that there will be a process of implementation which will bring into force various sections of the new Act in stages. It is possible that the process of implementation could take several months.

Political wrangling means that there is still an uncertainty as to whether the Charities Bill will become law at all. However, it is still hoped that it will be enacted this November.

We will continue to monitor the Charities Bill's progress and keep clients updated via our website and Legal Alert publications.

THE CHARITY COMMISSION

The Charity Commission has published guidance entitled "Finding new trustees - what charities need to know". In short, this is a detailed guide to assist charities in recruiting new trustees effectively and increasing the range of skills and experience on their trustee board. This may be useful guidance for charities having difficulties recruiting new trustees or that need a greater diversity of skills and experience on their board.

The Charity Commission is concerned that recent interviews conducted with small to medium sized charities indicated that a high percentage of these charities thought, incorrectly, that the Charity Commission is responsible for helping to advise on, manage and resolve difficult complaints about services provided by charities. The Charity Commission is trying to encourage a more pro-active approach to complaints management by service delivery charities and has published guidance entitled "Cause for complaint? How charities manage complaints about their services".

The Charity Commission is trying to highlight that service delivering charities ought to put in place complaints management procedures to enable them to deal with complaints they receive about their services. It is intended that this will enable charities and their service users to come together in the interest of transparency and good customer service.

The Charity Commission Direct was launched on 16 May 2006 as the single point of contact for all enquiries and requests for services coming into the Charity Commission.

All enquiries to the Charity Commission from trustees, service users or other interested parties with regard to charities whether they come in via telephone, email, post or fax will be received by the Charity Commission Direct based in Liverpool. Every enquiry is risk assessed and urgent requests are expedited. The Charity Commission Direct also provides a help line dedicated to trustee enquiries and the Charity Commission has developed a database of frequently asked questions providing instant answers. The Charity Commission Direct is also intended to give a faster response for both postal and email requests.

The above publications and a wealth of other information to assist charities is available on the Charity Commission's website: www.charitycommission.gov.uk.

We can provide more detailed advice on any of these issues and on a wide range of governance related issues. Please contact Ralph Coyle or Gerry Morrison on 01904 625790.

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RISK MANAGEMENT

The Statement of Recommended Practice, accounting and reporting by charities is continually reviewed and the latest revised edition - SORP 2005 was published in March 2005. The SORP 2005 came into effect for financial periods commencing after 31 March 2005, but charities were able to choose to adopt it earlier.

SORP 2005 consolidated existing recommendations concerning governance and structure which were first introduced by SORP 2000. SORP 2000 introduced a new requirement into the trustees' annual report requiring trustees to make a statement confirming that:

"The major risks to which the charity is exposed, as identified by the trustees, have been reviewed and systems have been established to mitigate those risks."

Trustees are also required to give an additional disclosure setting out the policies and procedures and adopted by the charity for the induction and training of its trustees.

These requirements have raised questions as to what steps trustees need to take in order to make a positive statement in the annual report regarding risk management and policies and procedures for the induction and training of trustees.

The Charity Commission has recommended that charities adopt risk management policies which identify the major risks to which the charity is exposed and set out the control procedures put in place to mitigate those risks. Such policies may also include control procedures with regard to the induction and training of trustees.

The purpose of risk management policies is not just to focus on the "prevention of disaster", but is to enable charities to focus on their objectives and take steps to eliminate risks that may prevent them from achieving their objectives.

We can advise charities with regard to putting risk management policies in place and have drafted policies to enable trustees to make a positive statement in the annual report.

*For further information about this, please contact
Gerry Morrison on 01904 625790 or email
gerry.morrison@rollits.com*



FUNDRAISING STANDARDS BOARD

The Fundraising Standards Board is a new independent body which has been established to introduce a self-regulatory scheme for fundraising in the UK. The FSB came out of recommendations made in "Private Action, Public Benefit," a Government report on charity law and regulations. In short, the FSB's purpose is to recruit not for profit organisations engaged in fundraising in the UK and monitor their compliance with the Institute of Fundraising's Codes of Fundraising Practice. The FSB will promote best practice in charitable fundraising to help secure public confidence in the sector and help member organisations improve their fundraising and maintain the trust and confidence of their donors. The FSB will also introduce a complaints procedure which will be based on the Institute of Fundraising's "Donor's Charter."

Charities wishing to subscribe to the scheme will have to pay a membership fee, but the FSB's "tick mark" logo may be used by member charities to demonstrate their commitment to high standards in fundraising and best practice. Clearly, it is hoped that donations will be increased by increasing public confidence and improving charities' relations with their donors.

The self-regulation scheme was launched on 21 June 2006 and will be launched to the general public in October 2006. More information about the Fundraising Standards Board can be found on its website: www.fsboard.org.uk.

It has been emphasised that it is important that charities that carry out substantial fundraising activities in the UK should register for the new scheme. Ultimately, the number of charities that register for the scheme will determine the success or failure of self regulation. If self-regulation does not work, it is feared that the Government will impose rigid regulation on the sector.

The FSB's self-regulatory scheme opens membership up to any not for profit organisation which carries out fundraising activities in the UK and raises funds from the public. Membership is also available to suppliers providing fundraising services to the sector such as professional fundraisers.

Trustees of fundraising charities should carefully consider whether registering for the new scheme would be in the charity's best interests. We can provide further advice and information on this if required.

INFORMATION

***If you would like any further information on any of the issues raised by these articles or charity law, commercial law or Gift Aid in general please contact
Ralph Coyle or Gerry Morrison on 01904 625790***

This bulletin is for the use of clients and will be supplied to others on request. It is for general guidance only. It provides useful information in a concise form. Action should not be taken without obtaining specific advice.

We hope you have found this bulletin useful. If, however, you do not wish to receive further mailings from us, please write to
Mrs. Pat Coyle, Rollits, Wilberforce Court, High Street, Hull, HU1 1YJ.

***The law is stated as at 25 July 2006
Rowntree Wharf, Navigation Road, York YO1 9WE
Wilberforce Court, High Street, Hull HU1 1YJ
www.rollits.com***

