

Charities Focus



Don't wait too late to discover the importance of reserves policies

What happened in the BeatBullying case? In 2014, the charity, BeatBullying, went into liquidation owing its creditors £1 million. The Charity Commission found that the cause of the charity's collapse was the fact that it relied too heavily on expecting to receive grant funding, which it never ended up receiving.

The charity's over-reliance on a single source of income was not in compliance with its reserves policy. Consequently, when the expected funding was cancelled, the charity could not deal with the financial consequences. The Charity Commission identified that the collapse was not due to any financial misconduct or mismanagement, or misapplication of funds; it was simply the loss of anticipated funding which made it too great for the charity to continue.

Importance of reserves policies

This case illustrates the great importance of ensuring that reserves policies are followed. Reserves are part of a charity's unrestricted income funds which it is freely available to spend on the charity's purposes. A reserves policy provides an explanation to funders, donors and other stakeholders as to why it is necessary for the charity to hold a particular amount of reserves. The policy provides assurance that the charity's finances are actively managed and that its activities are sustainable, as well as identifying any future funding requirements. The policy should take the charity's financial circumstances into account and it should be reviewed to ensure that the policy is constantly meeting any changes in the charity's needs. Not only does this provide an element of stability for the charity in terms of finance, it also

gives funders, donors and stakeholders the impression of a well managed organisation in which to invest.

It is, therefore, vital that charities do comply with their reserves policies. As experienced by BeatBullying, a failure to comply with a reserves policy creates the potential risk of a lack of funds or liquidity to meet new needs and requirements, as well as an inability to meet commitments and/or planned objectives. A good policy will explain how to use reserves to manage uncertainty.

It is important to note that a reserves policy should be justified in a charity's annual report. For example, if a charity has excess reserves, it might appear to funders that it does not need more funding. Therefore, a failure to justify the reserves policy could lead to reputational risks to the charity. If reserves are held to fund future purchases or activities, the policy will explain how and when the reserves are to be spent, which should provide such justification.

Risk management and mitigation

It is important to regularly review the reserves policy and the level of reserves held by a charity. The reviews help to indicate any potential problems with the charity's finances and the monitoring should occur throughout the year. If the monitoring identifies any change in the level of reserves from the target level,

the reason for the difference can then be explored and dealt with accordingly.

To manage risks, a charity should have a framework in place to:

- Identify the major risks that the charity is exposed to;
- Make decisions about how to mitigate these risks; and
- Make an appropriate statement about risk management in their annual reports

By regularly reviewing the charity's reserves policy and level of resources, the charity will be satisfied that its plans, projects and objectives can be achieved, that it has the capability to deal with any unforeseen financial difficulties that may arise and that funders will continue to have confidence in the charity.

Amy Marson

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Changes to Gift Aid Small Donations Scheme

The Gift Aid Small Donations Scheme enables a charity to claim Gift Aid on any cash donations it receives which are under £20, even if the donor has not provided a Gift Aid declaration.

Currently, the scheme enables a charity to claim a Gift Aid like payment on up to £5,000 per year of these small donations. This means that the government can pay a charity up to £1,250 a year. However, in the Budget, the Government announced there will be an increase to the limit of donations that can be claimed. From April 2016,

charities will be able to claim under this scheme for up to £8,000 of small donations, which enables charities to claim up to £2,000 of payments from the Government.

The structure of the scheme itself has not been changed which means that the scheme remains fairly complex. However, a review of

the scheme is apparently intended which could mean that more charities will be encouraged to apply. Only £23 million out of £85 million was claimed in 2014/2015. Hopefully any structural changes to the scheme will help more charities to utilise the scheme effectively.

Sarah Greendale

Risks for charities not acting in accordance with their objects

The Charity Commission recently appointed interim managers to take over the administration of Legal Action, a London-based charity also known as Charles Henry.

Legal Action's objects include the provision of legal support to people who cannot afford it. It came to the Charity Commission's attention that Legal Action was not operating in furtherance of its stated charitable objects (i.e. aims).

Legal Action subsequently failed to act upon the Charity Commission's recommendations following an inquiry. This led to the Charity Commission appointing interim managers to assume operation of Legal Action in place of its trustees. The interim managers have assumed all the powers of Legal Action's trustees to act in the charity's administration. The interim managers are reporting to the Charity Commission, investigating Legal Action's finances, ending any activities that are not in furtherance of its charitable aims and are making recommendations as to Legal Action's future operation and application of its assets.

The Charity Commission has not yet published details of any inappropriate

activities, but the appointment of interim managers is not step that is taken lightly.

It emphasises the importance of trustees ensuring a charity remains faithful to the pursuit of its charitable aims as stated in its governing document. It sounds obvious, but there is a risk for all charities that mission drift can occur over time if a charity's objects and activities in furtherance of these are not regularly reviewed. Trustees need to be familiar with and understand their charity's aims and ensure that the charity's strategy is to fulfil them. Trustees who do not ensure this could be held to be in breach of their duties. Aims that have become outdated or obsolete should be amended with prior legal advice and the Charity Commission's involvement. It is also very damaging to a charity's reputation to be on the wrong end of a Charity Commission enquiry of this nature and to say the least, embarrassing for the charity's trustees.

Gerry Morrison



Information

If you have any queries on any issues raised in this newsletter, or any charity matters in general please contact Gerry Morrison on (01904) 625790 or email gerry.morrison@rollits.com

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Charitable housing associations Proposal to extend the right-to-buy scheme

Charitable housing associations have expressed concerns about the Government's proposals to extend the right-to-buy scheme in the Housing Bill recently announced in the Queen's Speech. Not all housing associations are charities, but many are exempt charities and some are registered charities.

The Housing Bill proposes to give tenants of housing associations the right to buy their homes at discount. Hence housing associations would be compelled to dispose of properties at below market value to benefit tenants exercising their right to buy.

It is unclear how this would interact with charity law and in particular, the principle that charities' assets are used in

furtherance of their charitable aims. There is fear that it would asset-strip charities to fund discounted homes for better-off tenants at the expense of those in need of housing. There are also concerns that it would deplete housing stock for people in desperate need of housing and compromise charities' independence from Government.

Some people have defended the proposals on the basis that enabling people to own their home enables them to take a stake in society. However, rigorous criticism of the proposals may well lead to revisions and we await further news of the Bill's progress with interest.

Gerry Morrison