

## CIO? a guide to registration

The Charity Commission has published guidance for Charitable Incorporated Organisation (CIO) registration, which is expected to begin soon in England and Wales. The guidance explains how new organisations, existing unincorporated associations and charitable trusts can set up a CIO and what they are obligated to do when running it.

A CIO is a new legal form for a charity that is not a company and does not need to submit returns to Companies House. Instead, a CIO must register with the Charity Commission. Once a CIO has been registered, it can conduct business in its own name and enter into contracts, but the members and trustees will normally be personally safeguarded from its financial liabilities.

The legal framework for CIOs was set out in the Charities Act 2006, but the regulations that will govern them are yet to be made. As a result, the Charity Commission has pointed out that its guidance is subject to change. A timetable for the introduction of CIOs is yet to be set, and the guidance has been published in order to give interested parties time to decide whether the structure will be right for their organisation. A similar legal form has already been introduced in Scotland (see back page), and is set to be introduced in Northern Ireland.

According to the Charity Commission, the CIO structure is

most likely to benefit small to medium sized organisations that may employ staff, own property or enter into other contracts. Very small organisations may find it is simpler to operate as an unincorporated association or a charitable trust. Larger organisations may prefer to operate as a company limited by guarantee.

All CIOs will need to register, regardless of their income, and will need to submit an annual return and keep registers of members and trustees. Every CIO must have a constitution that is approved by the Charity Commission. 'Exempt' charitable organisations that are not regulated by the Charity

Commission, such as universities, museums, galleries and Provident Societies, cannot register as a CIO.

In addition to setting out the rules and benefits of CIOs, the guidance also provides model constitutions for organisations run by charity trustees (foundation model) and organisations run by a wider membership (association model). Specifics on the registration process and the information CIOs must submit in their returns to the Charity Commission have not yet been published, but will be added to the guidance when available.

For guidance on CIOs go to: <http://snipurl.com/27siwn>



# public benefit guidance 'lacks clarity'

A charities umbrella group has told the Charity Tribunal that the Charity Commission's guidance on public benefit for fee-charging charities is unclear.

The National Council for Voluntary Organisations (NCVO) told the Tribunal that while it does not believe that the Commission has "misdirected itself as to the law", its guidance is nonetheless "lacking clarity in certain respects".

The NCVO made the comments in a witness statement submitted to the Tribunal, which is preparing to consider a Judicial Review of the guidance brought by the Independent Schools Council (ICS).

The Tribunal has also been asked by the Attorney General to look at how the public benefit test applies to fee-

charging schools, and the NCVO said its statement applied to both cases.

The NCVO claimed in its statement that it supported the ICS's view *"that, rather than promoting awareness and understanding of the public benefit requirement, the Guidance and assessment reports have created confusion and uncertainty"*.

However, it challenged the ICS's suggestion that a fee-charging charity could satisfy the public benefit test if its purpose was to *"offer its services to the public as a whole or to a section of the public representing an appreciably important class of the community, on payment of its fees"*.

The statement refers to the ICS's argument that since some 5% of the



school population attend charitable independent schools, those who are able to pay "will constitute a sufficient section of the public" to satisfy the definition.

The NCVO's statement counters this claim, arguing that if a charity's fees were so high that only a few people could afford them, and there were no "other direct and indirect benefits to redress the balance", the class of beneficiaries would fall short of being a section of the public.

# new small gift tax scheme

A new scheme making it easier for charities to claim tax relief on small donations will only be open to those who have complied with tax rules for at least three years, HM Revenue & Customs (HMRC) has confirmed. The Small Donations Scheme will allow charities to claim relief on donations totalling up to £5,000 each year without providing Gift Aid declarations, as long as they have been registered for Gift Aid for at least three years.

A spokesman for HMRC said this would prevent fraud and *"enable charities to demonstrate that they are compliant and conduct their affairs professionally."*

The new scheme will require primary legislation to be passed, and is expected to come into force in April 2013. There will be a consultation on how it will work later this year.

*"The administrative burden of*

*collecting and dealing with Gift Aid declarations is often a deterrent to charities that receive a high volume of small donations"*, the HMRC spokesman said. *"This scheme enables charities to claim a Gift Aid type payment on small amounts without needing to maintain detailed records."*

Recent research estimated that charities miss out on the potential Gift Aid from around £1.7 billion in spontaneous small cash gifts because of the difficulty of collecting

the necessary declarations from donors.

The Small Donations Scheme is part of a package of measures announced in the 2011-12 Budget to support the voluntary sector and encourage charitable giving.

Other plans include a new online filing system for Gift Aid to help reduce bureaucracy for charities. The Government also said it would explore ways of increasing the uptake of Payroll Giving, where people can give to charities tax efficiently out of their salaries.



## in brief..

### **DWP encourages voluntary organisations to offer work experience placements**

Following the Government's promise to fund 100,000 UK work experience placements over the next two years, Secretary of State for Work and Pensions Chris Grayling has encouraged voluntary organisations to join the public and private sectors in providing placements for young people. The DWP's plan to spend £40m funding the placements was outlined in the 2011-12 Budget alongside a pledge to train 50,000 new apprenticeships across all disciplines, including those in voluntary sector organisations. There is more on this story at: <http://snipurl.com/27siwr>

### **The Big Lottery Fund may talk with Government about releasing data**

The Big Lottery fund (BIG) has declared that it would be willing to speak with the Government on behalf of charitable organisations to encourage the release of statutory data. The data, which is currently very difficult to access, could enable charities and social interest companies to accurately measure their impact on society. Ceri Doyle, director of strategy, learning and performance at BIG said: "if the government is serious about measurement and impact they need to provide data which charities can use to benchmark." She announced that BIG would be happy, with partners, to open debate with the Government on the matter. There is more on this story at: <http://snipurl.com/27siws>

### **Charity Technology Trust calls for tax breaks on computer hardware donations**

Tax breaks should be provided when computer hardware is donated to charity according to the Charity Technology Trust. The trust, which provides voluntary organisations with free computer software, has announced it will urge the

Government to introduce tax relief on computer hardware that is donated to charitable organisations. Despite extensive announcements by the Government calling for 'digital inclusion' - which would ensure that all members of the public have access to computers and the internet, Charity Technology Trust's Chief Executive Richard Craig says voluntary organisations often don't have the IT equipment necessary to support their beneficiaries. There is more on this story at: <http://snipurl.com/27siwv>

### **Research shows that donors are concerned about where their money is spent**

More than two thirds of donors who give money to charity are concerned about how their money will be spent, a survey has revealed. According to research commissioned by the Fund Raising Standards Board (FRSB), donors are concerned about how much of their donation is spent on administration and whether the charity in question is accountable to fundraising best practice. Alistair McLean, Chief Executive of the FRSB emphasised the importance of good communication between charities and donors to alleviate concerns: "Donors need to understand where the money goes, we need to educate the public, conveying just how committed charities are to best practice, professionalism and accountability." There is more on this story at: <http://snipurl.com/27siwy>

### **Charitable giving**

Measures to encourage charitable giving will be of interest to both the voluntary sector and those who donate to charity. The reduction from 40% to 36% in the rate of inheritance tax applicable from 6 April 2012, where 10% or more of a deceased's net estate is left to charity should provide additional incentives for substantial charitable legacies. The relaxation on the limits which restrict the value of benefits that individuals may receive as a result of making charitable donations that qualify for Gift Aid, raising the overall cap of £500 to £2,500 from

6 April 2011, should encourage more giving.

### **Council credit checks don't rate charities fairly**

The Local Government Improvement and Development Agency is to investigate whether or not credit checks undertaken by councils are unfairly disadvantaging charities following a complaint from a disability organisation in Essex. Concerns were raised when the charity was alerted to its bad rating while bidding for a contract. Melora Jezierska, a policy officer at the Charity Finance Directors' Group agreed that conventional measures of credit rating should not apply to charities. She said "By their very nature, most charities do not hold large amounts of cash in the bank, tend not to take out loans and do not have guaranteed streams of income. This means many are faced with poor credit ratings when using conventional forms of measurement."

There is more on this story at: <http://tinyurl.com/5wygzg>

### **EC recommends VAT refunds for public-serving charities**

Charities that provide public services should be entitled to the same tax breaks as public sector organisations, according to a report from the European Commission (EC). Findings from the report revealed that after a VAT refund scheme was introduced for charities in Denmark, the extent of public service activities from non-profit organisations dramatically increased. Charity umbrella bodies including Aveco and the Tax Charity Group have stepped up their lobbying of the Government, saying that this report will inform the EC's thinking on the matter. Peter Jenkins of the Tax Charity Group said that extending the VAT refund to these charities is "crucial to what the government is trying to do" with regard to its Big Society campaign which is calling for voluntary organisations to run more public services.

There is more on this story at: <http://tinyurl.com/62zpg7w>

## more schools converting to academies

The number of academy schools in England has increased substantially over the last year, from 203 in May 2010 to 629 in April 2011. One in six secondary schools are now academies, remaining publically funded, but being free from local authority and national government control.

Any primary or secondary school that has 'performed well' can apply to convert to an academy. Performance is evaluated based on exam results, comparisons with local and national averages, Ofsted reports, and other relevant matters. The cost of conversion can be high. The Department for Education (DfE) pays each

converting school a flat-rate grant of £25,000, but this may not cover the entire cost, and some schools will seek support from a sponsor in setting up their academy trust. Schools don't necessarily need a sponsor to apply, but they must have the support of their governing bodies, who may set up the trust themselves.

The basic conversion process involves three steps: registering the academy trust with Companies House; setting up a trust bank account, and transferring, renewing or procuring contracts, licences and insurance. The conversion process normally takes three to four months. Schools can withdraw their application at any time until the funding agreement is signed. From that point they are legally obliged to proceed with the conversion to an academy. Reverting back from academy status



requires giving a lengthy termination period of seven years.

The starting point for schools wishing to convert is to register their interest on the DfE website. A named contact will then guide them through the conversion process. Further information can be obtained from the DfE, and from the Foundation, Aided Schools and Academies National Association.

For more information, go to <http://tinyurl.com/5vvm99>



Ashcombe Court  
Woolsack Way  
Godalming  
Surrey GU7 1LQ

Tel 01483 416232  
Fax 01483 426617  
mail@roffeswayne.com  
www.roffeswayne.com

If you would like further information on any of the articles in this newsletter please contact John Fisher on the telephone number above or email [jfisher@roffeswayne.com](mailto:jfisher@roffeswayne.com)

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## HMRC aims to simplify charities guidance

HM Revenue & Customs (HMRC) has launched a new project aiming to simplify and improve its guidance for charities.

Explaining the move, HMRC said it recognised that some of its published guidance targeted at charities could be difficult to understand for individuals who are not tax professionals. As a result, it will review all of its charities guidance, and work with groups and individuals within the charities community to assess their needs and concerns.

Charitable status may qualify an organisation for tax exemptions and reliefs, but this needs to be specifically claimed. Charities that receive taxable income or gains need to complete tax returns, and VAT rules also apply. This can represent a complicated burden for charities, which are run by a broad range of individuals, some of whom may be professionals, but many of whom are volunteers.

Identifying common errors made by charities, and improving guidance to reduce these errors, is one example of how HMRC says it aims to help charities, reducing their administrative burdens and saving them time and resources.

HMRC describes the project as a 'large undertaking', and says that it will involve improving engagement and interaction with customers, and reviewing and prioritising all existing guidance for charities. New ways of presenting guidance will be developed and piloted to ensure that customers find them more helpful, and specific topics and issues will be discussed with customers.

The project, which was launched in April, is expected to take several months. A detailed timetable will be developed as the project proceeds. HMRC will produce interim guides on specific topics relevant to charities during the undertaking.