



Be proactive to secure your future

Welcome to the spring edition of Menzies LLP's Charities Insight.

It is true to say that the economy has continued to decline since our previous publication and the position the sector finds itself in is almost unprecedented. However, this means we must continue to be more proactive than normal to ensure survival.

In this edition therefore, as well as focusing in more detail on public benefit requirements, we focus on areas where organisations can be more proactive in securing their current situation and their future.

Articles cover practices that we should all be putting into action at the moment and how impact reporting can help drive a charity forward and potentially secure funding in the future. As ever, our team of specialists is available to help discuss any of the issues raised here or any other matter that may concern you. Please feel free to contact us at any time as we would welcome the opportunity to help.

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"We focus on areas where organisations can be proactive in securing their current situation and their future."

Latest: new funds available for voluntary organisations

£16.5 million has been made available by the Office of the Third Sector through its modernisation fund. The fund was set up to help facilitate mergers and partnerships. Voluntary organisations working in the areas of:

- Loss of income, training and skills
- Wellbeing and health
- Advice, information and guidance

are able to apply for these funds, which are being delivered by way of interest-free loans by Futurebuilders and grants between £1,000 and £10,000 for small charities with income under £1 million by Capacitybuilders.

A specific website with full application details is due to be launched by Capacitybuilders later this month and the grants will be awarded between June and October this year.

In this issue

Charities in the recession – the issues and the advice

Public benefit – the basics

Impact reporting – time to take stock

Charities in the recession – the issues and the advice

There can be no doubt by now that almost all charities are starting to feel the recession. A reduction in the level of income from donations, investment income falling, values of investments and property causing legacy incomes to fall, together with rising costs and an unprecedented demand for services have forced every organisation to look closely at their operations and business plans.

Loan interest tax relief under attack for larger charities

Charities with an income of over 50 million Euros or with over 250 employees could be hit by a piece of legislation that was never intended to have consequences for them but could have a high cost.

Where such charities have trading subsidiaries and historically have loaned that subsidiary money on which interest is paid, the new legislation intends that no tax relief can be obtained by that subsidiary on the interest. In normal group circumstances there will be no tax effect in the group as the parent company will not have

to pay tax on the interest it receives. But in the case of tax-exempt charity parents, this will just mean an increase in the tax charge for the subsidiary on this disallowed interest.

The legislation is to be introduced as part of the planned rule changes for companies receiving overseas income.

We understand that the Charity Tax Group has made representations to HMRC and we await news of whether any exemption will be put in place by the time the legislation comes into force.

Here is our list of points that all organisations should be considering during this period:

- Revisit budgets and cash flow – how robust are the assumptions that were made? A realistic approach now may identify problems earlier.
- Explore all funding avenues – is there a source that has not yet been examined for its potential? What help is available from the Government? For example, were you aware of the grants of up to £1,000 available from Train to Gain (info@traintogainse.co.uk) towards the cost of leadership and management training?
- Ensure all possible gift aid claims are pursued and undertaken. This is money

that is available so ensure that full advantage is being taken.

- Improved credit control procedures – “cash is king” so wherever possible, ensure that any debts are agreed and payment chased well in advance of due dates to avoid delays in receipt leading to cash-flow problems.
- Monitor all expenditure – question all expenses and ensure that value for money is being obtained in all areas. Consider all possibilities, including sharing staff or facilities with other organisations. Outsourcing is also a way of potentially saving costs during this period.
- Communicate with all suppliers – good communication during the hard times is always looked upon more favourably than burying one’s head in the sand.
- Measure your performance – as we discuss elsewhere in this issue, time spent measuring the impact of your organisation’s performance may lead to further funding opportunities and identification of where funds are being potentially wasted.
- Use retained reserves – recessions are the “rainy days” that the reserves have been accumulated for, so do not be afraid to use them to deal with temporary falls in income and to secure the long-term existence of the charity.

Compulsory pensions – are you ready?

Recent research published indicated that as many as two-thirds of all charities have yet to assess the cost of the Government’s proposed compulsory pension enrolment from 2012. In moves, which are the closest the Government has come to compulsory pensions, it is anticipated that from the start of 2012 all employers will have to provide their employees with a basic pension scheme from the date of employment and make contributions of 3% of the employee’s salary.

This increase in payroll costs is not something that it appears the majority of charities have taken account of in their long-range forecasting. And in the current economic climate with uncertainty as to how long business will be affected by the downturn, it is important that charities are aware of the effect of such an increase in expenditure.

If you would like to discuss the current provisions and their effect on your organisation, please contact Alan Jordan at ajordan@menzies.co.uk.

If you wish to discuss any of these points in any detail, please contact your local Menzies charities specialist.



All of a charity's aims must be for the public benefit and when assessing whether or not a charity fulfils the public benefit requirement, the Charity Commission will only take into account the benefits that come from charitable aims.

It is clear that what is needed is not just a paragraph headed 'Public Benefit' but a demonstration throughout the report of the public benefit provided to the beneficiaries through the activities carried out by the charity.

The Charity Commission will be reviewing charities' accounts to check whether they are complying with the public benefit requirement. This will be done in a variety of ways, including a review of the trustees annual report, carrying out research studies with groups of charities and their professional and umbrella bodies as well as discussions with the trustees.

If the trustees annual report contains sufficient information to demonstrate that the charity is fulfilling its public benefit requirement, there may be no need for further investigation by the Charity Commission.

It is clear from the material published by the Charity Commission and from assessments already carried out by the Office of the Scottish Charity Regulator, that, where a charity is not, in their opinion, meeting the public benefit requirement, they will seek ways in which the charity could change its method of operation in order to comply.

This summary is not intended to explain what public benefit is but merely to set out some guidance as to the reporting requirements and how they can be fulfilled. Additional information and examples can be found on the Charity Commission website.

We have published two help sheets on our website explaining the principles of public benefit and guidance on compliance with the legal requirements. Of course, we would be delighted to meet you to discuss how your organisation can comply.

www.menzies.co.uk/en/sectors/charities-and-not-for-profit/

Public benefit – the basics

The public benefit reporting requirements came into force on 1 April 2008. This means that for most charities it will be a legal requirement to report on public benefit in their accounts to 31 March 2009.

Charities will need to demonstrate in their annual report how they are providing a benefit to the public through their activities.

There is also a statutory duty for the trustees to make a statement in their annual report confirming whether due regard has been paid to the public benefit guidance published by the Charity Commission.

It is not enough to just make the statement. The trustees must be able to demonstrate from their meetings and planning activities that they have taken steps to understand what the guidelines require, and considered how these affect the way in which they carry out their activities. Where trustees do not follow the guidelines, they should be able to explain and justify why these have not been followed.

The level of explanation in the annual report will depend on the size of the charity. For small charities not requiring a statutory audit, a brief summary will be enough, but for larger charities more detail will be required. Details of achievements measured by reference to objectives will need to be explained, together with the impact of work on beneficiaries and the wider public.

Many charities already prepare comprehensive and informative reports, so will only need to supply additional explanation of the benefits they provide, the outcomes and the longer-term impact within their existing paragraphs covering 'Objectives and Activities' and 'Achievements and Performance'.

Others may need to think clearly about what they do, how they do it and how those activities can provide a measurable benefit to the public – but where to start?

In its trustees annual report, the charity is required to show how its aims and objects are for the public benefit. Before they can draft suitable paragraphs to demonstrate this, the trustees need to be clear as to what their aims and objects are and how their activities fit with them. It may therefore be useful to define these terms and how they fit together.

Objects – a charity's objects will be set out in its constitution

Aims – these are ways in which the charity seeks to fulfil the objectives set out in the constitution

Activities – what the charity actually does to fulfil its aims

Achievements – the results of the activities undertaken

For each of its activities the charity needs to explain the difference that it makes to their beneficiaries, the outcomes and any longer term impact. To do this the achievements should be explained so that they are measured by reference to the charities objectives and aims set by the trustees.

Impact reporting – time to take stock

There is no doubt that every charity is set up with an admirable set of aims and objectives, the new public benefit rules compel this, but just how can each organisation be sure that it is achieving its goals?

Impact reporting is not a new concept, but is one that is becoming increasingly important with the current recession creating a tougher funding environment and a more discerning public. There is an increasing demand from funders for charities to demonstrate effectiveness, in essence, a move towards “outcome based funding”.

In 2004, the Charity Commission published its guidance “Hallmarks of an Effective Charity”, in which it stated that all charities should consider the impact of their activities on the people they are trying to benefit. This promotes the accountability and transparency of a charity’s activities, which can only be of advantage in a competitive funding environment.

Not all charities can afford to commission research to establish the impact they are having, but there are simple ways to assess the impact of certain actions, campaigns or projects. For example, a campaign to attract children of school age to a museum can easily record its success in terms of the number of school trips during term time and the number of children coming through the gate. But in terms of the impact of the campaign on the overall objectives of the museum, it may need teaching staff to provide feedback on the success of the trip, i.e. did the children enjoy it, were they inspired by the museum’s contents and would they be returning in the future with

their families during school holidays? It is this impact of the project on the overall aims that is the important conclusion, not just the outcome in terms of the number of children attending.

This raises the obvious question – how can impact information be reported? Well, there are a number of methods: the trustees report in the financial statements, the website, newsletters and brochures. One thing is certain, it is not just a role for the finance team, but for all staff including, and probably best placed, the marketing and communications team.

In conclusion, impact reporting is especially important for charities in the current economic climate and all should be looking at ways of gathering information for internal and external markets. If you wish to discuss how your organisation can improve its impact reporting, please contact Alan Jordan at ajordan@menzies.co.uk.

A good charity will use information collected to highlight:

- Commitment to the delivery of its aims and objectives
- Identification of missed opportunities
- How it can and will be better at channelling its investment
- Information for potential donors

Charitable incorporated organisations – the latest

In our last publication we looked in some detail at CIOs and expressed some concern as to the ambition of the deadline for introduction following the public consultation.

It has now been announced that following that consultation, the Government has decided to amend its plans and is looking for an implementation date of April next year, with further scope for a phased introduction.

This is to enable a review to be undertaken, as there was a widely held view that the regulations were too close to that of company law and may be too complicated for smaller

charities considering CIO status. The aim had always been that the administrative burden be reduced and this review, whilst delaying the launch, is welcomed as a sensible move. Several points are being looked at in some detail. The duty of care on trustees, plans to give public access to the register of trustees and members of CIOs and criminal penalties for trustees who fail to meet their obligations are amongst the more important. We will keep you updated on progress prior to launch.

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