

The background is a solid blue color. Three white, curved lines sweep across the page from the top left towards the bottom right. The lines are of varying thickness and curvature, creating a dynamic, abstract design.

# SPRING 2015 NEWSLETTER

**Tessa Hennessy Solicitor**  
Legal Advice for Charities & Social Enterprises

We hope that you will find time in your busy Spring schedule to read our latest newsletter which includes some of the recent developments in charity law and regulation. If you would like more information about any of the topics covered, please do not hesitate to contact us. *Tessa Hennessy*

## CHARITIES SORP 2015 – HAVE YOU CHOSEN ONE TO FOLLOW?

Two new SORPs were published last July and those charities which prepare their accounts on an accruals basis must decide which one to follow for financial years commencing 1st January 2015. It is likely that most charities will adopt the SORP based on accounting standard FRS 102, as the FRSSE version is likely to be withdrawn in 2015/16.

While some of the changes in the SORP are subtle, such as changes in the lay out and terminology used, others are more significant such as reporting on the charity's reserves policy, the amount of reserves and why they're held (or not); new trustee disclosures, including which trustees are de facto trustees (similar to "shadow directors" in companies); and changes to statements of cash flow.

We recently co-organised a seminar for our charity clients on the new Charities SORP. This was delivered free of charge by chartered accountants, Critchleys, at their Oxford offices and was very well received. If you are interested in coming to a seminar on the new SORP please let us know and we will talk to Critchleys about organising another one.

For more detailed information about the new SORP and useful help sheets on the changes plus worked examples of accounts, go to <http://www.charitySORP.org>

## CHANGES AT THE CHARITY COMMISSION (OR SHOULD WE SAY MORE CHANGES...)

Many of you will be aware that a new chief executive, Paula Sussex, was appointed last summer to head up the Charity Commission.

A qualified barrister and with a background in management consultancy, she will need to rise to the challenge of managing a leaner organisation which has seen its budget cut by 40% in real terms since 2007/08. At a Charity Law Association talk we recently attended, Ms Sussex set out the context in which the charity regulator now operates. First, she referred to the public's high expectations and desire for a tough regulator which can act quickly to stop mismanagement in charities; second, she mentioned the increased scrutiny of charities by the media (a recent example of this being ITV's documentary, "Charities behaving badly"); and third, she talked of the critical review of the regulator's work by the National Audit Office.

Ms Sussex outlined examples of change at the Commission and in particular improved use of their current legal powers: 64 new investigations were started in 2013/14 compared with 15 in 2012/13; and the exercise of the regulator's powers on 790 occasions in 2013/14 compared with 216 occasions in 2012/13. She also referred to the increased digitisation of front-end services and the ongoing automation of low risk activities but did acknowledge that there is a need for more "manpower" for permissions and consents (which in our experience are currently taking several weeks). The main message of the talk was that the Charity Commission is becoming an efficient, effective and robust regulator but in a proportionate and fair way.

## CHARITABLE INCORPORATED ORGANISATIONS – TWO YEARS ON

The charitable incorporated organisation (CIO) which was introduced in January 2013 is over two years' old and proving very popular with new charities as well as existing ones wanting to incorporate in order to provide a corporate wrap around their activities and greater protection for their trustees. The total number of CIOs registered as at January 2015 was 3,137, representing nearly one-third of new charity registrations. However the news for those charities which are currently charitable companies (that is, companies limited by guarantee with charity status) wishing to convert to a CIO is not so good. This is because the draft regulations required to implement the process of conversion have been delayed yet again and latest estimates are that they will not be available until later in 2015 if not 2016.

We have assisted many unincorporated charities through the process of converting to a CIO, including a couple of charities with permanent endowment, and have also delivered a number of seminars in and around Oxfordshire on the topic. If your charity is unincorporated and you are interested in knowing more about the process (as well as the benefits of incorporation) please get in touch to arrange a no obligation chat by telephone or face to face.

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## RE-WRITING OF GUIDANCE ON CHARITY TRUSTEES' DUTIES

Over the last few years, most trustees will have read and found of use the Charity Commission's guide CC3, "The essential trustee: what you need to know". We have certainly commended this publication to many of our charity clients particularly those taking on trustees new to the role. In November 2014 the Commission launched a consultation on an updated draft of this guidance; the consultation ended last month and the response has been significant. Many charity sector bodies say that the proposed guidance takes an excessively prescriptive tone, misrepresents the scope and nature of the duties of charity trusteeship, and is likely to stifle innovation at a time when this is critical to the survival of charities. They conclude that the guide, if published in its draft form, will deter potential trustees from taking on the role.

The Charity Commission is now considering the responses to the consultation and it will be interesting to see what stance the regulator adopts in the final version when it is published later this year. Meanwhile the existing version still stands and a PDF version can be downloaded at:  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/298865/cc3text.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/298865/cc3text.pdf)

## OTHER NEWS IN BRIEF

**Protection of Charities Bill:** this Bill, which has recently undergone scrutiny by Parliament, gives significant new and widened powers to the Charity Commission ostensibly to help it tackle abuse and mismanagement in charities. One of the more controversial powers in the Bill is the ability for the regulator to issue official warnings to charities but with no safeguards as to how such a power could be used. Whether the Bill reaches the statute book depends on the next government but we think it is likely to become law in the not too distant future.

**Filing charity accounts:** charities now have the option of their accountant or other nominated agent submitting their accounts through a new digital service introduced by the Charity Commission in January. Charities wanting to do so must use the existing "Change your charity's details" service on the Charity Commission website in order to give their authorisation.

**Changes to the annual return for 2015:** the following questions have been added to the 2015 annual return: how much income the charity received from government sources, i.e. public income from grants and contracts; whether the charity has a policy on paying its staff; and whether the charity has reviewed its financial controls in the reporting period.

**Increase in charity audit threshold:** the government has recently announced that the income threshold at which charities are required to have their accounts audited will be increased to £1 million with effect from 31 March 2015.

**Charity Commission website:** you may have noticed that the Charity Commission website now forms part of the gov.uk website. The Commission has received complaints about the difficulty of navigating around the site, but reassures the public that everything is still there.

Our advice to charity users of the website looking for particular information is to use Google rather than the search facility on the gov.uk website.



## SEMINAR PROGRAMME 2015/16

We are in the process of planning our seminar programme for 2015/16 and are looking to deliver seminars on popular topics such as the charitable incorporated organisation. We are also able to deliver bespoke training to trustees on governance related issues so do contact us if you are interested in this; or, if you would like to go on our mailing list for future seminars, please email us on:

**info@tessahennessy.co.uk**



## ABOUT US

Tessa Hennessy Solicitor is a specialist legal practice providing advice on a range of constitutional, governance and regulatory issues for voluntary, community and co-operative organisations. Based in Oxford and founded in 2008, the firm provides a responsive, personal and friendly service.

**You can find out more information about Tessa Hennessy Solicitor by visiting:**  
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