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PREVENTATIVE
PROPORTIONATE

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Introduction

The importance of good governance has never been greater as the charity sector continues to face challenges, with funding under pressure and demand for services remaining high.

Charities are responding positively, reflected in some changes in demand for services from the Regulator. Applications for changes to charities and for reorganisations, often involving complex structures to cope with increased trading activity, are sustained at a high level. We also note that the demand for charitable status remains consistently high, with 1,225 applications made to us last year.

We too are embracing change, with a focus on developing our regulatory approach and our services to ensure that we maintain public confidence while providing support and encouragement to the enormous number of people doing great work running Scotland's charities. In October 2012 we established a new, streamlined corporate structure to improve our effectiveness and reinforce our focus on encouraging compliance among charities. We established a new Engagement Team with a dedicated remit to lead dialogue with the sector and its advisors and help promote good governance; and a Contact Team to improve the way in which we respond to incoming enquiries.

We have an ambition to be a modern, progressive light-touch regulator, supporting trustees in their challenging role as stewards of Scotland's charities. Our 2013-14 **Business Plan** sets out the detail of our work programme. In the coming year we intend to implement a new approach to our monitoring of charities which will see our resources focusing more on those areas we believe require our attention, and ensuring minimal reporting requirements for the majority of charities.

As part of that programme we hope that as many charities as possible make use of our electronic services. The launch of **oscronline** in June 2012 has been well received, with nearly two-thirds of charities already signed up. The service provides peace of mind, efficiency and convenience for charities. If your charity has not yet joined the service, you can easily do so at www.oscr.org.uk

We hope that you find this year's Annual Review an informative and useful read about our work and achievements and we look forward to our further work with the sector to ensure continued public confidence in the work of charities.



Dr Graham Forbes CBE – Chair



David Robb – Chief Executive

The Scottish Charity Regulator

Our impact

As Scotland's charity regulator, our vision is for charities you can trust and that provide public benefit.

We achieve this by:

Registration

We are Scotland's independent registrar of charities. We publish the definitive Scottish Charity Register of 23,637 charities at www.oscr.org.uk enabling the public to check charitable status and view financial and other information about charities. We consider over 1,000 new charity applications a year and grant our consent to over 700 existing charities to make changes.

Engagement

We aim to be a proportionate, fair and transparent regulator. We undertake outreach work with charity trustees and advisors through our own events and speaking at events organised by others, meeting around 2,000 charity trustees face to face each year. We publish a wide range of guidance material to assist all charity trustees in meeting legal and accounting requirements.

Enforcement

While we strive to be a supportive, preventative regulator, public confidence in charities demands that we take decisive, robust action where required. We consider around 800 concerns and complaints about charities each year, from which we conduct around 350 formal inquiries.

Charities you can trust and that provide public benefit

Over the past seven years since taking up our powers, we have built a solid base and established a robust regulatory framework that has reinforced public confidence in charities and their work. In the past year, we have reflected on our achievements and experience to identify potential improvements in how we deliver our functions. We want to consolidate our position as a modern, progressive, light-touch regulator and in the coming year we will implement a number of changes to our procedures to ensure that we achieve this aim.

This review summarises our work in the financial year 1 April 2012 to 31 March 2013. All our performance figures, along with further information about our work, are published at www.oscr.org.uk. You can receive regular updates on our work and key developments in the charity sector by:

- Subscribing to OSCR Reporter, our e-newsletter
- Signing up for our RSS news and events feeds
- Following us on Twitter @ScotCharityReg



Subscribe to OSCR Reporter, our e-newsletter, at www.oscr.org.uk

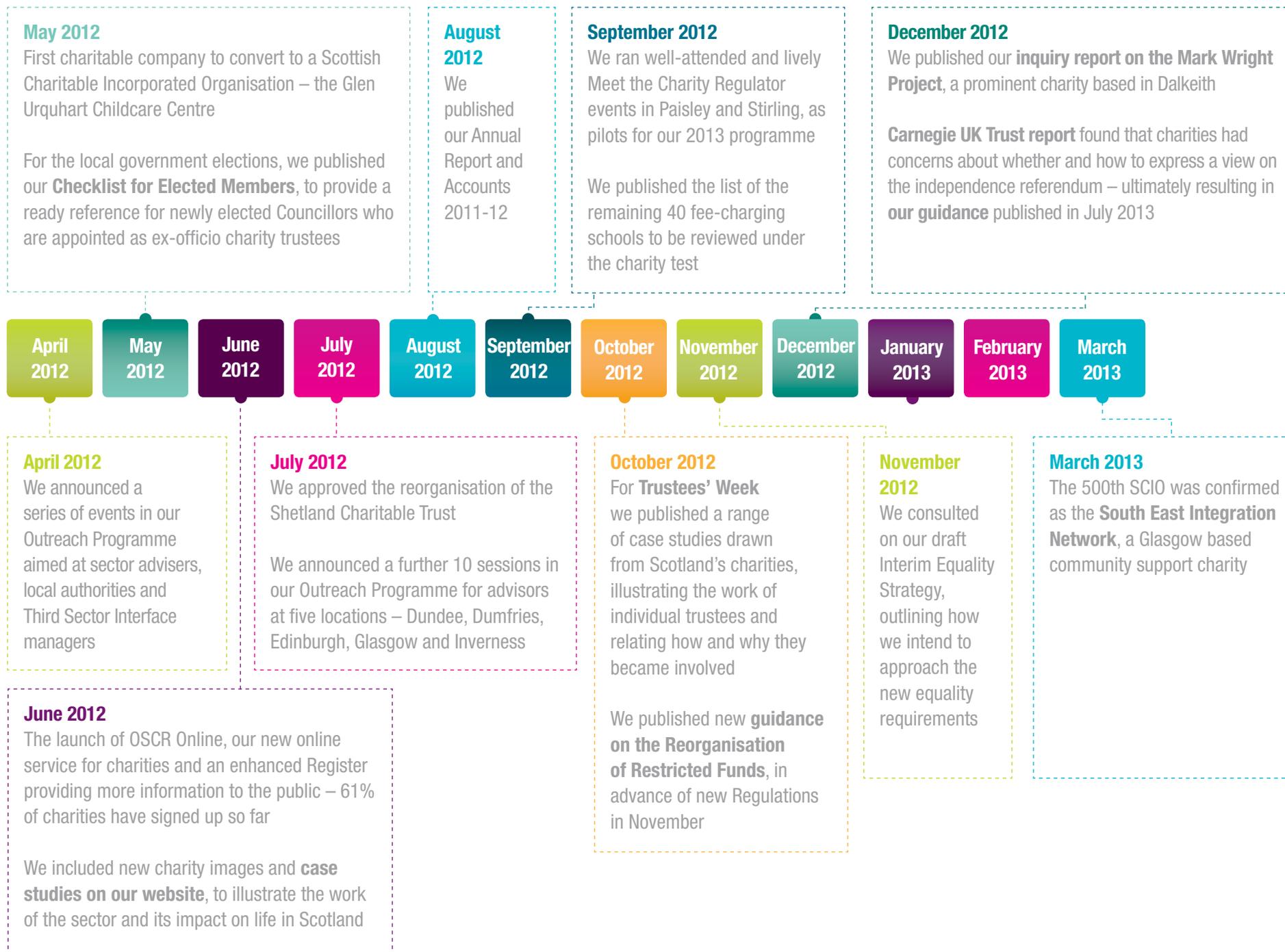


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The year at a glance



The year in figures



23,637 total number of charities regulated by OSCR (23,459)

884 the number that are cross-border (787)



97% of annual return and monitoring return forms validated within two months of submission



99% of reorganisation applications and 100% of consents applications decided within the deadline (100%) and (99%)



50 of our full-time equivalent staff, based in Dundee



66% our staff engagement score in the UK Civil Service People Survey (70%)



95% of the public believes our role is essential or important



71% of the public agree that knowledge about us and our role gives them more trust in charities



88% of charities trust us to treat charities fairly



34% of new applications for charitable status are SCIOs (20%)



90% of charities file accounts within 12 months of their accounting year end dates



97% of annual return and monitoring return forms validated within two months of submission



1,225 applications for charitable status (1,231)



278 new Scottish Charitable Incorporated organisations (161)



17 17 bodies refused charitable status (17)

() = last year's figure

The year in figures



61% of charities have registered for OSCR online, some 14,400



77 number of Freedom of Information requests



54 number of days on average to make a decision on status applications – well within the 90 day target



8,000 number of incoming letter and email queries



9,746 returns completed online – 45% of the total



17,800 the number of telephone calls we fielded – over 100 a day



702 consents to proposed changes (736)



141 number of reorganisation applications (154)



326 external complaints about charities (324)

**As Scotland's charity regulator,
we deliver the requirements of the
Charities and Trustee Investment
(Scotland) Act 2005.**

A photograph of four hikers on a mountain ridge. One hiker in a red jacket and black pants stands prominently in the center, looking out over a valley. To their left, another hiker in a dark jacket stands with their back to the camera. In the foreground, two other hikers are crouching or sitting on a large rock, also looking out. The background shows a wide valley with a river and rolling hills under a cloudy sky.

POSITIVE

The charity test is a key element of charity law.

It sets the legal standard that all charities in Scotland must meet. For example, a charity must:

- have only charitable purposes
- provide a public benefit.

A charity cannot place any 'unduly restrictive conditions' on access to the benefit it provides. Since taking up our powers in April 2006, we have granted charitable status to over 6,000 new charities under the charity test.

SCIOs

We have seen a sustained and increasing demand among applicants for charitable status and existing charities for the Scottish Charitable Incorporated Organisation (SCIO). This is a legal form unique to Scottish charities and, since its introduction on a phased basis since 1 April 2011, has become a popular option in the sector. At 31 March 2013 we had approved some 278 SCIO applications and SCIOs now account for 34% of new applications for charitable status, compared to 20% last year.

As a corporate body, the SCIO is able to enter into contracts, employ staff, incur debts and to sue and be sued. It provides protection against liability for its trustees while not being subject to the same reporting requirements as a company limited by guarantee. For example, a charitable company must report both to OSCR and to Companies House, while a SCIO reports only to OSCR. A charitable company must also prepare fully accrued accounts regardless of its size, while a SCIO is subject to the same accounting thresholds as unincorporated charities. However, those opting for the SCIO as a legal form should be aware that there are particular requirements for this legal form. For example, a SCIO's existence is based on its charitable status – it must be wound up if it is to be removed from the Register. Further information and guidance is available at www.oscr.org.uk

Charities continue to use our services to respond to change or to modernise. In the past year we granted our consent to 702 proposed changes such as a change of name or charitable purpose; and handled 141 applications to reorganise charities. We have seen local authorities such as Edinburgh and Moray using the reorganisation provisions to amalgamate charities that they administer and update their purposes, allowing millions of pounds' worth of charity funds to be applied to the public benefit.



At 31 March 2013 we had approved some 278 SCIO applications and SCIOs now account for 34% of new applications for charitable status, compared to 20% last year.





PREVENTATIVE

Preventative

A key focus of our work is in providing guidance material and support to the sector we regulate, to equip charity trustees and their advisors with the general information they need to inform the decisions they make. In doing so, we aim to address potential issues of governance before they arise.

In the past year we undertook some key organisational changes to reinforce our work in this area and enhance our reputation as an outward-looking, engaging regulator, participating in sector discussions and actively contributing our views. We increased our presence at a wide range of events and in the coming year we will work closely with trustees and advisors to build the sector's capacity for good governance.

We have established a new Contact Team, responsible for handling incoming calls and emails and managing queries. Our new Engagement Team is tasked with developing a range of activity to ensure that we maintain an effective and active dialogue with our stakeholders, with work streams covering policy development, research, training, events, guidance publications, media work and electronic communication.

- In September 2012 we staged two Meet the Charity Regulator pilot events in Paisley and Stirling, attracting nearly 200 charity trustees and advisors. These successful pilots formed the basis for our programme of such events held in Aberdeen, Oban, Wick, Edinburgh, Glasgow, and Newtown St Boswells in early 2013.
- From October to December 2012 we held 12 Train the Advisor outreach sessions in Aberdeen, Dumfries, Dundee, Edinburgh, Glasgow and Oban. These were aimed at professional advisors such as accountants and lawyers as well as Third Sector Interface managers and those in local authorities administering charities. Nearly 300 took part, ultimately reaching an estimated 2,000 charity trustees.
- In November 2012 we produced **new guidance on the reorganisation of restricted funds** and **online tutorials** to support users of OSCR online.
- We have opened a Twitter account to encourage dialogue with our stakeholders and highlight new developments. We currently have over 700 followers and will continue to examine new methods of communication.
- In July 2012 we began publishing **notable Freedom of Information decisions** and material on our website, to demonstrate transparency and illustrate to the public and the sector the areas of interest in our work that generate such requests.



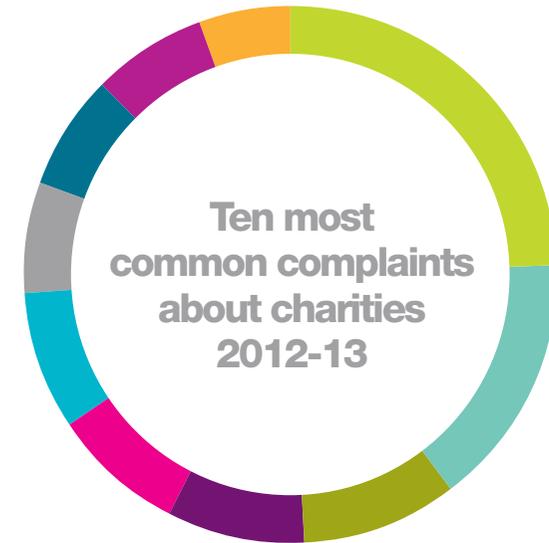
PROPORTIONATE

Proportionate

Our focus remains on preventative action, demonstrated by our engagement work with the sector. As the Regulator, we take enforcement action where required, and will exercise our powers to protect charity assets and public confidence in charities.

Our **Inquiry and Intervention Policy** sets out what complainants, charities and the public can expect from us when we consider such cases and the appropriate action. In the past year we have handled 326 external complaints about charities, including high profile cases such as the Glasgow East Regeneration Agency and the Mark Wright Project, which generated considerable media interest and publicity. Our inquiry into St Margaret's Children and Family Care Society originated from an external complaint and this equality case also generated media coverage.

Accounting compliance has risen steadily as a result of our work as Regulator. In 2012-13, 90% of charity accounts met requirements or received a Qualified Pass. As part of our review of our services and procedures, we have begun a programme of work to develop a more risk-led approach to our monitoring of charities, focusing our resources on those areas we believe demand greater scrutiny and will examine the feasibility of publishing some charity accounts on our website to encourage transparency.



Complaint Category	Percentage
General Governance	18%
Misrepresentation	11%
External Dispute	7%
Accounting Irregularities	6%
Service Delivery	6%
Misappropriation of Funds	6%
Trustee Duties	5%
Non Submission of Accounts	5%
Personal Benefit to Trustees	5%
Failure to Follow Founding Document	4%

These figures account for 73% of the complaints we received



Proportionate

Sources of complaints about charities

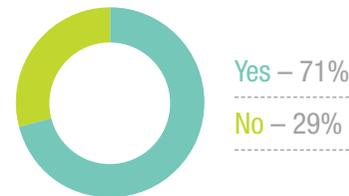


Members of the Public	46%
Charities	20%
OSCR Internal referrals	16%
Anonymous complaint	9%
Professional advisor	8%
Other Regulator	1%

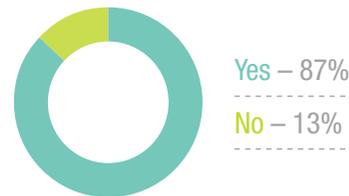
Charities supporting compliance

From the introduction of our revised monitoring regime on 1 April 2012, we have asked all charities whether they have checked their Register entry within the last 12 months, and larger charities whether the trustees have discussed the charity's finances at the majority of trustee meetings. For the past year, responses were as follows:

Have you checked your charity's Register entry in the past 12 months (18,544 responses)?



During the accounting period, did your charity's trustees discuss the charity's finances at the majority of trustee meetings (6,815 responses)?



This shows that charity trustees are helping us to keep an accurate Register, and are generally helping to fulfil their duties by considering their finances at regular meetings.

oscronline – has your charity signed up yet?

One of our most significant achievements in the year was the launch of OSCR Online, our secure online service that gives charities greater control, flexibility and convenience in reporting to the Regulator.

OSCR Online allows charities to submit annual returns and accounts electronically and to make certain changes without reference to us. The system is available 24 hours a day, seven days a week and in removing paper transactions saves charities time and cost. Charities receive confirmation that submissions have been made, removing potential concerns about postal deliveries.

The uptake of OSCR Online has exceeded our expectations, with over 50% of charities signing up within three months of launch. At the end of the year, some 61% of charities had an OSCR Online account and online submissions averaged 45% of the total, at 9,746. Some 624 changes to charities have also been made through OSCR Online. In addition, the public can now view more financial information about individual charities, with income and expenditure figures and graphic illustrations available on the Scottish Charity Register. This has increased transparency and public accountability of charities.

The service has also produced benefits for us as Regulator, with a greatly reduced requirement for the production and postage of paper return forms and letters. We will continue to promote the benefits of our electronic services and in the coming year intend to publish electronic applications forms for charitable status.

We continue to focus on improving our efficiency and effectiveness as a public body. This coming year will be the tenth year since we were established and the eighth since we took up our powers. In the past year we took stock of what we had achieved and learned, and considered how we might change the way in which we conduct our

business in light of our experience. We will shortly consult the sector on changes to our monitoring processes, with a view to adopting a more focused, risk-led approach and targeting our resources on those areas that we believe demand closer scrutiny.

What charities say about OSCR Online:

‘Thank you very much, if it wasn’t for your guidance we wouldn’t have got anywhere!’

‘I notice the Accounts have been posted, so it seems it’s my first year without a hiccup! Many thanks for your valued help in the past. I am extremely grateful to you.’

‘Thank you for this, I must say super customer service!’

‘Both emails have been received. Thanks for those, thanks for your detailed response and also the speed in which you responded. Much appreciated.’

‘Have just rec’d confirmation that ‘accounts and info. acceptable’. Just want to take this opportunity to thank you for your assistance and guidance.’

‘After much travail, I have submitted electronically! Many thanks for your encouragement and advice.’

Case studies

Scotland's 500th Scottish Charitable Incorporated Organisation (SCIO)

New legal form is a popular option for charities

In March 2013 we entered a community support charity as the 500th Scottish Charitable Incorporated Organisation (SCIO) into the Register. **SC043708 The South East Integration Network (SEIN)** was originally set up as a Council sponsored initiative over 10 years ago to enable asylum seekers to integrate into the communities of Govanhill, Gorbals, Toryglen and Pollokshields. Now the charity supports over 40 organisations across the South of Glasgow, co-ordinating the delivery of services and funding and encouraging joint working.

Chair, Eveline McNair, says that the trustees had sought SCIO status to 'bridge the gap' to provide protection against personal liability for trustees, without the need to report to two regulators. 'The availability of the

SCIO as a legal form was very timely for us,' she says. 'We had been looking at charitable status for some time. We knew we wanted to become incorporated, but didn't want to become a company as this would mean reporting to two regulators. So becoming a SCIO allowed us to bridge that gap but also, as a corporate entity, to enter into contracts. We're very pleased with our new charitable status and our legal form.'

The South East Integration Network, based at Caledonia Road in the Gorbals, holds monthly meetings where dozens of groups are represented to discuss their work and future priorities. The charity liaises with over 200 contacts from 40 local organisations operating across the community, from youth projects to befriending older people.

Key points

- » Since its introduction in 2011 the SCIO has proved very popular with new applicants and existing charities alike
- » SCIOs now account for 34% of all new applications for charitable status and 451 SCIOs are currently entered in the Register
- » SCIOs provide a high degree of protection for charity trustees and as a legal personality can carry out business, enter into contracts, own property, employ people, sue and be sued
- » SCIOs are regulated only by The Scottish Charity Regulator – unlike charitable companies, which must report to us and to Companies House
- » A SCIO must have a head office in Scotland and can only exist as long as it is entered in the Register – unlike other charities, SCIOs cannot continue to operate if they cease to be charities.

Case studies

Shetland Charitable Trust

We took action to remove a structural conflict of interest in a charity's Board

In February 2013, the newly constituted trustee board of the Shetland Charitable Trust met for the first time. The new board has a majority of non-Councillor trustees, removing the apparent conflict of interest that had existed for a number of years. As a result, in June 2013 we removed the proactive monitoring regime that we had imposed in 2009. This marked the successful conclusion of a process we undertook to ensure that one of Scotland's largest charities met the requirements of the legislation.

In 2008 and 2009, we received complaints about Shetland Charitable Trust which called into question the way in which the charity made decisions and how it managed any potential conflict of interest for charity trustees.

The charity had 24 charity trustees, of whom 22 were councillors, one was the Lord Lieutenant, and one was the headteacher of the local high school. All of the charity trustees performed that role because of the offices they held, and in 23 out of 24 cases owed a duty to the local authority as well as to the charity. The Council's chief executive was originally also the chief executive of the charity. The Council's website included a page that provided contact details for the charity, and references to the charity did not make it clear that it was a separate body.

Accepting the importance of being seen to be independent, the charity addressed some, but not all, of these issues. For example, it appointed a separate chief executive and developed a website hosted by a private company.

In July 2010, we imposed strict monitoring requirements on the charity, requiring the trustees to give us notification of meetings and prior sight of agenda papers. They were also required to inform us of how they intended to address conflicts of interest, and we reminded them that we could exercise our powers to prevent them carrying out certain transactions.

As a proportionate Regulator, we engaged in an ongoing dialogue with the charity. Our Chief Executive, our Head of Enforcement, and our Head of Registration all travelled to Lerwick on several occasions to meet the trustees and their legal advisors. The trustees applied to us to reorganise the charity, with a majority of non-Councillor trustees and a new constitution. After the required consultation period we granted our consent.

We are happy to acknowledge the effort that has been made by the trustees and staff of the charity in achieving this outcome and we wish the charity success for the future. This case demonstrates our approach as a fair and proportionate regulator, ready to take action where required but ultimately focused on the success of the charity and continued public confidence in its work.

Lessons learned

- » The make-up of a charity trustee Board, where it is dominated by members from a linked body, can lead to an inherent risk of recurrent conflict of interest.
- » A conflict of interest policy should be applied in all situations where there is a conflict or potential conflict.
- » Charities should consider whether it is advisable to maintain a Board where conflict of interest arises so frequently that charity trustees must withdraw thus preventing effective management of the charity.
- » Charity trustees should always demonstrate that they are behaving in the best interests of the charity, and be conscious of how their actions appear to the public.
- » We have published **guidance on charity independence and control**; and a **checklist for elected members** at www.oscr.org.uk

Alerting the Regulator

The value of an independent examiner fulfilling their duty to report concerns

In September 2012 we were contacted by an independent examiner who raised his concerns regarding the governance of a small charity based in Dunfermline. In examining the charity's accounts, he had identified that one of the trustees was an undischarged bankrupt. This debarred the individual from serving as a charity trustee under section 69 of the Charities and Trustee Investment (Scotland) Act 2005. The trustee had also failed to provide all of the accounting records that the examiner required.

We wrote to the charity's Principal Contact to advise her of these concerns and to state that we required the resignation of the disqualified trustee. We were aware that, following the Independent Examiner's discussion with the charity, the other trustees had taken steps to prevent the disqualified trustee from gaining access to the charity's bank accounts. We also contacted the disqualified trustee to inform him that we sought confirmation that he would resign with immediate effect; and that he had to provide the Independent Examiner with all of the accounting records that he still held.

Through our inquiries we identified serious inadequacies in the charity's financial controls which represented a serious vulnerability to the charity's finances. For example, the security information required to access one of the charity's bank accounts had not been updated when the previous Treasurer resigned and the disqualified trustee took up the role. We required the remaining trustees to implement appropriate financial procedures in order to ensure that the charity's assets were protected.

We maintained a positive dialogue with the remaining trustees, who subsequently confirmed that new procedures were in place. The Independent Examiner continued to provide support and counsel to the charity and ensured that the 2011 and the 2012 accounts were prepared and submitted to us in accordance with accounting requirements.

Key lessons

- » A suitably qualified independent examiner must be appointed to ensure that a charity's accounts are compliant with the Accounting Regulations. Such an advisor can also provide valuable support and advice to the charity.
- » Auditors and independent examiners have a duty under section 46 of the 2005 Act to report to OSCR any issues they identify in the course of their work. We are pleased that the independent examiner in this case did so.
- » It is the responsibility of a charity's trustees to ensure that the charity's assets are securely held and any unauthorised access prevented. Failure to do so is a breach of charity trustee duties.

Published in the business year 2013-14, our new **Referendum** guidance sets out the legal principles charities must consider when planning for the Scottish Independence Referendum

We will expand our online services with the launch of new **HTML** based online application forms. These will also be compatible with screen readers, increasing accessibility of our services

The consultation on the new Charities **SORP** will run from July to November 2013 and we encourage all charities preparing accrued accounts, and their advisors, to let us have their views

We will continue to enhance the website to ensure that our stakeholders have easy access to the information they require

We will review our monitoring of charities to ensure that our resources are more focused on areas that require our attention, and ease regulation where appropriate



OSCR Board

Our Board is responsible for our strategic priorities and future direction and oversees our governance. Appointed by Scottish Ministers, our Board Members usually meet every two months. They also act as ambassadors for our organisation, promoting our policies and discussing current issues with the sector. All of our Board Members have personal or professional experience of the charity sector and bring their specialist knowledge and expertise to our organisation.



Chair
The Very Reverend
Dr Graham Forbes



Fiona Ballantyne



Annie Gunner Logan



Prof David Harrison



Deputy Chair
Lindsay Montgomery



Kaliani Lyle



David Hughes Hallett

Information about OSCR's Board Members, as well as our governance and performance, can be viewed at www.oscr.org.uk

Contact us



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