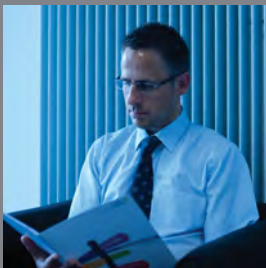
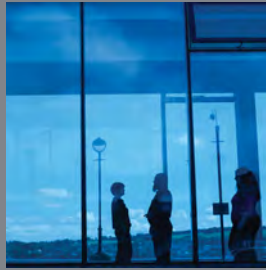
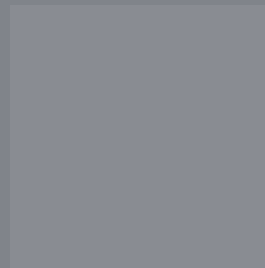


OSCr

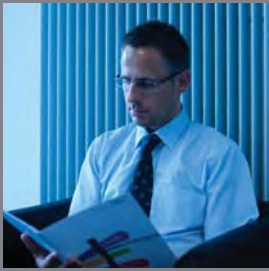
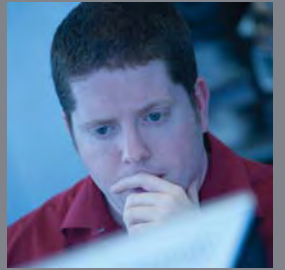
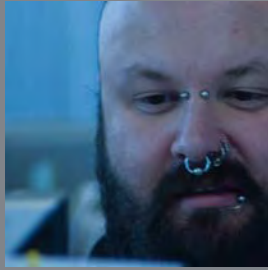
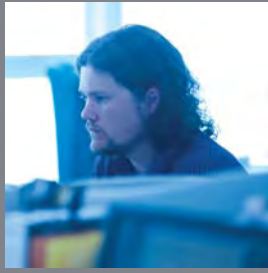
Office of the Scottish Charity Regulator



annual review  
2008 | 2009



**OSCR is the independent regulator and registrar of Scottish charities. We regulate over 23,000 Scottish charities, including community groups, religious charities, schools, universities, grant giving charities and major care providers.**







## our vision

**Our long term vision is for a flourishing charity sector in which the public has confidence, underpinned by OSCR's effective delivery of its regulatory role.**

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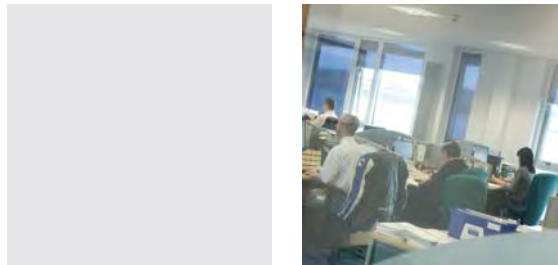
OSCR is the independent regulator and registrar of Scottish charities. We regulate over 23,000 Scottish charities including community groups, religious charities, schools, universities, grant giving charities and major care providers.

The OSCR Board reviewed our 2007-09 Corporate Plan in January 2008. The Strategic Objectives were confirmed, and we updated our performance measures.

In 2008-09, our five key strategic objectives were to:

- » increase public confidence in charities through effective regulation
- » increase transparency and public accountability of charities
- » increase charity trustees' awareness of their statutory responsibilities
- » establish and maintain OSCR as a trusted and effective regulator
- » reduce the burden of regulation on charities wherever possible, with particular emphasis on reducing multiple reporting.

We have made significant progress towards achieving these objectives. Drawing on our three years' experience as Regulator, and the Scottish Government's requirement for public bodies to demonstrate how they relate to the National Performance Framework, we have recently developed our new Corporate Plan 2009-11. Approved by OSCR's Board in January 2009, this was published in July 2009 following public consultation.



# introduction from the chair and chief executive

We are pleased to present our third Annual Review.

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2008-09 was a year of consolidation, taking into account the requirements of new Regulations and preparing for a major review of our procedures in 2009-10.

We have published a wide range of guidance and briefings aimed at charities and their professional advisors. Among these were an update to our Monitoring Policy, an accounts comparison study to inform and assist small charities in producing compliant accounts and a Policy Statement on Ministerial Powers as an element of the Charity Test. We continued our programme of 'Meet the Regulator' events, and provided training to charities by means of video conferencing.

Early in the year we welcomed three new members to the OSCR Board. Fiona Ballantyne, David Hughes Hallett and Oscar Mendoza took up their posts following a Public Appointments process. The new Board members bring a range of skills and knowledge which complements that of the five original Members.

This Annual Review outlines notable aspects of our work and activities over the past year and contains case studies as well as key statistics. We hope that you will find it informative and useful.



John Naylor



Jane Ryder

## The Charities and Trustee Investment (Scotland) Act 2005 states that OSCR's general functions are:

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- (a) to determine whether bodies are charities;
- (b) to keep a public register of charities;
- (c) to encourage, facilitate and monitor compliance by charities with the provisions of the Act;
- (d) to identify and investigate apparent misconduct in the administration of charities and to take remedial or protective action in relation to such misconduct; and
- (e) to give information or advice, or to make proposals, to Scottish Ministers on matters relating to OSCR's functions.

# 23,234

Number of charities entered in the Scottish Charity Register at 31 March 2009.

## overview

**Good leadership, governance and management are crucial to a flourishing sector, and our focus has therefore been on the governance and conduct of charities.**

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The period 2008-09 was a very busy year for casework. Despite the economic pressures facing the sector, we handled over 1,000 applications for charitable status and saw a substantial increase in applications for proposed changes. We began the process of removal from the Register for those charities failing to submit returns and accounts. We also began to process applications for reorganisations of charities and believe that this area of our work will increase significantly in the coming year.

Despite this increased workload, we maintained our service standards by responding to casework within statutory deadlines and our own published target timescales.

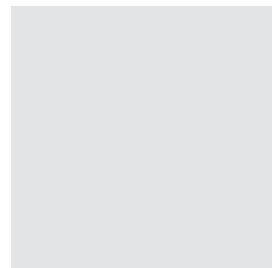
### An accurate Register

We continued to maintain the definitive Scottish Charity Register, which we have published electronically since April 2006. The Register contains contact details and accurate information for over 23,000 Scottish charities, and highlights those charities which have failed to submit returns and accounts within the stated deadlines. In 2008-09 we issued 23,335 Annual Return and Monitoring Return forms, 81.4% of which were submitted within the required deadline. We validated 100% of returns and accounts within two months of receipt.

### Granting charitable status

We received 1,118 applications for charitable status. Our 24 day average for granting charitable status once a full application has been received is well within the 90 day target timescale.

We completed Phase 1a of our 'Rolling Review' programme, which examined 30 charities, including 11 schools, to assess whether they met all the requirements of the charity test set out in the 2005 Act. A full report, with our findings and an outline of the issues we considered, is available at [www.oscr.org.uk](http://www.oscr.org.uk) along with our revised *Meeting the Charity Test* guidance.









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## Consents and Notifications

In 2008-09 we saw a substantial increase in the number of charities applying for approval to make proposed changes, and in the number of notifications made to us by charities. We also received 94 applications for charity reorganisations, a significant increase on 2007-08.

The increasing numbers of applications suggests a greater awareness and understanding among charities of the legislative requirements, and demonstrates willingness by them to comply.

## Monitoring and Compliance

One of our general functions is to encourage, facilitate and monitor compliance with the 2005 Act. We scrutinise returns and accounts and, where we identify any apparent cause for concern, we enter into dialogue with the charity.

We issued 'Qualified Pass' letters to those charities whose accounts did not meet basic accounting requirements. As a proportionate regulator we have up to now accepted such accounts, but we intend to take action over the coming year to encourage compliance.

## Investigations

Happily, we continue to find that wilful misconduct among charities is very rare. We continue to conduct investigations on the basis of information disclosed through our own monitoring, from referrals from other regulators, and from complaints made by members of the public. In 2008-09 our Investigations Team handled 150 referrals. We also saw the conclusion of two misconduct cases where we had petitioned the Court of Session.

# 187

**Number of bodies registered as charities in England and Wales granted charitable status by OSCR in 2008-09. This compares to 264 in 2007-08.**

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## Advising Ministers

We continue to advise and inform Ministers on matters relevant to our functions, and to provide specific recommendations based on our practical experience. In 2008-09 a number of recommendations to reduce the burden on charities and lead to better regulation made in our Annual Report and Accounts 2007-08 were progressed by Ministers. Our Annual Report and Accounts 2008-09 gives full details and further recommendations that we have made for the future.

## Working with others

We remain committed to the principles of Better Regulation, and have continued to engage actively with other relevant organisations to streamline processes and minimise the regulatory burden. We have Memoranda of Understanding with a wide range of bodies. Full details are available at [www.oscr.org.uk](http://www.oscr.org.uk)

OSCR is a member of the Charity Regulators' Forum, where our Chief Executive meets with representatives from the Charity Commission for England and Wales; the Department for Social Development in Northern Ireland; and the Department of Community, Rural and Gaeltacht Affairs in the Republic of Ireland, to discuss the regulation of the charity sector in the UK and Ireland.

As joint UK SORP (Statement of Recommended Practice) making body with the Charity Commission in respect of Charity Accounts, we have carried out the annual review of SORP and reported to the Accounting Standards Board.

# 81.4%

**Percentage of charities submitting returns and accounts within 10 months of their accounting year end. This compares to 81.5% in 2007-08.**

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## Positive Engagement

We remain committed to an open, ongoing dialogue with our stakeholders. This year we have undertaken a number of consultations on key areas of policy development, for example our Corporate Plan 2009-11, and the monitoring of cross-border charities.

We remain committed to electronic communication. In 2008-09 visits to our website increased from 121,093 to 173,562. Subscribers to OSCR Reporter, our bi-monthly e-newsletter, increased by 87%.

In January 2009 our Chair and Chief Executive represented OSCR at a UK Parliamentary surgery which attracted a number of Scottish Westminster MPs. We intend to build on our engagement with elected members, both in Holyrood and at Westminster, over the coming year.

## Finances

We ended the year within our £3.6million budget. Our fully audited Annual Report and Accounts 2008-09 can be viewed at [www.oscr.org.uk](http://www.oscr.org.uk)

# the year at a glance

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## april

- » OSCR publishes revised guidance as the Charities References in Documents (Scotland) Regulations 2007 take effect

## may

- » OSCR publishes its report into the collapse of Glasgow charity One Plus: One Parent Families, outlining key lessons
- » OSCR announces a series of Meet the Regulator roadshows. The events in Benbecula, Edinburgh, Glasgow, Kelso and Tarbert attract 180 delegates

## june

- » SCVO's The Gathering event sees OSCR hosting a seminar on the lessons learned from One Plus, with 30 charity representatives taking part
- » Ministers appoint three new members to OSCR's Board – Fiona Ballantyne, David Hughes Hallett, and Oscar Mendoza

## july

- » Publication of *Scottish Charities 2008*, giving a profile of the Scottish charity sector from the information supplied through Annual Return and Monitoring Return forms

## august

- » Publication of *Public and Charity Perspectives*, a summary of OSCR's stakeholder surveys

## september

- » Annual Report and Accounts for the financial year 2007-08 laid before Parliament and published
- » OSCR announces its participation in joint research with Cranfield University Business School and ACOSVO, into governance and leadership in Third Sector organisations in Scotland

## october

- » OSCR publishes its position statement on the economy and Icelandic banks, setting out where charities can find further information
- » OSCR announces its decisions on 30 charities assessed in Phase 1a of the Rolling Review
- » OSCR commissions social research into ability to pay for the public benefit provided by Scottish charities



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## november

- » OSCR's Annual Open Meeting is held at The Carnoustie Golf Hotel, attracting over 200 charity representatives

## december

- » OSCR's Comparative Study into compliance by charities with an income under £25,000 is published. The study finds that such charities are increasingly meeting financial reporting and accounting requirements
- » OSCR issues a further statement on the economic recession and its impact on Charities

## january

- » OSCR announces its intention to review its reporting methods for charities – the Integrated Reporting project

## february

- » OSCR publishes its evaluation from the cross-border monitoring consultation completed in December 2008
- » OSCR publishes its submission to the Commission on Scottish Devolution (the 'Calman Commission')
- » OSCR removes 100 'ceased' charities from the Scottish Charity Register and announces that it is in dialogue with a further 800 which have failed to provide the required annual monitoring information

## march

- » The findings of the Third sector Leadership and Governance research jointly commissioned with the Cranfield University Business School and ACOSVO are announced in Edinburgh
- » New regulations for professional fundraisers are announced by the Scottish Government – The Charities and Benevolent Fundraising (Scotland) Regulations 2009. OSCR announces that it will produce guidance in advance of the Regulations taking effect in July 2009
- » OSCR holds four video conference training events on governance issues with charity trustees in Nairn and Wick.

## register team

**Our Register Team is responsible for maintaining the Scottish Charity Register and for issuing Annual Return and Monitoring Return forms to charities.**

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The team also issues reminder letters to charities failing to provide information within the required deadlines.

In 2008-09 we issued a total of 23,335 Annual Return and Monitoring Return forms. All completed forms returned to us were validated within two months of our receiving them. This year 81.4% of charities submitted their returns and accounts within the required deadline.

We maintained our definitive register of charities - the Scottish Charity Register - which we have published electronically since April 2006. The Register is updated daily and contains contact details and information for over 23,000 Scottish Charities. It provides the public with accurate and accessible information about each individual charity. The Register also highlights those charities which fail to submit their returns and accounts to us within the required submission deadlines. Such non compliance can ultimately lead to removal from the Register.

# 4

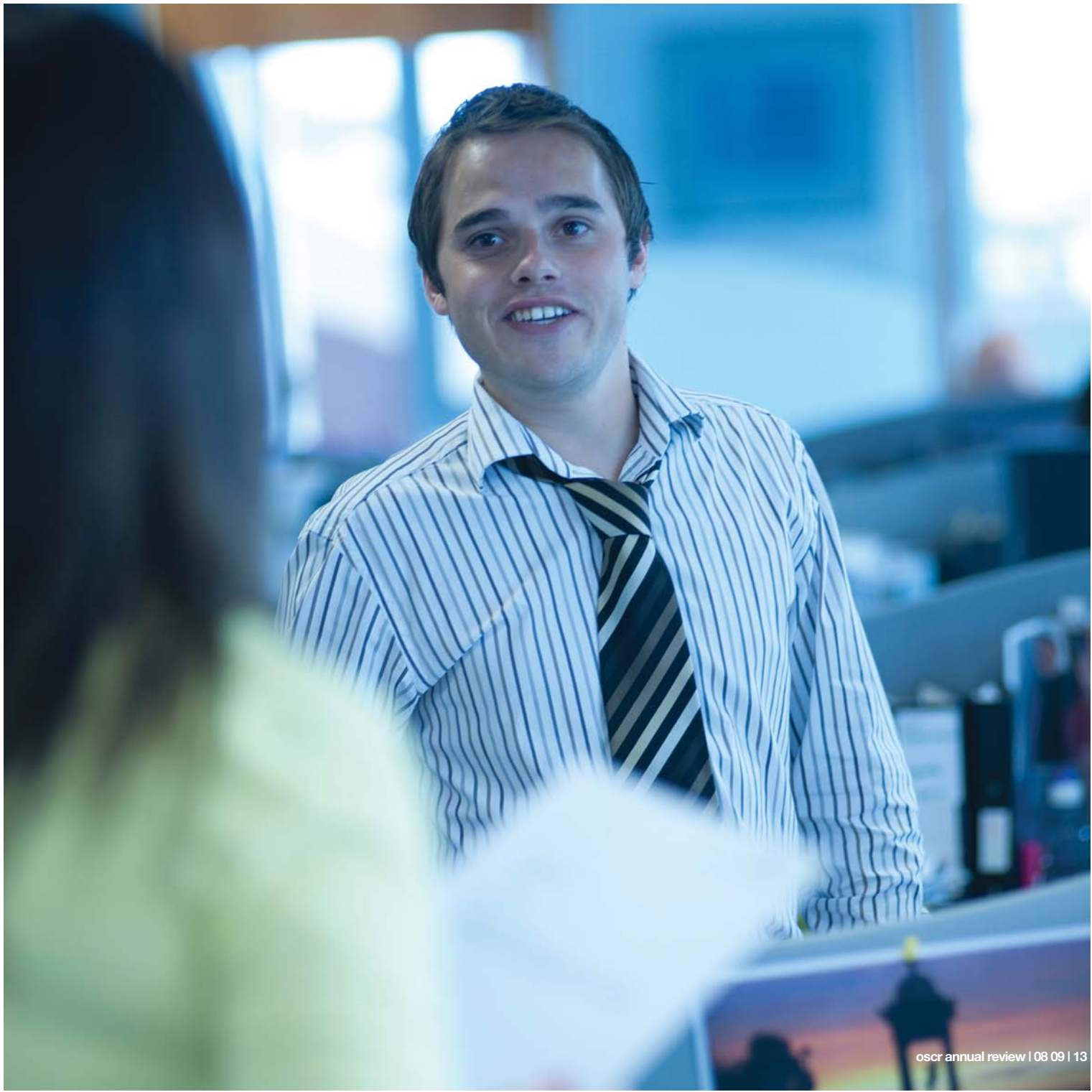
**Number of reviews requested on OSCR decisions.**

# 1,508

**Number of ceased charities removed from the Scottish Charity Register in the past year. This compares to 798 in 2007-08.**

# 100%

**Percentage of Annual Return and Monitoring Return forms validated by OSCR within two months of submission by a charity.**



## case study – non compliant accounts

A charity submitted a set of annual accounts which did not comply with either accounting regulations or our reporting requirements

In February 2009 we received the Annual Return and accounts from a charitable company based in Inverness. These failed to meet the required standard in several key respects.

- » The income of the charity was not entered on the Annual Return form
- » No Statement of Financial Activities (SOFA) was included within the accounts, a basic accounting requirement for charities that are also companies
- » The qualification of the Independent Examiner was not specified in the Independent Examiner's report

In line with our current monitoring procedures, as the accounts did not include one of the key primary statements, they were considered to have failed and the charity was notified of this decision.

The charity's treasurer subsequently contacted our Register Team by telephone to discuss the accounts

failure. During the course of the conversation she stated that she had been advised by the charity's external accountant that accounts prepared for Companies House would satisfy OSCR's requirements. This is not the case.

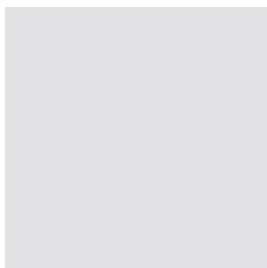
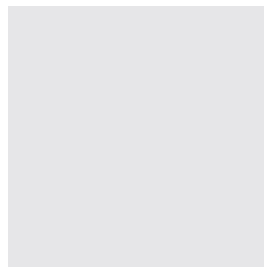
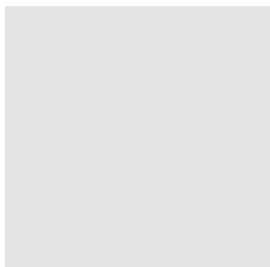
We explained that charities that are companies should prepare accounts which are compliant with the Charities Accounts (Scotland) Regulations 2006 and the Charities Statement of Recommended Practice (SORP) 2005. We also explained that guidance is available to download from our website.

The Treasurer advised that she would discuss the matter with the charity's accountant. The accounts were then prepared in accordance with the 2006 Regulations and resubmitted to us within the deadline date. Upon receipt, the accounts were validated by our Register Team and the charity's Register entry updated.

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## Key lessons

- » Charity trustees should ensure that all required information is included on the completed Annual Return form before signing it
- » Charity trustees should be aware that separate rules for accounting apply to all charities, even for those that are companies
- » Over the past three years we have accepted non-compliant accounts, issuing Qualified Pass letters that explain requirements. We have now adopted a procedure of failing accounts that do not meet basic requirements.



## charities team – status, consents, notifications, reorganisations

In 2008-09 we handled 1,118 applications for charitable status, ensuring that organisations entered in the Scottish Charity Register meet the charity test specified in section 7 of the 2005 Act.

Charities are required to seek our consent when they wish to make changes such as the charity's name or purposes; and to notify us when certain changes, such as the appointment of new trustees, takes place. Our Charities Team also handles applications for charities to reorganise as specified in sections 39 to 42 of the Act, and the Charities Reorganisation (Scotland) Regulations 2007.

In 2008-09 we issued a Consents and Notifications postcard to all charities, summarising when to seek consent from us, and when to notify us of changes taking effect. The number of charities applying to us for approval to make proposed changes increased by 40%, with a 30% increase in the number of notifications made by charities. This increased number of applications suggests a greater awareness and understanding among charities of the legislative requirements, and demonstrates willingness by them to comply.

We received 94 applications for charity reorganisations. Sections 39 to 42 of the Act provide charities with a straightforward and inexpensive means of reorganising, where their constitutions may not contain sufficient powers for them to do so. We expect this area of our work to increase significantly in the coming year, particularly as local authorities begin to reorganise and consolidate those charitable funds they administer. The process will allow previously 'locked' funds to be applied for charitable purposes, potentially releasing millions of pounds to the sector.

The following case studies provide an illustration of those charities using the provisions of the 2005 Act and the Regulations, to reorganise.

# 1,008

Number of bodies granted charitable status by OSCR this year. This compares to 1,495 in 2007-08.

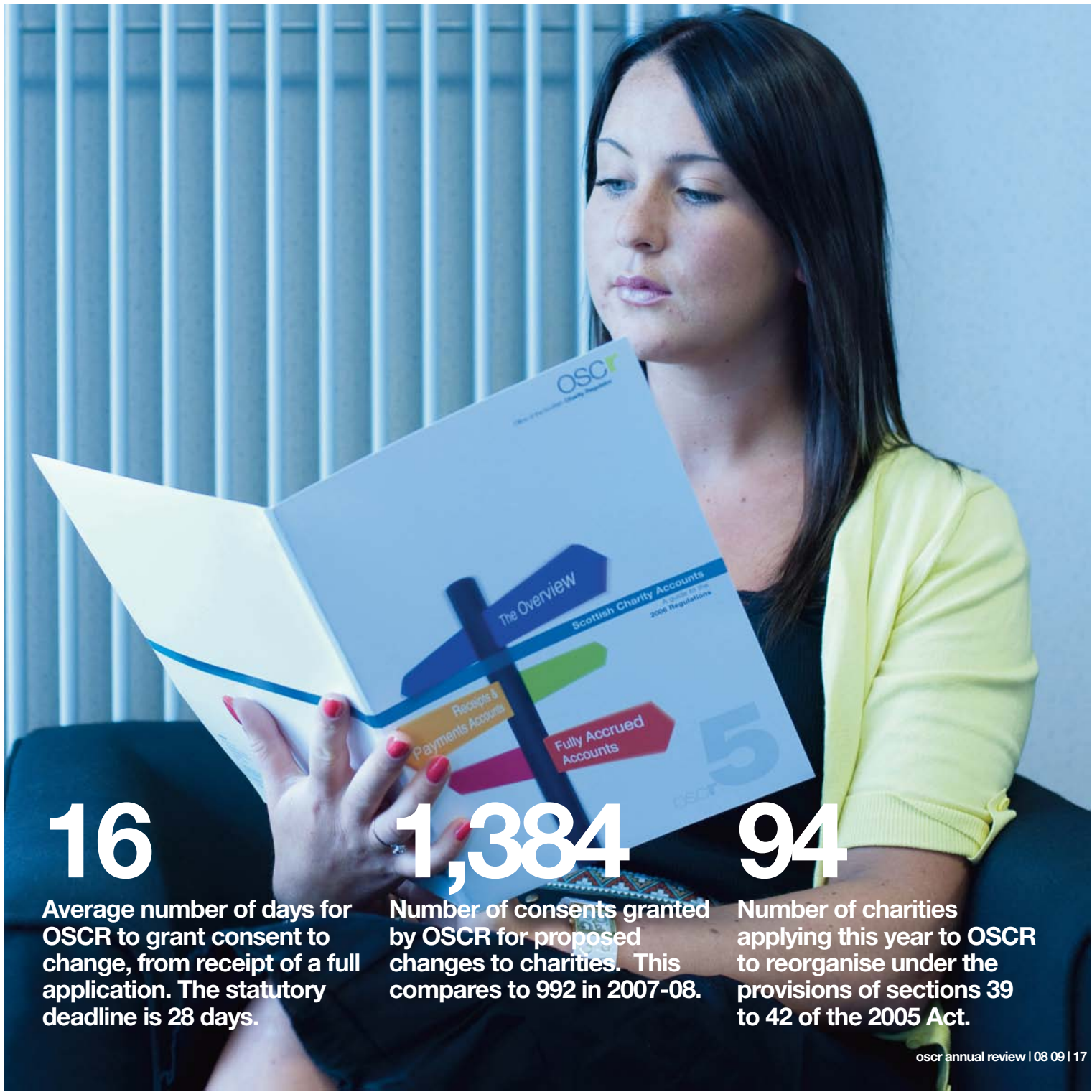
# 1,118

Number of applications for charitable status. This compares to 1,231 in 2007-08.

# 24

Average number of days between OSCR receiving a completed application for charitable status and issuing a decision – against a target of 90 days.





**16**

Average number of days for OSCR to grant consent to change, from receipt of a full application. The statutory deadline is 28 days.

**1,384**

Number of consents granted by OSCR for proposed changes to charities. This compares to 992 in 2007-08.

**94**

Number of charities applying this year to OSCR to reorganise under the provisions of sections 39 to 42 of the 2005 Act.

## charity reorganisation case study – SC015911 Joseph Thomson's Mortification

This charity applied to us to transfer its assets to another charity, as it could no longer give effect to its charitable purposes; and because some, or all, of its charitable purposes had ceased in any other way 'to provide a suitable and effective method of using its property, having regard to the spirit of its constitution'.

Joseph Thomson's Mortification was established to provide assistance to people in Edinburgh, primarily by giving them access to food.

Joseph Thomson was a saddletree maker. His settlement in 1774 set up a perpetual fund, the interest from which was to be used to buy oatmeal, or oats to be made into meal, to be distributed among 'poor householders' in the City of Edinburgh.

These terms were extended over the years, through applications to the Court of Session:

- » in 1908, to additionally allow the supply of milk, oatcakes, bread or flour;
- » in 1946, to allow the awarding of grant relief to a maximum of £15 to any family in any one year; and

- » in 1981, to permit awards throughout the District of the City of Edinburgh following local authority reorganisation.

In 1981, the award limit was also increased to £200 and index linked.

In the more recent past, the charity's awards were made through an independent shopkeeper who worked with local churches to identify those in need and grant food vouchers, to be redeemed in the shop. However, ten years ago, the shopkeeper retired and the shop closed. The charity's trustees were unable to identify a local shop or a larger food store able to issue vouchers that could only be redeemed for food and not, for example, alcohol or tobacco.

As a result, the charity's income had continued to accumulate at the rate of around £10,000 a year, without any awards being issued.

In October 2008, the charity's trustees applied to us to reorganise to allow the charity's resources to be used to better effect. They proposed to transfer the charity's assets to The Scottish

Community Foundation (SC022910), to be maintained in a named and ring-fenced fund to support disadvantaged people in Edinburgh.

The proposed reorganisation was advertised on our website for 28 days and was approved on 5 May 2009.

## charity reorganisation case study – SC033337 The Bothy Trust

This charity applied to vary the terms of its constitution because a provision of the charity's constitution (other than a provision setting out the charity's purposes) was considered to be 'no longer desirable'.

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The Bothy Trust was established as a charitable trust in 2002, to restore and maintain simple shelters for the use and benefit of people who access the hills and remote areas of the British Isles.

In January 2008 the charity's trustees applied to us to reorganise to enable the charity to be administered more effectively. They proposed to:

- » remove the requirement for the annual accounts to be fully audited, and instead allow for independent examination
- » remove the provision for the Mountain Bothies Association to appoint a representative as a trustee, as they had intimated that they no longer wished to do so.

The charity's trustees also proposed the following changes:

- » to increase the maximum number of trustees from seven to eight
- » to include a requirement for prospective trustees to confirm in writing their willingness and eligibility to serve as charity trustees
- » to remove the restriction that prevented amendment of the constitution other than to preserve charitable status
- » to include a requirement for trustees to seek consent from OSCR should they choose to wind up or dissolve the charity in the future.

The trustees considered that these changes would ensure that all accounting requirements would continue to be met and that they would also encourage the recruitment of trustees with suitable expertise to govern the charity.

The proposed reorganisation was advertised on our website for 28 days and was approved on 31 October 2008.

# 23,335

Number of Annual Returns and Monitoring Return forms issued by OSCR this year. This compares to 24,674 in 2007-08 and, as the number of charities on the Register has remained largely the same, suggests that fewer replacement forms are being requested from charities.







# monitoring and investigation

Our Monitoring Team, with our Register Team, scrutinises accounts submitted by charities together with their Annual and Monitoring Return forms.

## Monitoring

In 2008-09 we continued to review all accounts filed with Annual Returns, to assess compliance with minimum standards.

We issued a Receipts and Payments Accounting workpack and accounting guidance to all eligible charities with income under £100,000. The workpack and guidance contained templates and case studies to assist charities in preparing accounts, and was actively promoted at our roadshows and at external events.

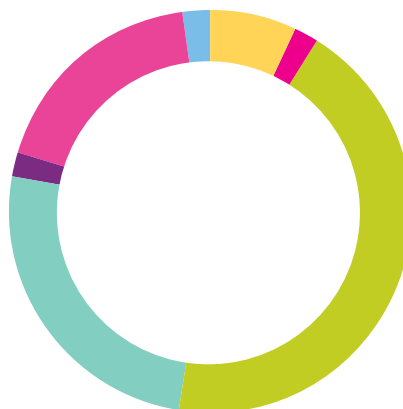
We undertook a basic accounts review, supplemented by a more detailed comparative study into 250 sets of accounts from smaller charities, to track improvements between 2007 and 2008. There was a significant improvement over the period: non compliance rates for Trustees' Annual Reports fell from 67% to 33% and for external scrutiny reports, from 32% to 11%.

As in 2007-08, the most common areas where exception triggers occur are:

- » Possible failure to apply funds for charitable purposes
- » Poor liquidity, low reserves, threats to viability
- » Transactions with trustees.

In 2008-09 we began monitoring the assets of bodies which have left the Scottish Charity Register. At 31 March 2009 there were 450 such bodies, with collective assets of around £2million. The vast majority of these were Scottish Women's Rural Institutes (SWRIs), for whom the reporting requirements will be short term.

During 2008-09, we concluded our widespread consultation into the monitoring of charities that are also registered in another jurisdiction – the cross-border charities. At 31 March 2009 there were 558 such charities entered in the Register, the vast majority of which are registered as charities in England and Wales. The monitoring programme for cross-border charities commenced on 1 May 2009.



## monitoring returns exceptions triggered

Possible failure to apply funds	43%
Poor liquidity, low reserves	25%
Transactions with Trustees	18%
Large Charity	8%
Adequacy of Board structure	2%
Growth or contraction	2%
Trading companies	2%

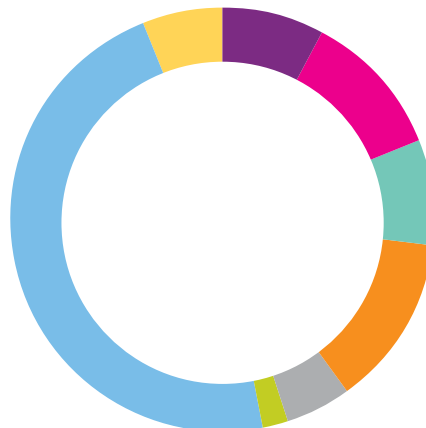
## Investigations Team

In 2008-09 our Investigations Team handled 150 complaints about charities. Of those that were closed by 31 March 2009, 34% were inadmissible or referred to other regulators; and 34% required no further action following our preliminary enquiries. A further 32% received compliance support or provided us with assurances about improvements to their internal controls or governance.

Two misconduct cases where we had petitioned the Court of Session were concluded this year. A judicial factor was appointed to wind up the affairs of the ME Foundation (SC022588) and the trustees removed; and a petition to remove two trustees from Cantraybridge (SC022419) was withdrawn by us, following negotiations that resulted in their resignation and assurances given by them to the charity.

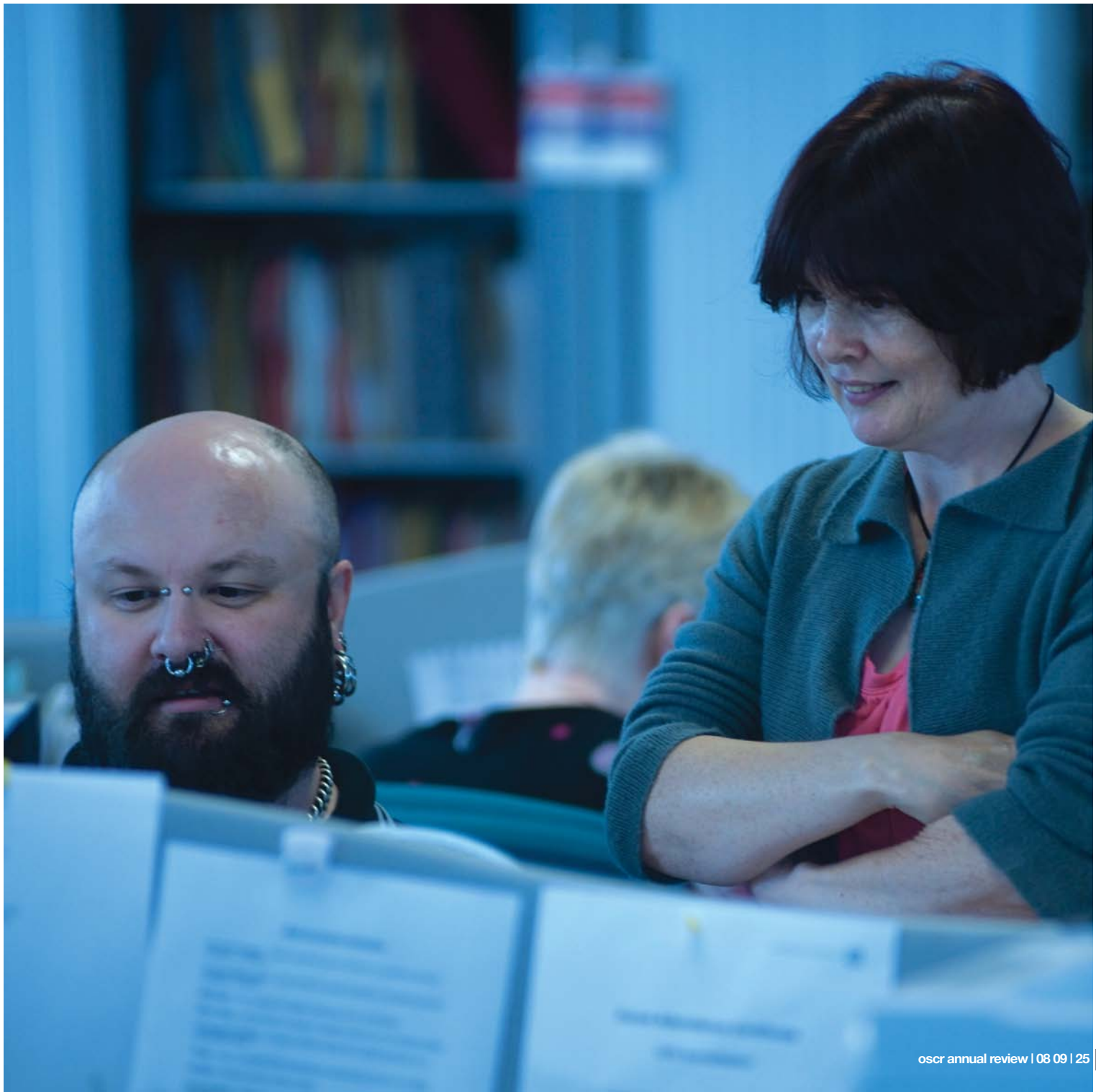
# 150

**Number of complaints about charities investigated by OSCR in 2008-09.**



## sources of referrals and complaints

Member of the public	47%
Charity member	13%
Anonymous complaint	11%
Internal referral	8%
Charity employee	8%
Charity Trustee	6%
Other Regulator	5%
Professional adviser (s46)	2%



## investigations case study – SC011688 One Plus: One Parent Families

A large charity collapsed as a result of weak governance

On 22 January 2007 One Plus: One Parent Families went into liquidation. The charity was one of Scotland's largest, with a turnover of over £11million and employing some 800 staff. Its failure generated substantial media interest.

The immediate cause of the liquidation was that the charity had run out of liquid funds to pay its liabilities. At the end of 2006, the charity's overdraft was £2million and by January 2007 its debt to HM Revenue and Customs for PAYE and National Insurance contributions was £2.27million.

Following the collapse of the charity, our enquiries uncovered significant weaknesses in its governance. The Board did not appear to contain the skills required to run a multi-million pound operation, and was reliant on the

previous Chief Executive and the Senior Management Team. Independent professional advice was not sought. There was a lack of timely or comprehensive financial information presented to the Board, and the skills, scale and leadership of the finance department seems not to have been adequate for the size of the charity.

The funding environment faced by the charity appears to have had several main characteristics. A substantial proportion of contract or grant funding was paid in arrears; staff salaries, at 70% to 90%, represented the biggest item of expenditure; and the charity received little or no core funding. The charity's trustees accepted and allowed project funding below cost and allowed a high level of unpaid service user fees to accumulate.

In addition, the charity used three mechanisms that were not sustainable in the long run:

- » extending its overdraft
- » late payment of debts, in effect using its suppliers and HM Revenue and Customs to make up the funding shortfall
- » increasing income by rapidly expanding its services.

There was a dramatic increase in turnover as the charity 'overtraded' to fund existing services, from £4.6million in 2001 to £11million in 2005.

In January 2007 a liquidator was appointed to handle the affairs of the charity. The charity remains as a legal entity in the Scottish Charity Register, pending dissolution.

## Key Lessons

A full list of key lessons for charity trustees, funders and OSCR is contained in our case study report at [www.oscr.org.uk](http://www.oscr.org.uk)

Key lessons for charity trustees:

- » Charity trustees must ensure that they have, collectively, the right mix of skills and experience for the type and scale of the charity
- » Charity trustees must understand the operating environment faced by their charity and the implications of this for how the charity is managed
- » Charity trustees must maintain overall direction and control of their charity. The Board of One Plus in effect delegated authority and overly relied on its paid staff. Charity trustees must ensure that appropriate mechanisms exist to allow them to make informed decisions based on the full facts
- » Large or complex charities must consider establishing an audit committee to ensure that processes and procedures are monitored and are appropriate for the size and scale of the charity
- » Charity trustees must ensure they receive full and up to date information, to take informed decisions.

## investigations case study – SC022588 Myalgic Encephalomyelitis Foundation (The M E Foundation)

A charity provided no apparent public benefit, and was being used as a vehicle for employment of trustees and their immediate family

The Myalgic Encephalomyelitis Foundation (The M E Foundation) was set up in 1994 by a married couple who ran a hardware business in Edinburgh. That same year, the hardware business was closed and the charity ran a shop from the same premises. At the time of our inquiry, the charity ran a second shop in Kirkcaldy.

In 2006 our internal monitoring process identified an apparent concern with the charity. There was little or no sign of charitable expenditure, and administration costs were 90% of its £253,000 income. The majority of these costs were staff wages. The trustees were being paid from charity funds, contrary to the charity's own constitution.

Our investigations uncovered a number of causes for concern, including the following:

- » In its 11 years of operation, the charity earned £2,595,468 and spent £2,215,051, the majority on wages and directors' remuneration
- » We could identify no charitable expenditure or benefit provided to sufferers of ME throughout the charity's years of operation
- » Contrary to the terms of the 2005 Act and to the charity's own constitution, all of the charity's trustees were paid employees. They were, in addition, related to each other



- » The charity owned four motor vehicles, used by the trustees from their home addresses. Fuel was paid from charity funds
- » The charity trustees used charity funds to purchase land near Oban to which, it later transpired, it had not acquired title.

We concluded that there was evidence of misconduct and mismanagement, and petitioned the Court of Session for the removal of the charity trustees. The affairs of the charity remain in the hands of the Judicial Factor appointed by the Court.

### Key lessons

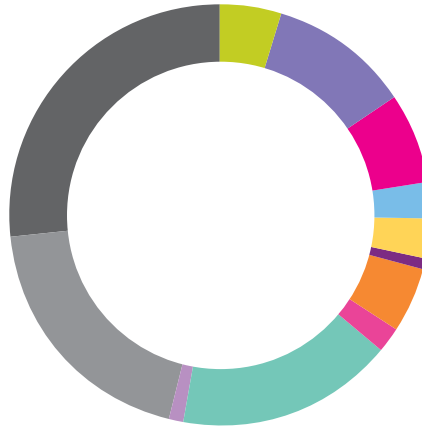
- » Charities must provide public benefit and be able to demonstrate that they continue to do so
- » The 2005 Act outlines specific circumstances in which trustees may be remunerated. The ME Foundation breached these requirements and all of the charity's trustees were paid employees, also contrary to the charity's constitution
- » Charity trustees must act in the best interests of the charity and act with care and diligence; they must ensure that the necessary skills and knowledge are in place to make informed decisions. The ME Foundation's professed plans to develop a facility at a site in Oban were overly ambitious, and the contract entered into in respect of the land purchase was badly handled and did not safeguard charity assets.

## compliance support team

We have continued to focus on providing guidance and support to charities where apparent issues of governance have arisen.

Our Compliance Support Team engaged with those charities referred to them by the Investigations and Monitoring Teams. The team also handled a large number of advice requests from charities and their advisors, on a wide range of topics.

In May 2008 we delivered a pilot 'Train the Advisor' programme for 13 development officers from Councils for Voluntary Service, local authorities, and an umbrella body, to increase knowledge and understanding of charity law and regulation for those directly supporting smaller charities. Following a positive external evaluation, this programme was refined and a second cycle took place in April and May 2009.



## compliance issues

Queries related to Trustee duties	27%
Section 19 (Accounting to OSCR for charity assets)	20%
Not responding to OSCR communication	17%
Action without OSCR consent	11%
<b>Assets at risk</b>	<b>7%</b>
Non charitable activity	5%
Accounts not responding	5%
Inadequate governance	3%
Fundraising issues	3%
Non-submission	2%
Misrepresentation	1%
References in publications	1%

# 120

Number of compliance cases handled by OSCR this year. This compares to 185 in 2007-08.

## engaging with stakeholders

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We believe that positive engagement with our stakeholders is key to encouraging compliance. We continue to maintain an ongoing dialogue and have developed a number of successful channels for effective communication during the year.

Our website and our e-newsletters continue to see increasing usage by stakeholders. In 2008-09 visits to our website [www.oscr.org.uk](http://www.oscr.org.uk) increased from 121,093 to 173,562. Subscribers to OSCR Reporter, our bi-monthly e-newsletter, increased by 87%.

Our annual Open Meeting, held at the Carnoustie Golf Hotel in November, saw over 200 charity representatives taking part. We staged our third series of Meet the Regulator roadshows in Benbecula, Edinburgh, Glasgow, Kelso and Tarbert, engaging directly with 180 charity trustees. We staged our first video conference events, and over the past year we have participated in numerous events hosted by other organisations.

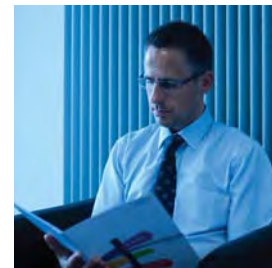
In January 2009 we commissioned independent research on the views of charity trustees and the general public. As a result of feedback from previous surveys, the methodology was altered to be more statistically robust, with results published on our website in June 2009. The findings of the surveys will be used to inform our policy development and future communications activity.

# 4,426

**Number of consents and notifications requests submitted to OSCR. This compares to 2,929 in 2007-08.**

# 9

**Number of formal complaints made about OSCR. This compares to 8 in 2007-08.**



## advising ministers

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In addition to the specific recommendations outlined in our Annual Report and Accounts, we have continued to work closely with the Scottish Government's Charity Law Team to assist the ongoing development of Regulations which underpin the 2005 Act. Specifically, our staff contributed to the development of The Charities and Benevolent Fundraising (Scotland) Regulations 2009, and had Policy input to the draft Charities Accounts (Scotland) Amendment Regulations.

We have participated in the Scottish Government Working Group tasked with advising Scottish Ministers on how best to implement a regime for Scottish Charitable Incorporated Organisations (SCIOs) that is cost-effective, as straightforward as possible, and is tailored to the needs of Scottish charities. This work will continue in 2009-10.

We made our submission to the Public Services Reform Bill. Our 2007-08 Annual Report and Accounts included a number of specific Recommendations to Ministers. In March 2009 Ministers issued a Consultation paper: *Charities and Trustee Investment (Scotland) Act 2005: Proposals for Minor Amendments to the Act and to the Charities Accounts (Scotland) Regulations 2006* which was based on our comments, and we welcome this positive endorsement of our role.

Our Annual Report and Accounts 2008-09 contains further recommendations to Ministers for the coming year, including proposed changes to sections 17, 30 and 31 of the 2005 Act; and a requirement for all charities entered in the Register to have a specific connection with Scotland. The Annual Report and Accounts 2008-09 can be viewed at [www.oscr.org.uk](http://www.oscr.org.uk)

## future milestones

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### october

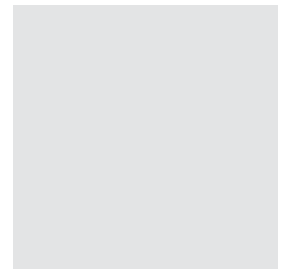
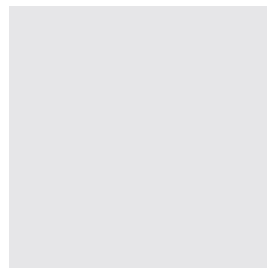
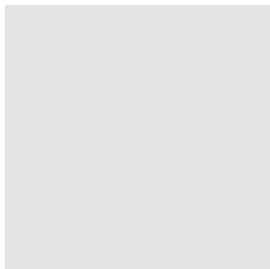
- » OSCR hosts its fourth Conference, at the Glasgow Royal Concert Hall, with 200 charity representatives participating.
- » Launch of OSCR's Integrated Reporting consultation programme, examining the information collected and published by the Regulator.

### november

- » OSCR to publish its Guidance on Independent Examination of Accounts.

### march

- » OSCR to decide on final proposals for Integrated Reporting.



## OSCR's Board

Information about OSCR's Board and full biographies of Board members can be viewed at [www.oscr.org.uk](http://www.oscr.org.uk)

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Chair John Naylor Oscar Mendoza



Fiona Ballantyne Annie Gunner Logan

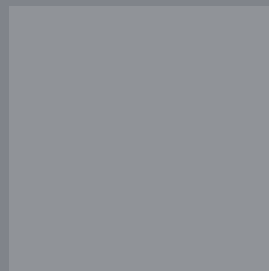
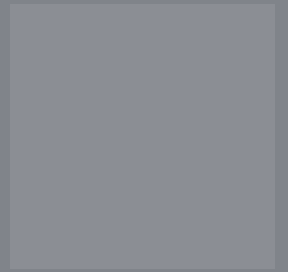


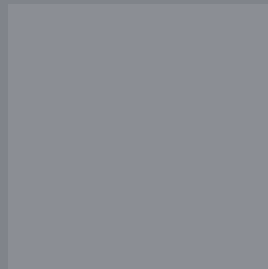
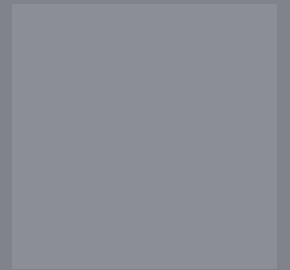
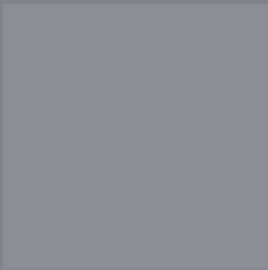
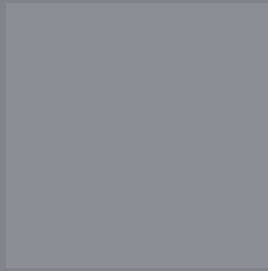
Martin Crewe Deputy Chair  
Lindsay Montgomery



Iris McMillan David Hughes Hallett







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