



# Annual Review

Office of the Scottish Charity Regulator

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

2006/7

## INTRODUCTION

We are pleased to present OSCR's first Annual Review.

Charity law in Scotland has undergone its most fundamental change in decades with the commencement of the Charities and Trustee Investment (Scotland) Act 2005, which established OSCR as an independent regulator.

OSCR's new Board was appointed in January 2006 and formally took up its new powers in April that same year.



As outlined in our Corporate Plan, our vision is for a flourishing charities sector in which the public has confidence, underpinned by OSCR's effective delivery of its regulatory role.

**In performing our statutory functions under the 2005 Act, our strategic objectives are 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

Throughout a busy first year the Board has been keen to ensure that OSCR undertakes its statutory functions in a way that is fair and proportionate. We believe that OSCR has achieved an impressive amount over the year and that, overall, charities are responding well to the challenges of the new requirements. We look forward to the further development and ongoing activity which will see us delivering our strategic and business objectives to assist us in realising our vision.

**John Naylor** OSCR Chair  
**Jane Ryder** OSCR Chief Executive

# 2006/7

## OVERVIEW

This has been a remarkable year for the charity sector and for OSCR. From the commencement of the Charities and Trustee Investment (Scotland) Act 2005 (the '2005 Act') on 24th April 2006, we hit the ground running, immediately launching the new Scottish Charity Register; starting a robust monitoring programme; handling 471 consents and notifications in the first month; and granting charitable status to Scotland's first 'new' charity within weeks.

That early momentum has been maintained throughout the year. As this Annual Review demonstrates, we have undertaken an impressive volume of work, meeting and exceeding our initial targets. Most importantly, we believe that this has a positive impact on the work of charities in Scotland and has raised public awareness and understanding of OSCR and the charities we regulate.

### AN ACCURATE SCOTTISH CHARITY REGISTER

The 2005 Act requires OSCR to publish and maintain an accurate Scottish Charity Register. We inherited over 30,000 charity records from HM Revenue and Customs, and undertook a major programme to confirm which charities were active. In 2006 we began the process of removing those charities we had identified as 'ceased' and by 15th March 2007 a total of 8,184 had been identified. We now publish an accurate Scottish Charity Register populated by active charities, reporting to the Regulator.



### GRANTING CHARITABLE STATUS

Since taking up our powers we have granted status to over 1,000 new charities, assessing them against the new charity test. We have also had discussions with over 400 bodies registered as charities in England and Wales that we believed had a requirement to register with OSCR due to the scale of their operations in Scotland. We have worked with those whose constitutions did not meet the requirements of Scottish charity law, to discuss amendments that we would find acceptable, and that would allow them to be entered in the Scottish Charity Register.

### ROLLING REVIEW OF CHARITABLE STATUS

The 2005 Act requires us to review entries in the Register against the new charity test. In 2006 we began our consultation on this process and worked with volunteer 'pilot' charities. This 'Rolling Review' programme was announced in July 2007 together with our decisions on the 16 pilots. The Rolling Review of charitable status will commence from September 2007, with the first cycle estimated to take 7 to 10 years.

### CONSENTS AND NOTIFICATIONS

OSCR's Consents Team has handled over 2,800 enquiries relating to proposed consents to changes or notifications of changes to charities, as defined in the 2005 Act. We are required to grant consent within 28 days of receipt of an application. During 2006 our average turnaround time was 8.0 days. Following the publication of the Charities Reorganisation (Scotland) Regulations 2007 and our consultation on our proposed guidance for considering re-organisations, we intend, from September, to begin processing an estimated 1,300 applications.

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## MONITORING AND COMPLIANCE

OSCR's general functions include a duty to encourage, facilitate and monitor compliance with the 2005 Act. We have put in place a comprehensive monitoring process. Returned forms and charity accounts are scrutinised and, where we identify any apparent issues, we enter into a dialogue with the charity concerned. In the majority of cases, our concerns are addressed promptly and amicably. Where charities have failed to engage in the process, or cease to correspond with us, our aim is to re-establish a dialogue. Deficiencies in compliance with the 2005 Act are dealt with proportionately and advice or support is provided as appropriate.

## INVESTIGATIONS

OSCR conducts its investigations work on the basis of information disclosed through our own monitoring activity; from referrals received from other regulators in the course of their work; and from complaints made by members of the public. In 2006 we made our first application to the Court of Session to protect the assets of a charity. We were granted Interim Orders, removing the trustees and placing the affairs of the charity in the hands of a judicial factor. We also issued our first direction to a body to cease representing itself as a charity when it was not entered in the Scottish Charity Register.

66

The number of bodies registered as charities in England and Wales granted charitable status by OSCR in its first year



## ADVISING MINISTERS

One of OSCR's statutory functions is advising Ministers on matters relevant to our work. We maintain an ongoing dialogue with Scottish Ministers and the Scottish Executive.

As an unintended consequence of the legislation, the legal barriers to Trustee Indemnity Insurance had become an issue of some concern to the sector. We took a pragmatic decision not to take action against charities which had Trustee Indemnity Insurance in place; nor to refuse applications for charitable status where an applicant charity provided such insurance to its trustees. We advised Ministers of our concerns. In March 2007, the then Minister for Communities announced in Parliament that time would be made available to amend the 2005 Act to allow Trustee Indemnity Insurance to be permitted.

We have discussed with Ministers the need for all the Regulations required to fully implement the 2005 Act. We have also, following our work on the Rolling Review of charitable status, provided Ministers with formal advice regarding the constitutions of Further Education Colleges and the legal difficulties which Ministerial powers create, for the purposes of the charity test.

2006/7

## WORKING TOGETHER

OSCR is committed to principles of Better Regulation. We have actively engaged with other regulators to agree how we can work together to minimise regulation for charities. To date we have established Memoranda of Understanding with the following bodies:

- Charity Commission for England and Wales
- Care Commission
- Communities Scotland
- Fundraising Standards Board
- Financial Services Authority
- The Regulator of Community Interest Companies
- The Scottish Public Services Ombudsman

We also participate in the UK Regulators' Forum, where we meet on a regular basis with colleagues in the Charity Commission for England and Wales and the Department for Social Development in Northern Ireland. We actively participate in the UK SORP Committee, which considers the development of, and UK charities' compliance with, the requirements of the Statement of Recommended Practice.

# 23,638

The number of charities on the Scottish Charity Register at 31<sup>st</sup> July 2007

## FINANCES

OSCR ended the year well within its budget of £3.6 million. Our fully audited accounts are available at [www.oscr.org.uk](http://www.oscr.org.uk)

# 75%

Percentage of charities submitting returns and accounts by the required 10 month deadline

## OUR FIRST ANNUAL REVIEW

This document gives an illustration of the work we have carried out as Regulator in our first year. OSCR thanks those in the sector for their positive response to the regulatory regime and our activities to date.

## POSITIVE ENGAGEMENT

We are committed to being approachable and open, consulting our stakeholders in respect of key policies and new procedures. During the year we have produced a number of publications designed to encourage understanding of, and compliance with, the 2005 Act, in particular:

- Meeting the Charity Test (OSCR 1)
- Consents and Notifications (OSCR 2)
- Charity Regulation in Scotland (OSCR 3)
- Charity Trustee Duties (OSCR 4)
- Scottish Charity Accounting Regulations (OSCR 5)

Copies of OSCR 4 and OSCR 5 were issued to every charity in Scotland, generating positive feedback. We also produced three more general information leaflets, supplies of which were sent to public libraries in Scotland. In early 2007 we announced our programme of 'Meet the Regulator' roadshows, where charity trustees could participate in governance workshops and raise questions directly with us.

OSCR's website has developed considerably since April 2006 both in terms of content and visitor numbers. Our e-newsletter currently has over 1,600 subscribers. We intend to refine and further develop our use of electronic media over the coming year.

# 2006/7

## THE YEAR AT A GLANCE

### April

Commencement of the **Charities and Trustee Investment (Scotland) Act 2005**, which establishes OSCR as a **Non-Ministerial Department**.

OSCR takes up its regulatory powers, and hits the ground running, with all its operational functions active from the first day.

The new **Scottish Charity Register** is established.

OSCR's **launch event** at the Corn Exchange, Edinburgh, attracts over 800 charity representatives.

OSCR publishes guidance on **Meeting the Charity Test** and **Consents and Notifications**.

### May

OSCR moves to its new offices at **Quadrant House**, Dundee.

Scotland's first 'new' charity, **Clatto Community Woodlands**, is granted status within weeks of OSCR assuming its powers.

The **20,000th charity** is confirmed on the Scottish Charity Register – the New Loch Farm Playgroup.

OSCR issues operational guidance on **Trustee Indemnity Insurance**.

# 10

The number of appeals to the Scottish Charity Appeals Panel in OSCR's first year

### June

Guidance is published on **Charity Regulation; Becoming a Charity**; and OSCR's **Review Procedures**.

### July

**OSCR removes** the first batch of **2,182 'ceased' charities** from the Register.

OSCR and judicial factor Bill Cleghorn present **£1.5 million** to the University of Dundee, from the remaining assets of Breast Cancer Research Scotland, ensuring that charitable assets are used for charitable purposes.

### August

OSCR signs a **Memorandum of Understanding** with Communities Scotland.

Guidance is issued on **Charity Trustee Duties**.

### September

OSCR notifies **English and Welsh charities** about the possible requirement for registration in Scotland.

A further **641 'ceased' charities** are removed from the Register.

OSCR announces its proposals for the **Rolling Review** of charitable status and launches a consultation on its priorities and the review process.

The Scottish Charity Register lists **21,415 active charities**.

### October

OSCR petitions the **Court of Session** and is granted interim orders to protect the assets of the ME Foundation – its first application to the Court since assuming new powers.

### November

A Ministerial announcement on **Trustee Indemnity Insurance** confirms that Parliamentary time will be made available to amend the 2005 Act to permit such insurance – vindicating OSCR's consistent position.

# 2006/7

## December

OSCR removes a further **476** **'ceased' charities** from the Register.

## January 2007

OSCR issues guidance on the **Scottish Charity Accounting Regulations** to all 23,000 charities.

Jane Ryder appointed OSCR Chief Executive.

## February

OSCR, the Charity Commission for England and Wales, and the Department for Social Development in Northern Ireland, issue joint guidance for the public on **doorstep collections**.

OSCR announces a programme of **'Meet the Regulator'** roadshows for Aberdeen, Aviemore, Dumfries, Dundee, Edinburgh, Glasgow, Islay, Kirkwall, Lairg, Lerwick and Skye.

OSCR issues a **direction** – to Scottish Help for the World – to cease representing itself as a charity.

# 49%

Percentage of charities granted status by OSCR, stating young people as one of their beneficiary groups



OSCR regulates over 23,500 Scottish charities including community groups, religious charities, schools, universities and further education colleges, museums, grant giving charities and major care providers.

## March

OSCR publishes its draft **Corporate Plan 2007 – 2010** and launches a consultation on its priorities for the next three years.

The **final 4,885 'ceased' charities are removed** from the Scottish Charity Register, establishing a Register populated entirely by active charities complying with legislative requirements.

OSCR publishes the responses to its **Rolling Review consultation**.

## April

Charity **Reorganisation** (Scotland) Regulations 2007 and Charities **References** in Documents (Scotland) Regulations 2007 are announced by Ministers. OSCR sets out its consultation process in respect of guidance on these.

OSCR is recognised as an **Investor In People**.

The Scottish Charity Register lists **22,869** active charities.

# 2006/7

## OSCR'S FUNCTIONS

### REGISTER TEAM

In our first year we established and continued to maintain an accurate Scottish Charity Register. This is published on our website and provides access to information about charities over and above the requirements specified in the 2005 Act.

The Register is updated on a daily basis to incorporate new information, such as changes to which OSCR has granted consent; directions issued by OSCR; and confirmation that annual returns have been received, providing a track record of individual charities' compliance with the requirements of the legislation.

The team issues Annual and Monitoring Return forms to all charities following their accounting year end dates, and also reminder letters to those charities that have not returned their forms by the date required, or which supply us with incomplete documentation.



# 8,184

The total number of 'ceased' charities identified by 15th March 2007

### CASE STUDY – AN ACCURATE REGISTER

**OSCR inherited over 30,000 charity records from HM Revenue and Customs, which previously had responsibility for granting charitable status.**

We made extensive and repeated efforts to establish contact with all identified charities, issuing Annual Return and Monitoring Return forms to gather the required information. We worked with umbrella bodies, checked Local Authority data, used Internet searches and Directory Enquiries, and checked with HMRC for instances of Gift Aid being claimed.

By April 2006, we had gathered detailed records for 20,000 charities and established contact with several thousands more. However, this left around 5,000 charities we had identified as 'ceased' or which had failed to respond to our sustained efforts to establish contact over several years.

In line with the statutory timescales specified in the 2005 Act, we announced our programme of removals of these 'ceased' charities, beginning in July 2006 and concluding in March 2007. A national media campaign supported by promotion on the OSCR website highlighted the 15th March deadline and urged any active charities that had failed to contact OSCR, to do so as a matter of urgency.

The final proposed removal on 15th March produced 160 requests for reinstatement, 85 of which were approved. Scotland now has an accurate Scottish Charity Register, populated entirely by charities supplying the Regulator with information as required by the 2005 Act.

# 2006/7

## STATUS TEAM

To date, OSCR's Status Team has handled over 2,400 applications for charitable status, of which 1,261 have been granted. The average time for processing a complete application is 36 days, against a target of 90 days. Scotland's first 'new' charity, Clatto Community Woodlands, based in Fife, was confirmed in May 2007.

The Status Team has also worked closely with the Charity Commission regarding English and Welsh charities that are required to register with OSCR due to the scale of their activities in Scotland. OSCR identified over 800 such bodies and contacted all of them. To date, 545 English and Welsh registered charities have applied for registration in Scotland and 147 of these have been entered in the Scottish Charity Register.

We identified a number of such organisations whose constitutions defined 'charitable' in a way that was not consistent with Scots law. We

worked with the Charity Commission to agree an acceptable form of wording and produced guidance for such organisations.

We have deferred our monitoring process for a year to examine how best to align the reporting requirements of both regulators.

### CASE STUDY – CLATTO COMMUNITY WOODLANDS

Clatto Community Woodlands, SC037329, was granted charitable status by OSCR in May 2006, the first 'new' charity in Scotland following commencement of the 2005 Act. The charity aims to acquire land on and around Clatto Hill and to provide recreational facilities for the public such as woodland walks. Its stated charitable purposes include one of the new purposes specified in the 2005 Act, environmental protection or improvement.

### CASE STUDY – ANGUS MOUNTAIN BIKE TRAIL ASSOCIATION

Angus Mountain Bike Trail Association, SC038565, was formed to promote the sport of mountain biking and develop facilities, and was granted charitable status by OSCR this year. Its charitable purpose is the advancement of public participation in sport. The charity currently has over 100 members and its website, [www.angustrails.co.uk](http://www.angustrails.co.uk) outlines its activities and features a members' forum. Committee member Kathleen Shepherd says: 'We applied for charitable status because we felt that it would be easier to secure funding, would encourage public support and demonstrate that as a recognised charity we meet legal standards.'

# 676

The number of bodies granted charitable status and entered in the Scottish Charity Register by OSCR in its first year

# 43%

Percentage of charities granted status by OSCR that stated the advancement of education as one of their charitable purposes

### CASE STUDY – AN UNSUCCESSFUL APPLICATION

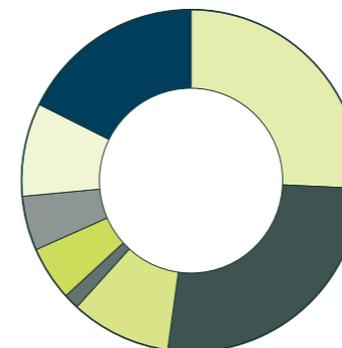
In May 2007 OSCR received an application for charitable status from a trust whose stated purpose was to provide accommodation for retired Christian missionaries and their dependents. The property owned by the trust was inhabited by a retired missionary worker who appeared to be the sole beneficiary. On her death, the trust was to be wound up.

There seemed to be no public benefit arising from the trust. In addition, the dissolution clause meant that the trust's assets could be used for non-charitable purposes. OSCR's decision was that the trust would not be granted charitable status, as providing a home to one individual did not provide public benefit; and that the use of assets for non-charitable purposes did not meet the charity test.

Organisations should consider carefully whether applying for charitable status is appropriate; and whether they provide public benefit. Organisations should consult OSCR's guidance on meeting the charity test.

### Geographic activity of charities granted status in OSCR's first year:

- Specific local point or community (27%)
- More than one local authority area (9%)
- One of a few bases or facilities (1%)
- Operations covering all or most of Scotland (5%)
- Overseas only (6%)
- Scotland and other parts of the UK (9%)
- UK and overseas (18%)
- Wider than one local authority area (25%)



# 2006/7

## CONSENTS AND NOTIFICATIONS

OSCR's Consents and Notifications regime provides charities with a straightforward and efficient means of making changes, while reassuring the public that changes of name, amalgamations, or winding up of charities, must be approved by the Regulator.

As expected we have seen a very large demand for such changes in our first year. We have aimed to provide a streamlined process for charities that reduces paperwork and minimises potential disruption. For example, we created a co-ordinated process for charities seeking a change in legal form, that removed the need to wind up in advance of applying for charitable status for the new body.

As with our other formal decisions, there is the right to apply to OSCR for an internal review, following which an appeal can be made to the Scottish Charity Appeals Panel (SCAP). To date, no such appeals have been made.

From September 2007 we will begin to process applications for reorganisation of trusts under section 39 of the 2005 Act, following publication of the Charity Reorganisation (Scotland) Regulations 2007.

This will allow charities to reorganise, where their constitutions do not provide the trustees with sufficient powers to do so. Such charities will be able to modernise their objectives to reflect changes in society since they were established, applying their resources to better effect. The process is keenly awaited and could release tens of millions of pounds for charitable purposes across Scotland.

# 8.0

The average number of days for OSCR to grant consent once a full application is received – against a target of 28 days

# 327

The number of Consents granted by OSCR in its first year

### CASE STUDY – CONSENT TO WIND UP OR DISSOLVE A CHARITY

**OSCR received an application from Falkirk Women's Technology Centre, SC022410, to wind up. FWTC proposed to transfer any remaining assets it held, to another named charity. FWTC's constitution required that any remaining assets on winding up should be applied to a charity with similar aims.**

However, FWTC's charitable purpose was the advancement of education, while the objective of the proposed recipient charity was to protect women and children who have suffered from, or are exposed to, domestic violence.

We drew this to the attention of FWTC, and asked why this charity has been chosen by them to receive their remaining assets. FWTC agreed that such a step was outwith the terms of their constitution, and chose an alternative recipient with similar aims to their own, which we found acceptable.

We granted consent to the proposed winding-up, with FWTC's assets to be transferred to the agreed recipient. In applying to OSCR for consent to winding-up, charities must consider carefully what will happen to any remaining assets, and consult their constitutions.

# 2006/7

**CASE STUDY – A HAPPY ENDING**

**OSCR was notified by the Rattray Playgroup, SC011969, that it had changed its name to the Humpty Dumpty Playgroup and Baby and Toddler Group. The charity also notified OSCR that it had made a minor change to its constitution that was not related to its charitable purposes.**

However, no prior consent had been sought to these changes as required under the 2005 Act. On checking the Scottish Charity Register, we identified a further four charities with the name ‘Humpty Dumpty’. Over time we will address similar names with the charities concerned, but we could not ourselves compound this situation by entering an objectionable name, that is, a name that is too similar to the name of an existing charity.

The charity remained enthusiastic about the name, as this had been the preferred choice of the children in the playgroup. We decided that an acceptable solution would be to insert the geographic location ‘Rattray’ in the

name to distinguish this charity from those already entered in the Register with the name ‘Humpty Dumpty’.

Rather than issue a direction to the charity to change its name, we discussed the matter with the trustees to reach a mutually satisfactory outcome. The name of the charity was changed to ‘Humpty Dumpty Playgroup and Baby and Toddler Group (Rattray)’ and updated on the Register, ensuring a happy ending for OSCR, the charity and the children.

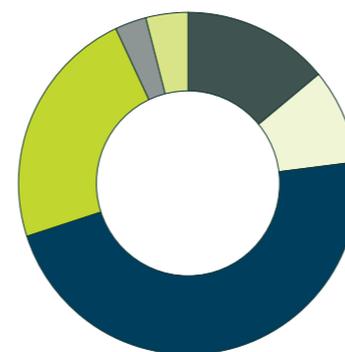
**14**

**The number of refusals to grant consent in OSCR’s first year**

Charities are required to seek consent from OSCR for proposed changes to names or constitutions. Charities can consult the Scottish Charity Register to establish whether a charity already exists with the same, or a similar, proposed name.

**54%**

**The percentage of smaller charities not submitting a Trustees’ Annual Report with their accounts**



**Monitoring returns exceptions triggered**

- Large charity (9%)
- Possible failure to apply funds (47%)
- Poor liquidity, low reserves (23%)
- Fundraising and trading (3%)
- Adequacy of board structure (4%)
- Transactions with trustees (14%)

**MONITORING**

OSCR’s full monitoring programme, developed through consultation with the sector, was launched in July 2006, commencing with those charities with a financial year end of 31<sup>st</sup> March. All charities on the Register are required to submit an Annual Return and latest set of accounts to OSCR. Charities with a gross income over £25,000 must also submit a Supplementary Monitoring Return.

The returns are checked for completeness and the accounts are reviewed, to ensure that they contain the component financial statements, are approved by the trustees and are externally scrutinised. Incomplete forms are reissued and qualified pass letters are sent to charities where the accounts are deficient in these basic requirements.

The data provided in the Supplementary Monitoring Returns is assessed against 41 exception triggers. Where an answer to the exception cannot be found through a more detailed review of the accounts, a request for further information is sent to the charity. Any unresolved matters are passed to OSCR’s Compliance Team or Investigations Team to follow up as appropriate.

The evidence in the first year is that, as expected, smaller charities have more difficulty regarding submission of the Annual Return and accounts. This is the reason that our accounting guidance is focused on smaller charities. We intend to see improving levels of compliance in future years.

**2006/7**

## COMPLIANCE

The Compliance Team handles the follow-up of non submissions of Annual Returns ten weeks after the deadline date, with the intention of re-engaging charities in the process.

The team also handles non-compliance referrals from other teams within OSCR, including consents and notifications, monitoring, and investigations. Where charities have been removed from the Register, the organisations still have a responsibility to use the assets held at the date of removal for the charitable purposes for which they were intended and to report to OSCR. The team monitors compliance with this requirement of the legislation.

The Compliance Team undertook substantial work in the production of OSCR's *Guidance for Charity Trustees* and *Scottish Charity Accounts – A Brief Guide*, consulting with user groups and key stakeholders.



# 114

The number of compliance cases dealt with in OSCR's first year

When removed from the Register, organisations still have a responsibility to report on charitable assets to OSCR

Many charities in Scotland have a parent or umbrella organisation to which they are affiliated. To encourage awareness of, and compliance with, the requirements of the 2005 Act, OSCR has established relationships with, for example, the Councils for Voluntary Service, Girl Guides, Scouts, Royal British Legion Scotland and a number of faith based organisations.

In the past year, OSCR's Compliance Team has answered 667 individual queries from charities and their advisers, with questions regarding accounting regulations and trustee duties the most prominent.



### Compliance Issues

- Accounts (5%)
- Action without consent (17%)
- Assets unaccounted at date of removal (20%)
- Inadequate governing body (9%)
- Not responding to communications from OSCR (27%)
- Monitoring assets post removal (16%)
- Transactions with trustees (3%)
- Not fulfilling trustee duties (2%)
- Financial viability (1%)

# 2006/7

## CASE STUDY - TWO ORGANISATIONS, ONE CHARITY NUMBER

In 2003, a charity that had been granted charitable status by HM Revenue and Customs notified HMRC that a project run under its auspices was to be split off as a separate entity. The parent charity wished to retain the charity number and noted that the project could apply for charitable status in its own right.

However, the contact address for the charity was not updated when it moved and the project remained based at the charity's original address. This was therefore the address that was transferred to OSCR from HMRC's charity index in 2005.

The project rather than the charity therefore received OSCR's first annual return and completed it, entering the name of the charity on the form, and the project name as 'known as'. Fortunately the charity, which had not received an Annual Return, contacted us separately to request one, disclosing the confusion.

We amended the Scottish Charity Register and confirmed to the charity that it remains registered with us. We have informed the project that it is not formally recognised as a charity and cannot yet refer to itself as a charity. The project has since applied for charitable status.

Charities must keep their principal contact and address details up to date. While a change in contact person may be notified to us using the Annual Return, it is vital that we are informed as soon as possible where the address changes in order to ensure that the Register is accurate and the charity receives our correspondence.



Where a project or group splits from a charity to become an independent organisation, it must apply to OSCR and be granted separate charitable status if it wishes to refer to itself as a charity.



We wrote to the charity trustees and established that they were aware of the letter, and were addressing the main issues. We held a meeting with the trustees to discuss their progress and to raise other accounting and fundraising issues following our review of the charity's annual accounts and Executive Committee minutes.

The meeting established that a new Committee had inherited these issues. New systems had since been established and a view on their adequacy was being sought from the auditor. We advised the Committee of the legislation governing can

## CASE STUDY - INADEQUATE FINANCIAL RECORD KEEPING

OSCR received from an anonymous source, a letter sent to a charity by its auditor. This highlighted serious deficiencies in the charity's financial record keeping. Following an initial risk assessment, the case was passed to our Compliance Team.

collections and the correct procedures to be followed, noting that the issue of unauthorised collections had been addressed with the individual concerned. We also advised the Committee of the accounting and reporting requirements of the 2005 Act and the Accounts Regulations such as the need to include a trustees' annual report in the charity's accounts as well as an appropriate independent examination or audit report.

Written confirmation that outstanding procedural matters had been addressed was received from the Committee within an agreed timescale.

We will monitor the charity's subsequent accounts submissions to assess its improvement in compliance.

This case highlights that OSCR will provide compliance support to individual charities where needed. Although the referral did not originate from the charity itself, the trustees appreciated the support provided by us and were receptive to the advice given.

Charity trustees have a duty to act in the best interests of the charity. Advice from an external auditor or examiner, who will have formed an independent view of the charity's governance, should therefore always be seriously considered.

## INVESTIGATIONS

Our experience in our first year suggests that wilful misconduct is rare among Scottish charities.

OSCR's ongoing monitoring of charities may identify potential issues that require investigation. We also receive referrals from other regulators and from members of the public. In addition, those examining or auditing a charity's accounts have a duty under section 46 of the 2005 Act, to report any matter that may be relevant to OSCR.

Where we investigate referrals or complaints about charities, we find that the majority are effectively dealt with by meeting with the charity trustees and outlining what action they must take to address our concerns.

However, in our first year we have taken protective action in the case of one charity; and issued a direction to an organisation to cease representing itself as a charity when it was not entered in the Scottish Charity Register.

# 105

The number of complaints about charities investigated by OSCR in the past year



Those examining or auditing a charity's accounts have a duty to report any matter that may be relevant, to OSCR

## CASE STUDY – SCOTTISH HELP

**In August 2006 OSCR began to receive complaints from members of the public about an organisation carrying out clothing collections in Lanarkshire and parts of Glasgow. Complainants expressed concern that Scottish Help (also known as Scottish Help for the World and Scottish Help for the Poor People) gave the impression that it was a charity when it was a commercial organisation.**

We worked with other regulators such as North Lanarkshire Trading Standards, to identify those running Scottish Help for the World and to interview them. Our examination of the wording of the organisation's leaflets led us to conclude that Scottish Help for the World was representing itself as a charity when it was not entered in the Scottish Charity Register, in breach of Section 13 of the 2005 Act.

We issued two directions to Scottish Help for the World under Section 31(5) of the 2005 Act requiring Scottish Help and its representatives to cease representing Scottish Help as a charity.

# 2006/7

## CASE STUDY – HIGHLANDS AND ISLANDS SUPPORT FOR GRIEVING FAMILIES

The Highlands and Islands Support Group for Grieving Families (HISGGF) was established as a charity in 2003. Among the charity's trustees were the parents of a young man who had died in tragic circumstances. The charity raised money on its own behalf, and on behalf of another organisation.

The trustees of this organisation became concerned that money raised on their behalf was not being made available to them, and they reported their concerns to OSCR and to Northern Constabulary.

HISGGF did not provide us with the information we required. However, we did establish through other sources that more than half of the money donated to HISGGF had been used for purposes that were not connected with the charity, for example the payment of Council Tax on a trustee's home. Our enquiries also established that the

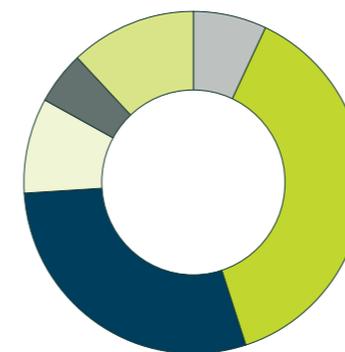
signature of a Member of the Scottish Parliament had been forged on an application for funds made by HISGGF to a grant giving body.

We petitioned the Court of Session and four people were removed from being in the management or control of the charity. These individuals may not now act as charity trustees unless granted a waiver to do so. Two of the people removed had lent their names to be charity trustees but had been inactive, allowing others whom they trusted to mismanage a charity.

# 11,400

The number of Annual Returns and Monitoring Returns processed by OSCR in its first year

We worked with Northern Constabulary throughout our investigation. This case demonstrates that a failure to respond to OSCR's enquiries does not prevent us from gathering information. Also, that individuals cannot simply ignore their responsibilities as charity trustees. It is never the case that a charity trustee can be a charity trustee in name only.



### Sources of referrals and complaints

Where referrals and complaints come from:

- Public (38%)
- Charity (29%)
- Regulator (9%)
- Professional adviser reporting (5%)
- Anonymous (12%)
- OSCR internal referral (7%)

## ENGAGING WITH STAKEHOLDERS

Effective two-way communication is vital to OSCR in encouraging compliance with charity legislation as well as ensuring that we operate in an open and transparent manner. We have used the following methods in the past year to engage with our stakeholders.

### OSCR GUIDANCE

We have produced general guidance on key aspects of the new regulatory framework. We have also produced public information leaflets on key issues, with copies supplied to libraries across Scotland. All our publications are available to download from the OSCR website.

### OSCR WEBSITE

We believe that electronic communication provides efficient, consistent and immediate contact with our stakeholders and we are committed to encouraging its use. Our website provides news, publications, events, documentation, useful links

and notice of OSCR consultations. The Scottish Charity Register is published on the OSCR website and is the single most visited item. We also publish minutes of Board meetings and our monthly performance statistics.

Our e-newsletter now has over 1,600 subscribers and we actively encourage charity trustees and their professional advisers to join the list and ensure that they are notified of new developments.

# 2006/7

## OSCR EVENTS

In the past year OSCR has participated in a wide variety of events organised by umbrella bodies and professional advisers. Our own launch event in Edinburgh on 24th April 2006 attracted over 800 charity trustees and advisers. Early in 2007 we announced a series of Meet the Regulator roadshows for Aberdeen, Aviemore, Dumfries, Dundee, Edinburgh, Glasgow, Islay, Kirkwall, Lairg, Lerwick and Skye. We estimate that we will have met over 1,000 charity representatives face to face through these roadshows alone.

## OSCR CONSULTATIONS

During the past year OSCR has consulted the sector widely both in terms of policy development and in charities' experience of the regulator. To date we have consulted on:

- the application of the charity test in considering new applications
- the processes for OSCR's consents and notifications regime
- the Rolling Review of charitable status
- OSCR's Equalities strategy
- OSCR's Corporate Plan, outlining our priorities to 2010
- OSCR guidance on the Charity Accounting Regulations
- Reorganisation of Trusts



# 1,897

Notification of changes received and processed by OSCR in its first year

## CASE STUDY – OSCR SURVEYS

**In February 2007 we issued paper based surveys to 1,000 charities and 5,000 members of the public, asking for their views on OSCR, charity regulation in general and their own experience of the Regulator. We also held several focus groups with stakeholders to discuss in detail, issues arising from the surveys.**

Charity respondents to the surveys were positive about the new regulatory landscape and OSCR's operation and priorities. They reported the two biggest challenges facing the sector as funding; and the difficulty in recruiting trustees.

Such dialogue informs our processes and priorities. We have published the findings of the surveys on our website and we will repeat the programme in early 2008.

Members of the public reported the need for confidence in charities, particularly the use of funds, as the greatest concern. We have begun to address this issue, which will progress over time as the new legislative framework becomes more widely understood and the public has access to detailed information through the Register and our activities.

# Annual Review

Office of the Scottish Charity Regulator

## MILESTONES AHEAD

### September 2007

OSCR will hold its Conference in Perth, reporting to the sector and the public on its activities in its first year.

Commencement of the Rolling Review of charitable status. Phase 1a to run from September 2007 to May 2008. Phase 1b to be completed by January 2010. Phase 2 (which are non-priority groups of charities) to be completed by 2014.

OSCR will begin to process applications from charities to reorganise under the Charity Reorganisation (Scotland) Regulations 2007.

Publication of defaulting charities on OSCR's website, listing those charities that have failed to provide the Regulator with required documentation within stated timescales.

### December 2007

Launch of consultation on OSCR's updated guidance: Meeting the Charity Test (OSCR 1).

### January 2008

Memorandum of Understanding with HM Revenue and Customs to be established.

### April 2008

Phase 1a of the Rolling Review nearing completion.

# 1,261

The number of bodies granted charitable status by OSCR at 31<sup>st</sup> July