



# Community & Voluntary Service

Mid and North Bedfordshire

## The Charities Act 2006

The Charities Bill received Royal Assent on 8th November 2006. This means that the Bill has become the Charities Act 2006 and is now law. Except for some technical provisions the Act has not yet come into and will come into force in stages over the next two years.

The salient points of the Act for the Voluntary Sector in Mid & North Bedfordshire can be summarized as follows:

### **A New description of charitable Objects/Purposes**

The new Act contains a statutory list of the purposes the law regards as charitable. The existing four 'heads', or categories, of charitable purpose, developed by the courts over the years - the relief of poverty, the advancement of education, the advancement of religion and other purposes beneficial to the community - will be expanded.

There will be 13 charitable purposes. They are:

- The prevention or relief of poverty
- The advancement of education
- The advancement of religion
- The advancement of health or the saving of lives
- The advancement of citizenship or community development
- The advancement of the arts, culture, heritage or science
- The advancement of amateur sport
- The advancement of human rights, conflict resolution or reconciliation, or the promotion of religious or racial harmony or equality and diversity
- The advancement of environmental protection or improvement
- The relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantage
- The advancement of animal welfare

- The promotion of the efficiency of the armed forces, or of the efficiency of the police, fire and rescue services or ambulance services
- Any other purposes accepted as charitable on the day that this part of the Act comes into force, and any purpose that is analogous to or within the spirit of any existing charitable purposes, any of the purposes listed in the Act or any purposes accepted as charitable after the new law comes into force.

The final purpose allows flexibility for the law to evolve over time in response to changes in society.

### **Providing public benefit**

Under the Act, all charities must demonstrate that their purposes are for public benefit, marking a change in the law for religious, educational and poverty relief charities, where public benefit has been presumed unless there was evidence to the contrary. The change in the law means that all charities will have to demonstrate their public benefit when registering. For existing charities, trustees must take account of the commission's public benefit guidance. The Charity Commission has set out guidance in 'Public Benefit - the Charity Commission's Approach', published in January 2005. The commission will be undertaking rolling reviews of existing charities to ensure that public benefit is being provided. ([www.charity-commission.gov.uk/spr/pbcca.asp](http://www.charity-commission.gov.uk/spr/pbcca.asp))

### **New thresholds for registration**

The annual income threshold for registration with the commission is raised from £1,000 to £5,000. Charities with income below that level will be able to register voluntarily.

### **Changing the threshold for professional audit and independent examination**

The Act simplifies the rules about when a professional audit is required and gives both charities which are companies and those which aren't similar thresholds.

A non-company charity's accounts will have to be professionally audited if it has:

- gross annual income over £500k; or
- an aggregate value of assets over £2.8 million and gross annual income over £100k

Below this threshold, for non-company charities, an independent examiner can be used instead of an auditor. An independent examination is not required if the

charity's income is below £10,000. If the income is above £250,000 then the independent examiner must have an appropriate accountancy qualification.

For charities which are companies, accounts will have to be professionally audited if the charity has:

- gross annual income over £500k; or
- a balance sheet total (aggregate assets) over £2.8m.

Charitable companies with an income between £90k and £500k and assets of £2.8 m or less are not required to have their accounts audited if they provide an accountant's report. For a charitable company with income of £90,000 or less then neither a professional audit nor an accountant's report is required unless its assets are over £2.8m

## **Freedom for smaller charities to evolve and change**

Under previous legislation, charities could make changes to their objects/purposes through resolutions agreed with the Charity Commission. The new Act liberalises and extends these powers.

It allows smaller, unincorporated (non-company) charities with income of less than £10k a year to take certain actions without having to come to the Commission for permission. Copies of the resolutions passed by the trustees to make these changes will still be required by the Commission.

## **Charitable companies**

The Act introduces a new legal form for charities, the Charitable Incorporated Organisation. CIOs will be regulated by the Charity Commission alone, avoiding the dual regulation of charitable companies, which report to both Companies House and the commission.

Much of the detail about how CIOs will work will be contained in regulations, but the Act specifies some of the key features.

Amongst other things, CIOs will have limited liability. Each one's principal office must be in England or Wales. Like companies, they will have a two-tier system of governance, with both members and trustees. There will be statutory duties for members to act in good faith and for trustees to exercise reasonable care and skill. A 75 per cent majority will be needed to alter a CIO's constitution.

Registration of a CIO will be by application to the commission with a draft constitution. Existing charitable companies and industrial and provident societies will be able to convert to CIO status, with the approval of the members. The Act also contains a mechanism for CIOs to merge. An existing unincorporated charity

cannot convert to a CIO, but must go through the process of establishing a CIO and transferring assets and liabilities to it, a process that is currently used by charities wishing to 'incorporate'.

## Public charitable collections

The Act introduces a new regime for public charitable collections, which are currently regulated by local authorities under a patchwork of legislation.

The new rules will apply to collections in a public place or door-to-door. Subject to some exceptions, a public place will include any place where members of the public have access, including a station or shopping precinct. There was doubt about whether the old rules applied to soliciting direct debits, as in face-to-face fundraising, but this is covered by the new regime.

For the most part, public charitable collections may be carried out only by holders of Public Collections Certificates. PCCs will be issued by the Charity Commission and can last for up to five years. This could mean big log jams. The commission can refuse to issue a certificate on several grounds, including concerns about the proportion of the appeal proceeds that will actually reach the charity. For collections in public places, a permit must also be obtained from the local authority, lasting up to 12 months. Permits can be refused only on the grounds of inconvenience, perhaps because of the proposed timing or location of the collection. No permit is needed for door-to-door collections, but the local authority must be notified in advance.

## Further Details of Other Regulations in the New Charities Act:

[www.charity-commission.gov.uk/spr/ca2006prov.asp](http://www.charity-commission.gov.uk/spr/ca2006prov.asp)

Contact CVS Mid & North Beds for a copy of a more detailed summary of the Act:

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