

How does the 2006 Charities Act Affect Governance?

Registration

Generally, only charities with an annual income above £5,000 must register with the Commission. This threshold has gone up from its previous level of £1,000. The registration requirements for 'exempt' and 'excepted' charities will also change – now if their gross annual income exceeds £100,000 they will also have to register.

Auditing and accounts

Changes to auditing requirements, effective for accounting years starting on or after 27 February 2007:

A charity but not a company

Income below £10k	Prepare accounts, but no checks needed
Income between £10k & £250k	Independent examination
Income between £250k & £500k	Professional examination
Income over £500k	Professional audit

A charity and a company

Income below £90k	Prepare accounts, but no checks needed
Income between £90k & £500k	Accountant's report
Income over £500k	Professional audit

NB1. Thresholds are different if the value of assets exceeds £2.8 million

NB2. There are also changes to the rules relating to group accounts

NB3. More changes are in the pipeline – hopefully to standardise the requirements!

Easier to Change Charitable Purposes

If you are the trustee of a smaller unincorporated charity, with a gross income in your last financial year of no more than £10,000, the Act makes it easier for you to update your charitable purposes. Provided that the new purposes are similar to the original purposes, you do not need to ask the Commission to make a 'Scheme' to change them.

In more detail

The rules: Where the trustees of a charity consider that their existing charitable purposes are no longer relevant in modern society, they may bring them up to date more simply. The updated purposes must serve the charity's interests well and must be similar to the old ones. So, for example, a charity set up to relieve sickness could update its purposes to take part in a health promotion scheme to promote healthy living.

Voting: The trustees must satisfy themselves that the change is in the charity's interests and that (so far as is reasonably practicable) the new purposes consist of or include purposes similar to those being replaced. The trustees must pass a resolution by at least two-thirds of those who vote, and send a copy to the Commission with the reasons for passing the resolution.

Timescale: The resolution automatically takes effect 60 days after receipt by the Commission, unless the Commission objects. However, this period can be extended if the Commission requires the resolution to be publicly announced, or requests more information. In practice, the Commission is only likely to object where the new purposes very clearly do not serve the charity's interests well, or are dissimilar to the old ones.

The provisions will come into force in early 2008.

Easier to Alter Your Governing Document

In brief

If you represent an unincorporated charity, you may now change the 'administrative powers and procedures' – the parts of your governing document that concern the general running and administration of your charity – without the Commission's prior approval.

If your charity is a company, you can already make certain changes to your governing document without obtaining the Commission's prior approval. The Act makes it easier for charities that wish to make such changes.

In more detail: unincorporated charities

Administrative powers and procedures: These are the parts of a charity's governing document concerning the general running and administration of the charity and the work of its trustees. An example might be the number of trustees needed to form a quorum at meetings. The Act updates and extends existing rules to make it easier for any unincorporated charity to modify its powers or procedures. Trustees of all unincorporated charities can use this power, although they can choose to use instead any equivalent power in the charity's governing document.

Safeguards: This updated power retains an important safeguard for charities that are unincorporated associations with a body of members distinct from the trustees. For these charities, the members of the charity must hold a meeting to approve a resolution of the trustees. At that meeting, the resolution must be approved by a two-thirds majority on a vote or by a decision taken without a vote and without any expression of dissent.

Trustees must also remember to keep the Commission register entry for their charity up to date with any changes made to their governing documents under this power.

The provisions came into force on 27 February 2007.

This leaflet is adapted from "Charities Act 2006 – What Trustees need to Know" produced by The Office of the Third Sector and the Charity Commission.

It is meant as general guide to the changes brought in by the 2006 Charities Act, if you have any specific queries please contact our Community Development Worker Amelia Hughes on 01432 343 932 or amelia@herefordshireva.org