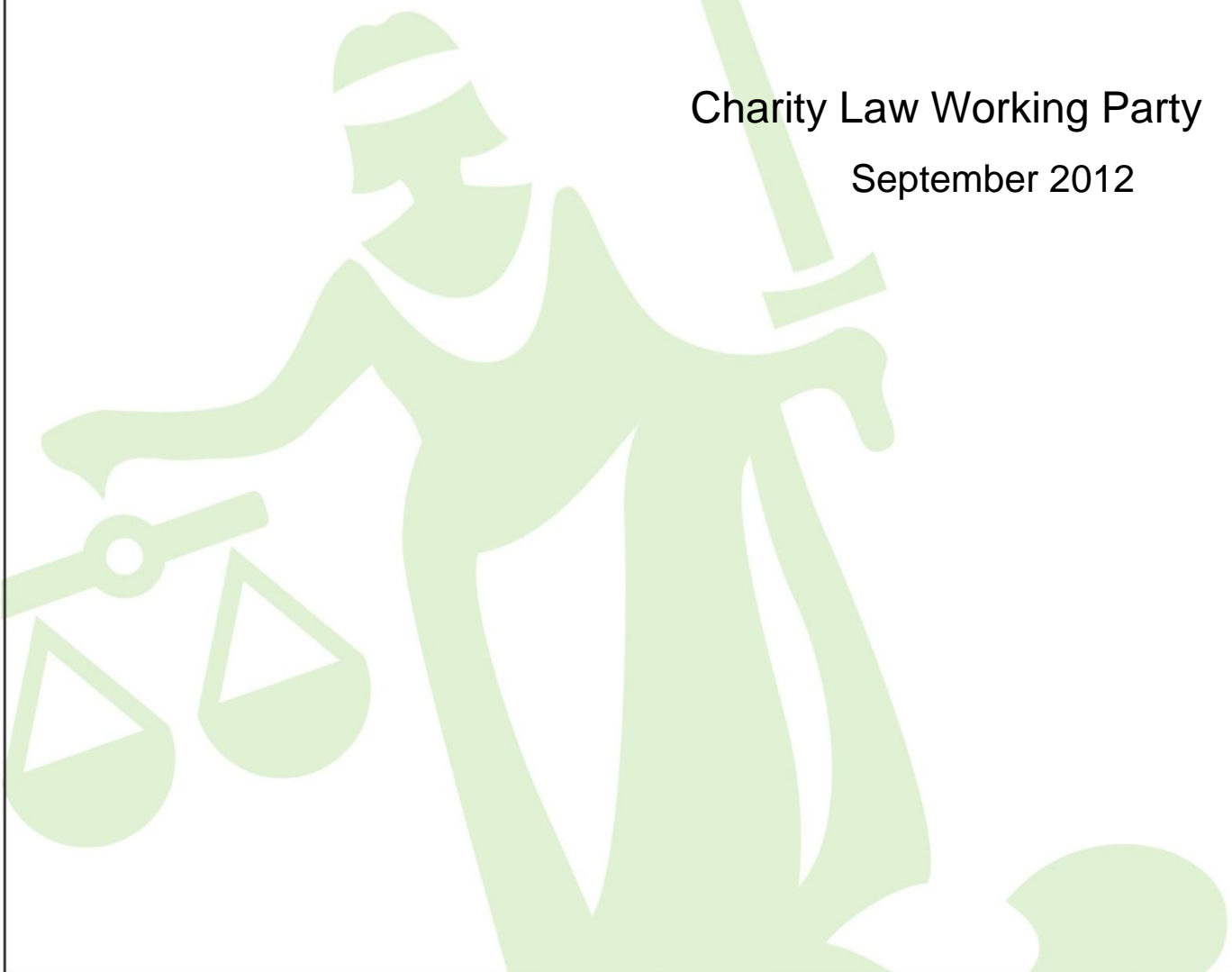




The Law Society

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## **1. Legislation passed**

### **(a) *Charities Act 2011***

The Charities Act 2011 came into effect on 14 March 2012, and replaces most of the Charities Acts 1992, 1993 and 2006 and all of the Recreational Charities Act 1958.

It does not replace the sections in the Charities Acts about fundraising which have not yet come into effect; for example, charitable collections in public places.

This Act was introduced with the intention of making the law easier to understand by consolidating four Acts of Parliament into one. Charities do not have to do anything differently, except to refer to the Charities Act 2011 in documents, reports, accounts or statements produced on or after 14 March 2012 (even if they relate to an earlier financial period). The Charity Commission have stated that documents will still be valid even if charities accidentally refer to earlier Acts.

Certain sections of the Charities Act 1993 which were frequently referred to have had to be changed because the sections have all been re-numbered. The most commonly used phrases have been changed as follows:

- A Section 8 inquiry is now a Section 46 inquiry
- A Section 26 order is now a Section 105 order
- A Section 27 order is now a Section 106 order
- Section 29 advice is now Section 110 advice
- A Section 36 report is now a Section 119 report
- Section 38 advice is now Section 124 advice
- Section 64 consent is now Section 198 consent
- A Section 82 resolution is now a Section 333 resolution.

### **(b) *Localism Act 2011***

The Localism Act 2011 came into force in November 2011. It changes the powers of local authorities and sets out new provisions for the functions and procedures for local authorities and the way they are funded.

In particular, Part 5 ("Community Empowerment") sets out a new right for charities, voluntary bodies and others to apply to councils to carry out services provided by the council. It also allows lists to be compiled of assets, such as shops, pubs and playing fields, which are privately owned but which are of value to the community. If the asset is later sold, the Act makes it easier for the community to bid for and take over the asset. The local authority must respond and consider whether acceptance of a "right to challenge" would promote or improve the social, economic or environmental wellbeing of the area.

### **(c) *The Health and Social Care Act***

The Health and Social Care Act 2012 came into force on 27 March 2012. One of the most contentious areas of the Act is the changes it makes to NHS commissioning structures. The Act establishes the NHS Commissioning Board with the mandate of "arranging for the provision of services for the purposes of the health service in England". It is intended that the NHS Commissioning Board will become operational in October 2012. The Act also establishes clinical commissioning groups (CCGs) which will be responsible for commissioning local services. The CCGs will hold budgets and be able to reinvest any savings they generate in patient care. Strategic health authorities and Primary Care Trusts are abolished.

**(d) *Public Services (Social Value) Act 2012***

The Public Services (Social Value) Act 2012 came into force on 8 March 2012 and is due to be implemented in January 2013. This Act requires all public bodies in England and Wales for the first time to consider social value ahead of any procurement. This means that the public authority must consider how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area, and how, in conducting the process of procurement, it might act with a view to securing that improvement. This should encourage greater engagement with charities and social enterprises.

One of the key issues for public bodies including economic, social and environmental issues (collectively known as "sustainability issues") was that under European procurement rules, as considered in the Concordia Bus case and now included in the legislation, such sustainability issues could only be included if they were linked to the subject matter of the contract being procured. The Act specifically makes reference to this restriction in Section 1(6).

**(e) *Employment Tribunals (Constitution & Rules of Procedure) (Amendment) Regulations 2012*  
*The Unfair Dismissal & Statement of Reasons for Dismissal (Variation of Qualifying Period) Order 2012*  
*Employment Rights (Increase of Limits) Order 2011***

The Employment Tribunals (Constitution and Rules of Procedure) (Amendment) Regulations 2012 came into force on 6 April 2012 and is relevant to charities and voluntary organisations who have employees. In addition, The Employment Tribunals Act 1996 (Tribunal Composition) Order 2012 has been updated to reflect that employment judges will hear unfair dismissal cases alone in the employment tribunal, unless they direct otherwise.

The Terms and Conditions of Employment, The Unfair Dismissal and Statement of Reasons for Dismissal (Variation of Qualifying Period) Order 2012 also came into effect on 6 April 2012. These amend the qualifying period an employee must serve to be able to claim unfair dismissal from one year's continuous service to two years' continuous service.

The Employment Rights (Increase of Limits) Order 2011 (SI 2011/3006) applies increases to a number of limits applying to tribunal awards and other amounts payable under employment legislation increase. The limits apply where the event that gives rise to the award or payment occurs on or after 1 February 2012.

**2. Legislation in process**

**(a) *Open Public Services 2012***

In March 2012, the Government published "Open Services 2012" as an update on the White Paper it published in July 2011 entitled "Open Public Services" which set out a radical re-shaping of how public services are delivered. The update provides more detailed information on many of the points raised in the White Paper, especially in relation to education and schools.

Service delivery charities will need to understand how these radical changes have affected the position of charities in public service delivery, and may need to adapt their distribution policies.

**(b) *Enterprise and Regulatory Reform Bill***

This Bill passed its Second Reading Stage on 12 June 2012 and was sent to the House of Commons Public Bill Committee for scrutiny with a call for written evidence. The Committee's consideration of the Bill finished on 17 July 2012 and the Bill is due to return to the House of Commons for Report Stage on 16 October 2012.

The Bill proposes to amend a huge amount of employment legislation currently in force, including the Trade Union and Labour Relations (Consolidation) Act 1992, Employment Tribunals Act 1996, Employment Rights Act 1996, National Minimum Wage Act 1998, Employment Relations Act 1999, Equality Act 2006, Pensions Act 2008 and Equality Act 2010.

**(c) *European Commission Directive on public procurement***

Public procurement guidelines are currently implemented by Directive 2004/18 EC dated 31 March 2004. The EC published a Green Paper on public procurement rules in January 2011 and in parallel with this, an evaluation of the impact and cost effectiveness of public procurement policy was undertaken. In the current economic climate public authorities are facing increasing fiscal constraints and there are also concerns about the relative lack of cross-border investment. The proposed new directive seeks to address these issues.

Part of the directive's aims is intended to encourage greater involvement by small and medium enterprises (SMEs) including charities in the procurement market. The EC places strong emphasis on the potential of SMEs and believes that simplifying the procurement process will increase market access for SMEs.

The proposed new directive will be reviewed by the Council of Ministers and the European Parliament with a view to beginning the adoption procedure before the end of 2012. The final implementation of the legislation is currently expected in 2014.

**(d) *Trusts (Capital and Income) Bill***

This project was referred to the Law Commission by the Lord Chancellor as a result of concerns expressed during the passage of the Trustee Act 2000 through Parliament. The project considered ways of clarifying and simplifying the complex rules governing the treatment of trust receipts and outgoings as capital or income, and the extent to which trustees who have to distinguish between income and capital should be able to invest on a "total return" basis, particularly with reference to trusts for interests in succession and to charitable trusts with permanent endowment.

The Government accepted the Law Commission's recommendations, and The Trusts (Capital and Income) Bill was introduced in the House of Lords on 29 February 2012. The Second Reading of the Bill in the House of Lords took place on 10 May, and no amendments were made to the Bill during the Committee stage (line by line examination of the Bill). The next significant date is the Report stage which is scheduled to take place on 15 October 2012.

The Law Commission's terms of reference asked them to consider, amongst other things, the rights and duties of charity trustees in relation to investment returns on a charity's permanent endowment. Among the principal reforms included in the Bill is a simplification of the procedure for the trustees of charities with permanent endowment to adopt a total return approach to investment within a framework determined by the Charity Commission, so that the amounts retained for further investment and applied for immediate spending are determined by looking across the whole investment return rather than the technical trust law classification of receipts as capital or income.

The division between capital and income has required charities to make investments based on the return they are expected to produce to try to ensure that it is balanced between what is considered to be income and capital. This restricts the choice of investments the charity could make and inevitably fetters the charity's ability to create an appropriate balance between risk and return.

On top of that, income receipts have to be spent rather than held for future growth, whereas capital receipts have to be added to the permanent endowment fund and cannot be spent, regardless of any other capital receipts paid to that fund. A total return investment strategy can provide greater flexibility and therefore potentially more profitable investment strategies. The Bill will allow the charities to adopt a total return investment strategy without making an application to the Charity Commission.

#### **(e) *Charitable Incorporated Organisations***

Although the Office for Civil Society said in October 2011 that the CIO structure should become available in England in the first quarter of 2012, it announced in May 2012 that this has been put back to October 2012.

The Charity Commission's guidance and model constitutions for the structure were published in March 2011, and the Office for Civil Society has at least finished work on the draft general regulations that will govern how a CIO has to be set up and run. But the OCS is still working on the insolvency and dissolution issues that need to be resolved before the draft of those regulations can be finalised, and the regulations will then have to be put to Parliament for approval.

Interestingly, the original draft model constitutions did not allow for unincorporated organisations to be members of a CIO, making the CIO structure an appropriate choice for umbrella organisations and other organisations whose members are themselves organisations which might be unincorporated. The model constitution does now, however, include provision for unincorporated organisations to be members, through appointing an individual or corporate body to become a member as representative of the unincorporated organisation.

In addition, unlike company members, CIO members will not have a statutory right to require a general meeting to be called, demand a poll, vote by proxy and remove trustees. If these members' rights are to exist, there must be express provision in the CIO's constitution.

Existing charitable companies will be able to convert to CIOs if they choose when the new structure is finalised and implemented, which commentators say they are not expecting now until 2013 for companies.

#### **(f) *Review of the Charities Act 2006***

Section 73 of the Charities Act 2006 placed an obligation for the Government to initiate a review of the Act five years after the legislation came into force. Lord Hodgson, with a team at the Office for Civil Society, completed the review earlier this year and the review now enters a stage of evidence analysis.

Lord Hodgson's report, entitled "*Trusted and Independent: Giving charity back to charities*" was presented to Parliament in July 2012.

The aims of Lord Hodgson's review were to report on the operation and effectiveness of the provisions of the Charities Act 2006 and to consider whether further changes should be made to improve the legal and regulatory framework for charities.

The recommendations Lord Hodgson has made include:

- The Charity Commission to provide a single piece of guidance setting out how it defines each of the charitable purposes and the factors it considers when deciding whether an organisation qualifies as charitable.
- “Large” charities to have the power to pay their trustees.
- Trusteeship to be limited to 3 terms of no more than 3 years’ service.
- The general threshold for compulsory registration to be raised to £25,000, and the income level at which charities are required to have their accounts audited to be raised from £500,000 to £1m. The audit threshold for charities with assets value at £3,260,000 to be removed completely.
- Voluntary registration to be re-introduced, with applications only available online.
- The processes for registering an organisation with the Charity Commission and for tax relief with HMRC to be joined up into a single process.
- The Summary Information Return to be abolished, subject to the requirement that all the information it provides is available elsewhere in the charities accounts and Annual Returns.
- Sanctions for late filling of accounts and Annual Returns to include the withdrawal of Gift Aid.
- Government to work with the Charity Commission to develop a fair and proportionate system of charging for filing annual returns and for the registration of new charities.
- Removal of Schedule 6 to the Charities Act 2011, and the Charity Commission given power to make references to the Tribunal without the need for permission from the Attorney General. The time limit for bringing a Tribunal case to be extended to 4 months.
- Expansion of the rules governing investment by charities to include social as well as financial benefit.
- The Charity Commission and HMRC to revise registration practices to allow newly-incorporated charities to continue to be registered under their original charity number where there has not been a material change to the organisation’s objects.
- Disposals of and mortgages and other charges over charity land should be deregulated and charity trustees to be relied on to act under their duty of care.

In addition to Lord Hodgson’s review, The Law Commission has indicated that it plans to examine charity legislation after Lord Hodgson has concluded his review of the Charities Act, and there may even be another draft Charities Bill produced in 2015.

The Law Commission’s project will examine selected issues relating to the legal framework within which charities operate, in order to recommend reforms with a positive impact on charity law in practice. Of particular concern will be technical problems which currently cause uncertainty or impose disproportionate burdens on those involved in the administration of charities.

Part of the project will focus on charities which are structured as charitable corporations by Royal Charter or by statute. The Law Commission will examine the law regarding charitable corporations established by Royal Charter, in particular areas of uncertainty in relation to the basis on which such bodies hold property, the means by which the charter is amended and whether the corporate status of such bodies confers limited liability.

In relation to charitable corporations established by statute, the Law Commission will review the procedure for amendment of those statutory provisions which at present are unnecessarily burdensome.

The rest of the project will comprise issues arising from Lord Hodgson's review which the Government and the Law Commission agree are suitable for investigation by an independent law reform body. These may include topics such as the procedural requirements for the disposal of charity land and the operation of the charity merger provisions in the Charities Act 2011.

The Law Commission will review, in discussion with the Government, how to take the project forward in the light of consultation responses. If the project proceeds to a final report with a draft Bill, they anticipate that publication will be in late 2015.

### **(g) *Review of Intellectual Property & Growth***

In November 2010 the Government announced an independent review of how the Intellectual Property framework supports growth and innovation. Chaired by Professor Ian Hargreaves and assisted by a panel of experts, the review reported to Government in May 2011. The Review made ten recommendations designed to ensure that the UK has an IP framework best suited to supporting innovation and promoting economic growth in the digital age.

On 14 June 2012 the Government published a [summary of responses](#) received during its [consultation](#) on the Review. At the time of writing, no decisions as a result of the consultation have been published.

This Review may have a bearing on charities in that the Government is seeking to extend the uses to which copyright material can be put without having to seek permission from the copyright owner. For example, extensions are being sought for the exemption for people with disabilities and the education exemption.

### **(h) *Copyright music***

Licences to play copyright music are required for public events, including background music in shops, and the use of music in day centres or for dancing or keep-fit classes. Licences are even required for offices and other workplaces. The main licences are obtained from the Performing Right Society (PRS) and the Phonographic Performance Limited UK (PPL).

Until 31 December 2011, charitable and other non-governmental not-for-profit organisations were exempt from the requirement to obtain a PPL licence. From 1 January 2012 charities and other not-for-profit organisations need a PPL licence if they play recorded music.

Certain community buildings are eligible for a special tariff called Tariff CB. This special tariff is available for community buildings run by voluntary organisations, such as community centres, village and parish halls, separate church halls serving the general community, women's institutes and other welfare institutes. It does not apply to charity shops, buildings run by statutory authorities, church halls used only for activities of the



associated church congregation, or musical performances or events for which the price of admission is more than £20. Other PPL and PRS tariffs must be used for these. Detailed information about Tariff CB and the new licensing regime can be found at [www.prsformusic.com](http://www.prsformusic.com).

**(i) EU Data Protection**

Proposed changes to the EU Data Protection Regime were published in January 2012. These include an obligation for organisations that suffer a data breach to notify the relevant supervisory authority and the affected individuals within 24 hours. (In England, the relevant authority is the Information Commissioners Office). Minimum fines are proposed to be introduced for certain breaches, and the explicit consent of an individual data subject will be required in order to allow personal data to be processed. It has been proposed that the new rules are embodied in an EU Regulation rather than a Directive. If this is the case, the rules will apply directly to organisations rather than having to be enacted by each Government through separate legislation.

**3. Recent cases**

**(a) Attorney-General v Charity Commission & others**

Part of the public benefit test is that the benefit a charity provides has to be for a sufficient section of the public. Historically, this could not be defined by a personal or private connection such as a family member or an employer, but for many years it has been accepted that charities for the relief of poverty could limit their beneficiaries to those with a link to a particular individual or employer.

In a non-adversarial reference by the Attorney General, the Charity Tribunal was required to clarify the effect of amendments to the Charities Act 2011 on charities which existed for the relief of poverty where those charities had beneficiaries defined or linked by a personal or private relationship.

This was specifically relevant for benevolent funds and other charities whose beneficiaries are, for example, employees of a particular employer, or members of a particular organisation such as a Masonic group. The case was referred to the upper tribunal on 1 November 2011 and was heard there in mid-November. Ten charitable funds which could be affected by the decision were parties to the case, including the Chartered Accountants' Benevolent Association. The decision may have affected an estimated 1,500 benevolent associations and similar bodies.

In a decision on 20 February 2012, the upper tribunal said that charities for the relief of poverty must meet the public benefit requirement to the extent that they are beneficial to the community, but they are an exception to the public benefit requirement in the sense of having to benefit "a sufficient section of the public". Organisations for the relief of poverty which do not meet the latter requirement can still continue to be charitable, provided they are by nature beneficial to the community. The tribunal said this principle may also apply to some charities for the prevention of poverty as well, but the exception does not apply to organisations set up for other charitable purposes.

**(b) Helena Partnerships Ltd v HMRC**

On 24 May 2012 the Court of Appeal unanimously dismissed an appeal by the housing association Helena Partnerships Ltd against a decision that it did not qualify for £6m of corporation tax relief on rents it had received, because it did not have exclusively charitable purposes and was not therefore a charity.

The court's decision was based on the fact that the objects of Helena Partnerships were not limited to carrying out operations for the public benefit, to the exclusion of non-incidental private benefit. The court also held that the provision of housing stock available for occupation by tenants generally, rather than to relieve a charitable need, was not a charitable purpose in itself. This was based on the conclusion that the provision of housing in general afforded such a high level of private benefit that it could not be treated as subordinate to the public benefit of making good housing stock available.

Lloyd LJ gave detailed consideration to important and difficult charity law issues in this case. In particular, he set out the circumstances in which the promotion of objects of general public utility or benefit to the community is a charitable purpose. This is an especially important case for charities who deal with the provision of social housing.

**(c) *Asperger's Children and Carers Together  
Wheelbase Motor Project***

The Information Commission's Office (ICO) took action last autumn against these two charities in a year that saw the ICO exercising new powers granted to it to fine organisations for serious breaches of the Data Protection Act.

A laptop belonging to an employee of the Asperger's Children and Carers Together was stolen, and it contained sensitive personal data relating to children. In a similar situation, a portable hard drive was stolen from Wheelbase Motor Project's premises, which also contained sensitive personal data.

The ICO judged that, because neither charity had put arrangements in place for its sensitive data to be encrypted using industry standard software, the charities had not adequately protected the data. It was not sufficient simply to password protect laptops and other devices that held sensitive personal data. Each charity's CEO was required as a result to sign a public undertaking to comply with the Data Protection Act going forward.

**(d) *Rhythmix***

The youth charity Rhythmix found itself in the public spotlight when the television show "The X Factor" created a girlband with the same name. Simon Cowell's company, Simco Ltd, subsequently applied to have the named Rhythmix registered as a trademark with the European Community Trademark Office, covering Class 41 in its application (a category that includes charitable services), despite the pre-existence of the charity with the same name, based in Brighton.

The charity commenced legal proceedings against Simco Ltd, arguing that because it also works in music there was a risk of confusion. The charity works with children who have been bereaved, who are disabled, or who have been sent to youth detention centres, using music as a method to aid personal and communicative development. Operating since 1999, it owns the trademark in the name in the educational space, though not music. It was the music trademark which the "X-Factor" bosses were trying to secure. However, because music is at the heart of what the charity does, they were concerned that the TV producers' application would hinder their fundraising operations and cause confusion online.

In the end, the charity wrote an open letter to Simon Cowell to try and stop "X-Factor" from using the same name for its girl band. As a result of this, X-Factor bosses renamed the band "Little Mix" and the band went on to win the competition.

The duty in law to protect a trademark and an organisation's identity falls to the trademark owner, in this case the charity Rhythmix. In the end, the charity did keep the full rights to the name and extended its trademark rights, the name of the band was changed and the

charity received a donation from the TV programme to underwrite the legal costs that were involved.

Nevertheless, the case does raise general questions for the charity sector about the benefits of trademark and copyright law, and about the interaction between commercial interests and third sector organisations. It marks a warning to charities actively to monitor their trademarks as well as to be aware of the potential for commercial organisations to use or register conflicting trademarks that could in some cases infringe or dilute the charity's brand.

#### **(e) *Newspaper Licensing Authority v Meltwater***

The Court of Appeal judgement in this copyright case (July 2011) has implications for any charities that use media monitoring or newspaper clipping services.

The Newspaper Licensing Authority (NLA) represents most of the major newspaper publishers in the UK and grants licences to charities and other organisations that copy and distribute newspaper content from their member newspapers. The case concerned the licensing requirements for a media monitoring service provided to customers of a PR agency, which tracked the content of newspaper websites. The service enabled the end user to access the headline, opening text and an extract from articles matching their search terms.

The NLA introduced a requirement that PR consultants and end-users of the media monitoring service purchase end-user licences. The Court of Appeal upheld the decision confirming this requirement, holding that the article headlines were capable of being independent literary works, and that the article extracts were capable of being a substantial part of the literary work consisting of the article as a whole. The copies made by the end-user's computer infringed copyright and were not permitted by s28A or s30 of the Copyright, Designs and Patents Act 1988.

There were also copyright licence reference proceedings before the Copyright Tribunal, which had been held over pending the court decisions. This has now concluded and the judgement was published on 14 February 2012. The tribunal had been asked to determine outstanding issues as to copyright licensing, including applicable tariffs. The main part of the judgment involves a complex analysis of the revenue models available in order to identify a fair share of the revenue that will go to the NLA.

The main case is currently on appeal to the Supreme Court for a final ruling.

### **4. Scotland and Northern Ireland – relevant issues**

#### **(a) *Charity accounts***

The Auditing Practices Board's practice note 11, *The audit of charities in the UK*, was updated in March 2012, with references to the Charities Act 2011 and also changes in accounting and audit requirements under charity law in Scotland and Northern Ireland.

#### **(b) *Scotland - OSCR***

OSCR has issued new guidance (*Who's in charge: Control and independence in Scottish charities*) to help charities identify potential risks and take appropriate action. Key issues identified by OSCR are links between charities and central and/or local government, a charity and a separate entity being run by the same people, charities that receive the majority of their funding from another body, and where there is ambiguity about who has management and control of the charity.

**(c) Scottish Charitable Incorporated Organisation (SCIO)**

OSCR started registering new or unincorporated organisations as SCIOs on 1 April 2011. In December 2011 it was reported that about 20% of applications for registration were employing the SCIO format. Since 1 January 2012, charitable companies and charitable industrial and provident societies can convert to SCIOs. The first was the Glen Urquhart Childcare Centre, in May 2012.

**(d) Scottish unincorporated associations**

The UK government held a consultation which closed on 2 July 2012 on a Scottish Law Commission proposal to reform Scottish law on unincorporated associations to give them a separate legal personality and limited liability. Although this proposal was not included in the Queen's speech on 9 May, it was announced after the speech that the government intends to bring forward a Bill in the current session of parliament, if parliamentary time allows.

A SALP will have to include its name and official address on all documents, but it will not have to indicate on any documents that it is a SALP. In addition, unless they are required under other legislation or required by funders or their constitutions, there will be no obligation on SALPs to provide any other information such as annual accounts.

**(e) Northern Ireland – charity registration**

The Charities Act (Northern Ireland) 2008 created a statutory framework for charities in Northern Ireland for the first time. It also established a Charity Commission for Northern Ireland (CCNI) and a charity tribunal. But charity registration has still not started, despite being anticipated in 2010.

Until registration begins, the CCNI has introduced a process whereby it deems charities to be organisations which have registered with HMRC for charitable tax purposes. A publicly accessible list of these organisations, termed the “deemed list”, appears on CCNI's website and the powers of the CCNI apply to these organisations. The delay in registering charities has been caused by uncertainty as to how public benefit would be defined, and differing views about whether all charities should be required to demonstrate public benefit. It is expected that general registration will start in autumn 2013.

Significant differences in the Northern Irish charity legislation include the following:

- The advancement of peace and good community relations is included in the advancement of human rights and conflict resolution charitable purpose.
- Promoting the efficiency of the armed forces is not a charitable purpose.
- As in Scotland, all charities will be required to register, with no exemptions or exceptions.
- Certain "designated religious charities" will have more organisational freedom than other charities.

**5. Charity Commission update**

**(a) Annual Report and Accounts**

The Charity Commission published its latest [Annual Report and Accounts](#) at the end of June, which explains how it has so far delivered against its new strategic plan. The report also highlights the Commission's continued performance against the key indicators associated with its previous strategic plan, and for the first time sets out how the regulator will be measuring its performance during the years to 2015.

## **(b) Public benefit research**

In June, the findings of new independent research exploring perceptions, knowledge and experience of the public benefit requirement was published, revealing that the requirement is viewed by those in the charity sector as an opportunity to develop and maintain public confidence in charities.

The new research was commissioned by the Charity Commission and carried out by the Institute for Voluntary Action Research and Sheffield Hallam University. It was based on interviews with 11 charity sector experts as well as workshops with chief officers, trustees and professional advisers from across the sector.

The publication marks the third and final report in a series of independent research projects about the public benefit requirement. In June 2011, the Charity Commission published a [report of research](#) examining how charities are getting to grips with the requirement to report on public benefit in their Trustees Annual Report. The first [research report](#), published in December 2009, explored charities' awareness, understanding and attitudes towards the public benefit requirement.

The full report of the study and the Commission's initial analysis of the research are available on the [Charity Commission website](#).

## **(c) Revised public benefit guidance**

At the end of June the Charity Commission launched a [three-month consultation, which closes on 26 September 2012](#), on [its revised public benefit guidance](#) for all charities. The revised guidance explains what the public benefit requirement means and sets out what all charity trustees need to know to make sure that they are running their charity for the public benefit. The guidance is presented in a new online format on the Commission's website, making it easier for trustees to select the parts of the guidance relevant to their charities.

The revised guidance takes into account relevant legislative changes since it was first produced in 2008, including the introduction of the Charities Act 2011, the Equalities Act 2010 and relevant judgments of the Tribunal and Upper Tribunal. The consultation process will also take account of Lord Hodgson's Review of the Charities Act once published.

The guidance explains more clearly what charity trustees' public benefit duties are, namely:

- to have regard to the Charity Commission's public benefit guidance
- to run their charity for the public benefit
- to report on their charity's public benefit in their Trustees' Annual Report

The guidance covers a number of areas, including:

- what trustees need to know about the public benefit guidance
- what makes a charity - including understanding what 'charitable purposes' are
- the public benefit requirement - who benefits from a charity's purposes and what the benefits are
- what trustees need to know when running a charity
- what trustees need to know when writing their Trustees' Annual Report

## **(d) New Risk Framework**

In January, the Charity Commission published its new [Risk Framework](#) together with information on how the framework will be applied. It sets out a new risk-based approach

to regulation.

The Framework explains to trustees, charity advisors and the wider public the Commission's approach to regulation and how it assesses risks affecting charities, the wider charity sector, and public confidence.

The Risk Framework was developed following the Charity Commission's Strategic Review consultation and subsequent restructuring in the light of the Commission's funding being reduced by a third in real terms over the four year spending period. The framework replaces the publication "The Commission and Regulation" and the Commission's previous Risk and Proportionality frameworks.

The Charity Commission will use the Framework to support its aims which are to assure the public that charity money is used in line with charity law, that charities are legitimate and run in line with their charitable purposes, as well as ensuring trustees carry out their duties and responsibilities and promoting high standards of accountability and governance in charities.

The Framework sets out the Commission's approach to protecting the public's interest in charity, a key focus in its current strategy. The Commission is placing an emphasis on preventing problems, identifying risks early and providing web based toolkits and guidance.

The Framework also explains how and when the Commission will intervene in serious cases and where there has been non compliance or abuse, including when it will investigate a charity. The Commission has established a new three stage process when deciding when and how to engage, through considering the following questions:

1. Does the Charity Commission need to be involved?
2. If yes, what is the nature and level of the risk?
3. What is the most effective response in the circumstances?

Possible benefits of the proposed changes include faster registration in some cases, more use of online forms, and more deregulation.

#### ***(e) Industrial and Provident Societies - payment of interest on share capital***

In January 2012 the Charity Commission set out its position in relation to Industrial and Provident Societies and the payment of interest on share capital. Industrial and Provident Societies (IPs) are registered with the Financial Services Authority (FSA) and those that are [charities](#) are currently exempt.

The Charities Act 2011 will require all exempt charities either to have a principal regulator to oversee their compliance with charity law, or to lose their exempt status and be regulated by the Charity Commission. It is unclear how charitable IPs will be regulated in future; the Government has not yet made a decision about this. Any change is unlikely to be agreed before mid 2012 or implemented before 2013.

Some IPs for the benefit of the community receive tax benefits as charities but have the power to pay interest on share capital. While the rules of industrial and provident societies often make a distinction between interest and dividends, they also indicate in many cases that the payment of interest is out of profits and so is clearly a distribution of profits.

The Charity Commission considers that a power to distribute profits is fundamentally incompatible with charitable status. This is because a power of a corporate body to apply its property and assets for the purpose of making profits and devoting the resulting profit to the distribution of dividends among the members is considered by the courts to be incompatible with charitable status.

The Charity Commission has looked at the legal framework in this area and discussed it with the FSA and HMRC. They are now satisfied that there are some circumstances in which limited payments of interest may be made, which would not amount to a distribution of profits. These are set out in more detail in the Charity Commission's document.

**(f) [“Strategy for dealing with fraud, financial crime and financial abuse of the charity sector”](#)**

In this new guidance published by the Charity Commission in June 2012, the Commission explains its role in dealing with the risk of financial abuse of charities. This is designed to complement Chapter 3 (Fraud and Financial Crime) of its Compliance Toolkit: Protecting Charities from Harm.

Trustees are legally responsible for ensuring that their charity's funds are properly used and that they manage the risk of financial abuse, including fraud and other financial crime. Sound financial controls and good management and oversight are key to ensuring this. The Charity Commission's core role is to protect the public's interest in charity. It aims to help charities better protect themselves by raising awareness of this risk and by providing guidance to charities to help them manage it.

**(g) [“Strategy for dealing with safeguarding children and vulnerable adults issues in charities”](#)**

In April, the Charity Commission published its [Strategy for dealing with safeguarding children and vulnerable adults' issues in charities](#). The strategy sets out trustees' safeguarding responsibilities in their charity and this includes taking steps to protect children and vulnerable adults from harm. It also reminds trustees what they should do to prevent problems from arising in the first place and how they should respond to allegations and incidents of abuse when they do arise in their charities.

This follows from the publication of the Commission's new Risk Framework and Risk Application Guidance. The Safeguarding Strategy makes clear that trustees must develop and implement systems to safeguard children and vulnerable adults and monitor these procedures on a regular basis to ensure they are working in practice.

The strategy also explains the Charity Commission's own role in this area. The Commission is not responsible for safeguarding matters or for dealing with incidents of actual abuse - this is a role for other agencies. And many agencies, including the police, social services and other regulators such as the Care Quality Commission have responsibilities in this area. The Commission's own regulatory role is focused instead on the conduct of trustees and the steps they take to protect the charity and its beneficiaries now and in the future.

**(h) *The registration process***

The Charity Commission has changed its online registration process. From 1 March, it became compulsory for all accompanying documents (governing documents, trustee declaration, bank statement and other supporting documents) to be attached at the time the online application is submitted. So it is essential that charities have prepared all these documents in advance of completing the online form. This is particularly relevant if there is an urgent deadline for consideration of the application.

**6. Recent Charity Commission inquiries, investigations and decisions**

**(a) *The National Bullying Helpline***

The National Bullying Helpline Ltd was registered as a charitable company on 6 February 2007 and removed from the Register of Charities on 7 November 2011 on the basis that it was no longer operating. The organisation was struck off the Register of Companies on 7 February 2012 and no longer exists as a legal entity.

The organisation had objects to preserve and protect the health of those affected by bullying in the workplace and other environments. It operated a website and a confidential helpline for victims of bullying.

The Charity Commission opened an inquiry in February 2010, following media statements made by the charity's chief executive in response to a story about allegations of bullying at Number 10 Downing Street. In these statements, comments were made about the existence of calls to the charity's helpline from employees at Number 10 and the Office of the Deputy Prime Minister.

This prompted a large number of complaints to the Charity Commission which identified a risk that the statements may have allowed callers to the helpline to be identified. The primary focus of the Charity Commission's inquiry was to ensure that the trustees continued to safeguard information about its beneficiaries. During the course of its Inquiry, the Charity Commission took regulatory steps to prevent the charity, its trustees, officers, agents and employees from disclosing information obtained from the operation of the charity's helpline.

The inquiry examined a number of issues, including concerns as to whether the statements made were in line with the charity's policies on confidentiality and privacy, the conduct of the trustees and the CEO, the management of conflicts of interest and the general governance of the charity.

The report of the inquiry was published on 31 May 2012 and in it the Charity Commission concluded that comments made on behalf of the charity in response to the media story had the clear potential to undermine public trust and confidence in charity, the reputation and work of the charity and other helplines. The inquiry concluded that the statements resulted in a risk that individuals may have been identified, although that risk was not realised. The inquiry further concluded that the statements were contrary to the charity's own code of conduct and its published position on privacy and that the trustees did not take sufficient steps to assert their authority as trustees to protect information held by the charity as a result of its operation of the helpline.

#### **(b) *Knotty Ash Special School Trust***

In March 2012 the Charity Commission published a report on its investigation into the charity formerly known as the Knotty Ash Special School Trust. The charity owned land and buildings and was established to provide services and facilities to schools in Liverpool for special educational needs. The charity's sole corporate trustee was Liverpool City Council.

Prior to opening its investigation the Charity Commission was working with the Council to create a scheme to transfer trusteeship of most of the charity's land to Liverpool Lighthouse Ltd (registered charity no.1077293) for use as an eco-garden. This land included the former site of manor house Thingwall House and a smaller house known as Dovecot Lodge. Negotiations regarding the scheme began in March 2009 and were still not concluded in August 2010.

Concerns were raised in the local media regarding the lack of use of the land intended for transfer and the fact that a Council employee had been allowed to live rent-free in Dovecot Lodge for over 20 years. Liverpool Lighthouse Ltd also complained to the Charity Commission about the length of time the Council was taking to agree the scheme.



The Commission opened an investigation in October 2010, the full findings of which are set out in the regulatory case report.

The investigation found that the land to be transferred had not been used for any significant charitable purpose for many years. It also found that, in allowing a Council employee to live in Dovecot Lodge rent-free, the Council had breached its trustee duty to act in the best interests of the charity. Although the Council maintains it had made a prior commitment to repay the charity the market rent lost as a result of the breach of trust, it was only after the Charity Commission intervened that £89,000 worth of charitable funds was repaid to the charity.

As a result of the Commission's intervention, a scheme was sealed in September 2011 that transferred trusteeship of the Knotty Ash Special School Trust from the Council to Liverpool Lighthouse Ltd, and changed the name of the charity to Bright Park. A new charity, the Clifford Holroyde Special School Trust, was given the remaining portion of the Knotty Ash Special School Trust's land, on which a special school is sited. It was established with the Council as trustee, but is not required to register with the Charity Commission because its income is under £5,000.

**(c) *Brotherhood of the Cross and Star Limited***

In March 2012, the Charity Commission published a report on its inquiry into Brotherhood of the Cross and Star Limited, a religious charity set up to advance the Christian faith. Most of the issues in question stemmed from an internal conflict that meant the charity had been operating without properly appointed trustees.

In December 2008, the Charity Commission learned that Liverpool City Council was seeking to wind up the charity because it had not paid a £385,000 debt, owed for repairs to one of its places of worship. The charity had not paid the debt because the bulk of its funds were held in an account which the bank had blocked because it could not ascertain who the trustees of the charity were.

After meeting with two conflicting groups claiming to be the charity's trustees, the Charity Commission came to the view that the charity had been operating without any validly appointed trustees. In January 2009 the Commission intervened to protect the charity's property and opened a statutory inquiry. It appointed to the charity an Interim Manager, who was given all the powers of a trustee and took control of all of the charity's bank accounts, including the main, blocked account.

As a result of the Commission's intervention the Interim Manager settled the debt to the Council, avoiding the winding up order and allowing the charity to continue to operate. He also regularised the charity's banking arrangements, releasing over £600,000 of charitable funds, and began the process of disposing of the Liverpool property altogether, after determining this was in the best interests of the charity.

The long-term impact of the Charity Commission's intervention is that 20 charity trustees were successfully elected in December 2009, in accordance with the charity's governing document. The Charity Commission has also provided the charity with an action plan to correct its accounts, which were found not to have been properly prepared.

**(d) *Plymouth Argyle Supporters Training and Development Trust***

In March 2012, the Charity Commission published a report on its investigation into Plymouth Argyle Supporters Training and Development Trust. The investigation was opened after the charity, established to provide leisure and recreation facilities for young people, made a £330,000 loan to Plymouth Argyle Football Club in January 2011. The Charity Commission considered whether the loan was a lawful exercise of the charity

trustees' powers and a proper discharge of their duties. It also examined aspects of the charity's financial controls and management by the trustees.

After the loan had been made, Plymouth Argyle FC went into administration, putting the charity's funds at risk.

The Charity Commission's investigation concluded that the charity trustees had not met their legal duties and responsibilities as trustees, including the need to safeguard the charity's funds and apply them for the proper purposes of the charity.

It also concluded that the trustees, all of whom had links to or interests in Plymouth Argyle FC, had not properly managed their conflicts of interest. In these particular circumstances, the Charity Commission concluded that the trustees had placed the interests of the charity secondary to those of the football club. The Charity Commission was critical of the trustees for allowing the situation to arise, but found they have since done everything expected of them to rectify it.

The Charity Commission's intervention ensured the trustees took steps to secure the repayment of the funds. The charity has now entered a new agreement with Green Pilgrim Ltd, the new owners of Plymouth Argyle FC, for repayment of the loan plus interest over five years.

**(e) *The Needy Children International Foundation***

In January 2012, the Charity Commission published a report on its inquiry into the Needy Children International Foundation, a charity set up to rehabilitate young offenders and relieve poverty and sickness abroad.

The charity, which has since been wound-up, was connected to a number of individuals previously involved in improper fundraising activities. The Charity Commission found that it was spending only a small proportion of its funds on charitable activity and was misleading potential donors about how their money would be spent. The trustees had not taken sufficient steps to protect the charity's funds or its reputation.

Concerns were first raised with the Charity Commission in 2007 that the charity was carrying out street collections without authorisation. The Charity Commission established that between May and August 2007 the charity's fundraising was carried out by a fundraising company, the director of which had been convicted in June 2007 of a number of offences relating to tax fraud in connection with fundraising. After August 2007 the charity's fundraising was then carried out by its own trading subsidiary, Fundraising and Marketing Services Limited.

The inquiry found that the trustees did not have sufficient control over the charity's affairs and had delegated their responsibilities to an employee. They had not taken appropriate steps to ensure the individuals employed by both the charity and its trading subsidiary were fit and proper persons to take responsibility of the charity's funds. The trustees also failed to ensure the trading subsidiary observed its legal requirements when fundraising on behalf of the charity.

As a result of the Commission's intervention, the charity terminated its relationship with two individuals previously involved in its fundraising operation. The charity also discontinued its clothing collections and made changes to its website. On closure of the inquiry, the Charity Commission issued the trustees with an action plan, which required them to review their governance, structure and fundraising operations.

However, as a result of its intervention, the Charity Commission had also referred its concerns regarding the charity's fundraising activities to the Insolvency Service. The

Insolvency Service then opened its own investigation into the charity which resulted in a winding up petition being presented against the charity in the High Court. The charity was wound up on 23 May 2011.

**(f) *The Bureau of Investigative Journalism***

In March 2012, the Bureau of Investigative Journalism had its application for charitable status turned down for a second time by the [Charity Commission](#). The [Bureau of Investigative Journalism](#), an independent not-for-profit organisation based at City University in London and established to promote and carry out investigative journalism, was set up because its founders were concerned that national organisations were no longer properly resourcing investigations that might be in the public interest.

The organisation claimed to have similar objects to the [Journalism Foundation](#), a not-for-profit organisation that "promotes, develops and sustains free and fair journalism across the world", which was recently granted charitable status. It argued that there was a strong public benefit to investigative journalism and that it has a clear charitable purpose in promoting citizenship and democracy. The Charity Commission, however, did not accept this argument.

The trustees are considering whether or not to submit a third application for charitable status that focused more closely on the educational aspect of the organisation's work.

In February 2012, a [report](#) from the House of Lords Select Committee on Communications recommended that investigative journalism should be considered a charitable activity. However, the Culture Secretary stated in his written evidence that "government is not currently inclined to legislate" to recognise investigative journalism as a charitable activity.

A spokeswoman for the Charity Commission said: "The promotion of investigative journalism is not a charitable purpose in itself. If charity funding were used to support investigative journalism, it would have to be shown to be doing so in order to advance a charitable aim, such as advancing education."

**(g) *Uturn UK***

In March 2012, the Christian community organisation [Uturn UK](#) re-applied for charitable status shortly after losing an appeal against the [Charity Commission](#)'s decision that it should not be registered. The organisation helps to set up "street associations" in which neighbours volunteer to help each other.

Uturn UK first applied to register as a charity in May 2010, but in August 2011 the Charity Commission said it could not accept the application because setting up street associations would not necessarily "result in an exclusively charitable outcome".

In January 2012, Uturn UK appealed to the Charity Tribunal against the decision, but in a ruling published in March, the judge upheld the Charity Commission's decision, saying that Uturn UK had no way of making sure the activities carried out by street associations would live up to the organisation's charitable purposes.

The organisation has now filed a new application with the Charity Commission, with amended charitable objects.

## **7. Finance Bill 2012 and tax issues**

### ***(a) Income tax cap***

The Government announced that from April 2013 it would introduce a cap on certain unlimited income tax reliefs. It anticipated that the cap would apply to any individual who sought to claim more than £50,000 of tax relief in this way, set at 25% of income, or £50,000, whichever is the greater.

Many charities raised concerns that this could have a very serious impact on the incentives for those on higher incomes to make charitable donation, although the Government had stated in the Budget report that it would “explore with philanthropists ways to ensure this new limit of uncapped reliefs will not impact significantly on charities that depend on large donations”.

A consultation document on the detail of the policy, including the implications for philanthropic giving, is due to be published “in the summer”. Although the consultation has yet to be launched, Government ministers have confirmed that tax relief on charitable donations will be excluded from the cap.

### ***(b) New “10% rule” for Inheritance Tax***

The Finance Bill introduces a new rule whereby taxpayers who make wills in which they leave 10% or more of their net estate to charity benefit from a reduced rate of Inheritance Tax, from 40% to 36%. After a period of consultation HMRC published draft legislation on 6 December 2011 to implement the proposal.

The reduced rate of IHT applies to deaths on or after 6 April 2012.

Executors are able to elect that property in which the deceased reserved a benefit should be included in the claim for relief. The relief also includes jointly owned assets which pass by survivorship to the other joint owner, and assets held in trusts taxable on the deceased's death.

The new rules have been described as an “all or nothing” test. If the 10% test is met, then the qualifying assets will be taxed at the reduced rate. A gift of 9%, however, will not give rise to any relief.

By way of example, if the net value of an estate is £1m, a gift of 4% to charity (£40,000) would result in £576,000 passing to the family and £384,000 payable in IHT. An 8% gift to charity (£80,000) would result in £552,000 passing to the family and £368,000 payable in IHT. A 10% gift to charity (£100,000) would result in £576,000 passing to the family and £324,000 payable in IHT. A 25% gift to charity (£250,000) would result in £480,000 passing to the family and £270,000 payable in IHT.

An important point to note about how the tax is calculated is that, in an estate where 4% passes to charity, the non-charitable beneficiaries receive exactly the same amount as an estate where 10% passes to charity. This is because the former estate suffers IHT at 40%, whereas the latter estate benefits from the reduced rate.

Another point to highlight is that, where 8% passes to charity, the non-charitable beneficiaries actually receive a smaller amount because the rate of IHT in that case remains at 40%.

### **(c) Gift Aid**

The Finance Bill contains proposals for streamlining the method for charities to reclaim tax on gifts qualifying for Gift Aid. This will allow charities to make claims for the repayment of tax on Gift Aid donations during the year and not only in the formal tax return submitted to HMRC. This will put into law an informal practice currently followed by HMRC.

The maximum donor benefit in relation to Gift Aid donations has increased from £500 to £2,500, subject to the existing maximum of 5% of the gift which has been retained. This extends the 5% principle to gifts of up to £50,000.

Charities will be able to claim top-up payments on up to £5,000 of small donations without the requirement for a Gift Aid declaration. This will take effect from 6 April 2013. The top-up payment will be 25p for every pound collected in the UK on up to £5,000 of donations where the individual donations are £20 or less. This will be available to charities which have been registered for Gift Aid for at least 3 years and have been tax compliant during that period.

“SA Donate” has been withdrawn for tax returns for the 2011/12 tax year onwards. This scheme had enabled taxpayers to direct that a tax repayment from HMRC should be made direct to a charity of their choice.

### **(d) Replacement of the substantial donor rules**

The anti-avoidance rules governing substantial donors to charity had long been criticised for being unduly complex and onerous, as well as having unintended consequences for many charities. These have now been replaced with new “tainted charity donations” rules which are enforced against the donors rather than the recipient charities.

The “tainted charity donations” rules remove the minimum thresholds, so whilst this will mean that in principle any donation could be a tainted donation, the new test limits the scope of the rules solely to donations which fulfil all of the following conditions:

- The donor or a person “connected” to the donor enters into arrangements with the charity where it is reasonable to assume that the donations and arrangements would not have been entered into independently of each other.
- The main purpose or one of the main purposes of the arrangements is to obtain an advantage directly or indirectly from the charity that received the donation, or a connected charity.
- The donor is not a company wholly owned by one or more charities (for example, a trading subsidiary owned by a charity which donates its profits to its parent charity).

The test will not apply to any benefits received by the donor which are acceptable under the Gift Aid scheme. The key benefit for charities is that the consequences of a tainted charity donation no longer lie solely with the charity, but with the donor.

### **(e) VAT costs sharing exemption**

The VAT Cost Sharing Exemption is a provision in European law that allows businesses and organisations making VAT exempt and/or non-business supplies to form groups to achieve cost savings and economies of scale. Once formed, the groups are relieved of a VAT charge on their supplies if all the conditions of the exemption are met.

HMRC has issued a consultation which seeks comments on a possible model for a cost sharing exemption that could be introduced in the UK. The consultation ends on 30 September 2011.

Businesses and organisations looking for cost efficiencies may work with others to share costs and resources. Under UK legislation many of these arrangements result in VAT being charged between the participants. In most cases there is no impact as the VAT can be reclaimed. However, VAT can become an obstacle to the arrangements if the payer is a charity or a university that is unable to recover the VAT in full. The cost sharing exemption may provide a solution to the problem by removing the VAT charged. It is intended that new legislation would make it easier for charities to pool services without incurring a VAT charge.

## **8. Update from the November 2011 bulletin**

### ***(a) Public benefit and independent schools***

In light of the Upper Tribunal's decision in the case between the Independent Schools Council and the Charity Commission, the Charity Commission has rewritten its guidance on fee-paying schools and the public benefit test.

### ***(b) Excepted and exempt charities***

Where there is no principal regulator, previously exempt charities will become excepted charities and will fall under the jurisdiction of the Charity Commission. If their annual income is over £100,000 they will have to register with the Charity Commission. The registration threshold for these and all excepted charities is being reviewed this year and may be reduced.

### ***(c) Catholic Women's Ordination***

Catholic Women's Ordination dropped its appeal against the Charity Commission's refusal to register it as a charity. The Charity Commission ruled in May 2011 that the group could not be granted charitable status, and the group appealed against this to the Charity Tribunal, arguing that its work provided a public benefit by advancing the Christian faith. It said the Charity Commission had overestimated the scale of the group's campaigning work and underestimated its other work in supporting female lay members of the Catholic church. But the group dropped its appeal because of worries about the time and effort that would be required to argue its case before the Tribunal.

## **Keep Watch For . . . .**

- **X v Mid Sussex Citizens Advice Bureau**

This case is due to be heard at the Supreme Court in October 2012, and it is hoped that the judgement will provide clarification on the law in relation to volunteers.

The case is looking at whether or not a volunteer adviser with the Citizens Advice Bureau is covered by discrimination law. In February 2011 the Court of Appeal held that the volunteer adviser could not pursue an employment claim under the Disability Discrimination Act 1995 because her agreement with the Citizens Advice Bureau was non-contractual.

- **New European Foundation Status**

The European Commission has published proposals for a European foundation, a completely new structure for public benefit entities operating in two or more EU member

states. The new structure aims to overcome difficulties arising from organisations having to register in different member states, uncertainty over whether or not their public benefit status will be recognised, what their tax status will be in the various states where they operate, and donors being unfamiliar with foreign organisations.

A European foundation would be registered in a single member state, and can exist on its own or alongside a domestic organisation. Once registered, the foundation would have full legal personality and capacity in all member states, and in each member state would be treated for tax and other purposes in the same way as a domestic public benefit entity or charity in that state.

The Commission's proposal will be considered by the EU Council of Ministers and the European Parliament. To be adopted, it must have unanimous agreement of all member states, and consent of the European Parliament.

## **The Wills & Equity Committee**

The Law Society has a number of Committees covering different areas of law.

The Wills & Equity Committee comprises solicitors specialising in all areas of private client work, including Wills, probate, trusts and charities. Its terms of reference include keeping under review and promoting improvements in the law and procedure relating to charities, as well as other areas of private client work.

The work of the Committee includes identifying areas of general inheritance and charity law and procedure that require reform or review, and formulating recommendations for consideration by ministers and officials. The Committee also liaises with and makes representations to ministers and officials on departmental consultations and inheritance and charity law matters generally. In doing so, the Committee will often consult with the profession on issues concerning practice and procedure.

Over the past twelve months, the Charity Law Working Party of the Committee has responded to the consultations on public benefit, public benefit guidance (including sub-sector guidance) and the review of the 2006 Act.