

# Financial Accountability Issues- Accounts Defaulting, Self Dealing and Fraud

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# **Compliance and Accounts Monitoring – A Tougher Approach to Dealing with Accounts Defaulters**

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## In 2013-14:

- **86%** charities filed accounts on time in
- **86%** charities filed annual returns on time
- **99%** of Sector Income accounted for

# Why are charities late?

- We did not realise we had to
- There's no fine – so it does not matter
- It's the auditors/accountant delaying and/or we thought they/ the treasurer/secretary had done it
- Left until the last minute and we ran out of time
- We have filed them with Companies House
- We don't exist anymore – we wound up/ in liquidation/ we incorporated
- We have been too busy with projects/ getting on with the day job

# Double Defaulters Class Inquiry

- 20 September 2013: class inquiry opened
- Charities in default of their accounting obligations in two of the last five years (“double default”) by failing to submit one or more of the following:
  - annual report
  - accompanying documents to the annual report
  - an annual return

# Double Defaulters Class Inquiry

- Started with charities with an income of over £500,000
- Even after the recent warnings, had not filed them all by the date in final written warning
- Unless ALL missing documents were filed, they were placed in inquiry
- Cease to be part in inquiry when no longer in default

# Double Defaulters Inquiry – Update

- On 23 September 2013 class inquiry opened, 12 charities entered
- 5 subsequent phases, with 50 further charities entering the inquiry
- 62 charities in total have entered the inquiry
- 20 remain part of the inquiry

# Double Defaulters Inquiry – Update

- 58 orders directing trustees to file the missing documents. In addition, 7 directions issued to trustees for the same reasons
- 42 charities complied during the inquiry and have ceased to be part of the inquiry as they are no longer in default
- 39 inquiry reports published on the website
- Total charity income £47,301,070 of those in inquiry who have filed their accounts.



# Prepare them, file them and file them early!

- It's a basic duty – why should the public trust charities with their money if they cannot get the basics right?
- You are more likely to have your accounts scrutinised if they are late, or you are a persistent defaulter
- We are saying:
  - Grant donors – do not fund charities who are in default of filing
  - To the public - do not give to charities who are in default

# Trustee responsibilities and conflicts of interest

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# Conflicts of interest – what are they?



A conflict of interest is any situation in which a trustee's personal interests or loyalties could, or could be seen to prevent them from...

**making a decision solely in the interests of the charity**

not a slur on your integrity – a fact of life

# Why are they important?

## **L** Trustees **must**:

- act only in the best interests of their charity
- not put themselves in any position where their duties as trustees may conflict with any personal interest they may have

# The new guidance – three step action plan

- **Identify** the conflict
- **Prevent** it from affecting your decision
- **Record** the conflict and how you dealt with it



# Dealing with a conflict of interest

- How serious is the personal financial conflict?
- Consider removing very serious conflicts
- Don't proceed, or proceed in a way that avoids the conflict of interest
- Conflict of loyalty involving no personal benefit?
- Be proportionate in preventing
- How would it look to an outside observer?

- Keep a written record in the minutes of your meetings:
  - Declarations of conflicts of interest
  - Who was affected
  - What steps were taken to prevent the conflict affecting the decision
- Include trustee benefits in accounts
- Keep a register of trustees' interests
- Serious breach? Serious incident report

# When authorisation is needed

- Sales, leases etc to trustee or connected person
- Any transaction involving payments / benefits to trustee or connected person
- Where conflict of interest is so widespread that trustees can't properly act



# Creating the right environment

- Make sure you follow your governing document - do you need to update it?
- Don't just have a conflicts of interest policy ...USE IT!
- Keep informed, raise awareness
- Take advice
- Transparency builds trust
- Read the new guidance – [www.charitycommission.gov.uk](http://www.charitycommission.gov.uk), under “Trustees, staff and volunteers”

# Fraud Related Issues

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# Fraud - Prevention



- The importance of protecting a charity and making it more difficult for fraudsters to operate
- The role of trustees:
  - Trustees are legally responsible for ensuring charities' funds are properly used
  - Must do all they reasonably can to prevent charitable assets from being misused
  - Put in place strong financial controls, good governance and management measures
- Increasingly important factors in determining people's trust and confidence in charities

# What did we deal with last year?

- Financial mismanagement/abuse and fraud issues in:
  - 83% of closed investigations
  - 29% of closed pre-investigation assessments
  - 23% of monitoring cases
  - 32% of serious incident and 43% of whistle-blowing reports
- Cumulative value of the fraud and theft in RSIs and Whistle-blowing reports
  - £16,949,156 for cases in 2013-14

# What are we seeing this year?



- 83% of closed investigations
  - 25% of closed pre-investigation assessments
  - 69% of monitoring cases
  - 38% of serious incident and 35% of whistleblowing reports
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- Currently in:
    - 59% live investigations
    - 33% of live pre-investigation assessments
    - 28% of live monitoring cases

# Emerging Issues/Themes

- Dominant individual(s)
- Poor or no financial controls and safeguards, including little or no scrutiny or monitoring
- Poor financial record keeping and accounting records (in some cases, none at all in place!)
- Poor trustee decision record keeping
- No questions asked: no challenges made
- Late filing of accounts or no accounts at all
- Tardy supervision over charity collections
- Poor due diligence and monitoring by grant makers

# Case Study 1

- Fraudsters posing as genuine collectors in the name of a well known charity
- The charity's name and fundraising materials had been used to fraudulently fundraise
- Permission to fundraise obtained lawfully for one day
- Fraudster volunteer continued fundraising using charity materials in breach of the licence for a significant number of additional days
- £14,000 raised: £1,500 reached the charity

# Case Study 2

- CEO of charity involved in gift aid fraud
- Over a three year period submitted false claims
- Charity grew dormant, but over £850,000 was claimed by the CEO in gift aid (on the basis of income of £3million)
- The Commission grew suspicious and identified the fraud and worked with HMRC
- Proceeds used for a house deposit for the CEO and his wife
- £150,000 into their personal bank accounts as well as spread amongst 27 businesses and other accounts
- CEO pleaded guilty to fraud and money laundering
- His wife found guilty of money laundering



# Fraud – Why report?

- Report concerns to the police: use Action Fraud
- As charities - report it to the Commission – RSI
- Crime stoppers reporting line
- Action taken where it can
- The ‘Big Picture’: to deter and disrupt fraudsters
- The unrecognised value of intelligence
- Steps to protect and recover assets
- A proper (public) account of the funds lost to charity
- No charity is immune: No person is above suspicion

# Why are Charities Susceptible to financial abuse?

- Too much trust, which is abused
- Lack of oversight/control by trustees and/or employees
- Dominant individuals a) advantage b) complacency by others
- As a result of mismanagement or negligent conduct
- Poor or no financial controls/ financial record keeping and safeguards
- No questions being asked: no challenges made
- Head down: “It’s nothing to do with me”
- The most serious cases - involve misconduct, misuse or deliberate abuse of funds for improper, criminal and fraudulent purposes

# Ask yourself today....



- How vulnerable are we?
- Has our charity got the basics in place?
  - Good financial controls and procedures that everyone knows about and are followed
  - Never signing blank cheques
  - Regular reporting to the trustees on financial matters
  - A good culture of being vigilant and not afraid to ask or challenge
  - Reporting concerns to the police immediately
  - Reporting Serious Incidents to the Commission

Questions?

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