



## Hewitsons Charities & Education Review of the Year

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### A round up of 2017 for Charities, Education and Social Enterprise

A belated Happy New Year to you, and we trust January is already presenting opportunities for the development of your work supporting charitable and educational endeavour in our communities. We are certainly once again shoulder to the wheel, and here to help you as you do the same.

In case you missed, or unconsciously forgot, any of the most important developments in 2017 for charities, education and social enterprise, here is a reminder:

- **Draft Charities Bill.** The Law Commission's project to reform charity law edged closer to completion in 2017 as it published a draft Charities Bill containing many of its final recommendations. Proposed changes include making it easier for unincorporated charities to amend their objects, reforming the requirements around disposals of charity land and removing the need for charities to retain their predecessor charities as "shells" to receive legacies. It is not known how quickly the Bill will progress, with this being a busy year for Parliament, but we will keep a close eye and ensure you are updated.
- **GDPR on the way.** The General Data Protection Regulation comes into force on 25 May 2018, which updates and reinforces the current data protection regime and is relevant for the vast majority of charities and educational bodies. Many of our clients spent 2017 preparing for its introduction, and if you have not yet considered the implications of this do read the ICO's "12 steps to take now" guidance and let us know if you have any questions.
- **Company to CIO conversions commence.** From 1 January 2018, new rules came into force to enable charitable companies to convert into charitable incorporated organisations. The sole regulator for CIOs is the Charity Commission, with no requirement to register / submit accounts to Companies House. Until now, the conversion process has been cumbersome, but this will now be streamlined with hopefully lower costs involved and improved turnaround times. A company converted to a CIO will retain its existing charity number, and legal relationships with third parties should be unaffected.
- **Fundraising Preference Service.** The Fundraising Preference Service was launched by the Fundraising Regulator in July 2017 – a web-based service established to help members of the public control communications received from charities. Just under 5,000 people have registered to date.

- **Consultation on Code of Fundraising Practice.** The Code outlines the standards expected of all UK-based charitable fundraising organisations. A consultation was launched by the Fundraising Regulator primarily to address the changes needed to comply with new data protection laws, and in particular issues relating to consent / legitimate interest as reasons for data being held. The consultation closed in December and the Fundraising Regulator's final response is awaited. It is hoped that this will be published in good time before the GDPR comes into force.
- **Charity Governance Code.** A revised Governance Code was launched in July 2017, intended as a tool for trustees, helping them to achieve higher standards of governance. Priorities in the revised Code include having a more diverse board and discouraging trustees from serving for more than nine consecutive years. The Charity Commission has endorsed the Code.
- **Company members' duties.** A highly important decision was reached in the High Court, in the case of *The Children's Investment Fund Foundation (UK) v HM Attorney General and others*. Contrary to traditional views, the members of a charitable company were found to have fiduciary duties to act in the best interests of the charity. For example, previously company members have not had to consider potential conflicts of interest when passing member resolutions but this may now be the case. An appeal has been granted however, so we watch with interest.
- **Higher Education and Research Act 2017.** This law came into force in April 2017, creating two new bodies in the higher education field – the Office for Students (OfS) and UK Research and Innovation (UKRI). The OfS now funds and regulates universities, replacing HEFCE. The UKRI brings together under its umbrella the seven existing research councils and the research functions of HEFCE. The effectiveness of these reforms is yet to be fully assessed.
- **National funding formula plan for schools.** In September 2017 the Government published details regarding its new national funding formula for schools and academies in England, which is stated to deal with inequities in the current funding arrangements. The reforms will commence in 2018, and while many of the proposals have been welcomed they are naturally resisted by those schools facing funding reductions. More widely, educational bodies continue to have concerns regarding overall funding for education and campaign for increased spending.
- **Charity Commission annual return and guidance reviewed.** Following a consultation exercise (in which Virginia Henley took part as a member of the Charity Law Association working party) the Charity Commission has made numerous changes to the annual return. Some administrative items are streamlined, e.g. changes to registered details are no longer included but should be notified at the time they occur. However, there are significant additional matters to report: for example, agreements with professional fundraisers, income from central and local government, overseas sources of funding, and employees' salaries above £60,000. Not all of this information will be made publicly available. For a full explanation of the changes see [here](#).

Our work is extremely varied and some notable projects from last year include:

- **Advising all the Colleges in the University of Cambridge** on the impact of GDPR on their alumni relations
- **The creation of YMCA Trinity Group** by way of a merger between the Cambridgeshire & Peterborough and Suffolk YMCAs
- **Establishing a new charity aimed at ending FGM worldwide**, spun out from and supported by The Guardian Newspaper's campaign
- **The merger of Cambridgeshire Mind and Peterborough & Fenland Mind** to create CPSL Mind, extending service provision across a wide area for those affected by mental health issues
- **The sale of an independent school** from one charity to another, involving the cash sale of the site and transfer of the business and staff to the purchaser
- **A membership dispute within a religious community**, which threatened great disruption and the possibility of court action before we intervened
- **An employment settlement** for the CEO of a large charity, which had been extremely difficult for the charity to handle owing to the CEO's actions
- **Negotiating the transfer of a heritage attraction** from a local authority to a charity, involving complex property, commercial and governance elements

We have also been pleased to provide free training opportunities on charity issues including GDPR, fundraising and, governance, and we remain committed to our local communities through our own volunteering and fundraising – the annual Chariots of Fire race fundraising for Alzheimer's Research UK, a bike ride event for Veterans' Aid and a winter coat collection which resulted in over 300 donated coats going to Northampton Hope Centre and Home Start.

We hope 2018 is a successful year for you and your organisation. Do please keep in touch, we love to hear your news and to advise and help wherever we can.

Kind regards



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