



Organisation calls for a change in gifting rules

Plus:

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Welcome

Welcome to the first edition of Carter Lemon Camerons' Charities Bulletin, looking at changes in the law and recent developments likely to have an impact on the sector.

Our areas of expertise include: formation and registration of charities, governance and employment advice, mergers and incorporations, advice on funding, trustees' responsibilities and property deals.

If you have any questions about the topics covered in this bulletin or any other issues we can help with, please contact us on 020 7406 1000 or email Andrew Firman (AndrewFirman@cartercamerons.com).

Charity told to act following governance concerns

One of Britain's best-known charities has been warned that it faces "further regulatory action" if it does not take the necessary steps to improve its governance.

The Charity Commission last month advised the RSPCA that it would be closely monitoring the organisation to ensure it made the necessary changes.

The watchdog's warning comes following the recent departure of the animal welfare charity's chief executive and publication of a key governance review.

Jeremy Cooper had confirmed he was standing down after a little over a year in the top job, prompting claims the organisation was in "turmoil".

He had been brought in to give the RSPCA a new direction, amid concerns that the organisation had taken an overly adversarial approach and was spending too much money on prosecutions.

A Charity Commission spokeswoman said: "The governance of the RSPCA remains below that which we expect in a modern charity and we are concerned about the impact on public confidence.

"This has been brought into focus by the departure of the CEO and the clear recommendations of the charity's independent governance review, which the Commission requested the charity carry out.

"We have written to the charity to make clear that we expect to see a swift action plan against these recommendations, which we will formally monitor, in order to resolve these issues. We will consider what further regulatory action may be required should improvements not be made with the necessary urgency." In response to the review, the RSPCA said: "Whilst we are pleased that the



review has recognised that the RSPCA is financially stable, is delivering on its important mission and has set in place measures to manage compliance and risk, we are not complacent.

"The review has highlighted a number of improvement opportunities and we are already taking steps to implement the recommendations. We believe

that this will put the RSPCA in a stronger position to deliver its strategy and vision of working to prevent cruelty and alleviate suffering of animals."

For advice on governance arrangements, please contact Andrew Firman (AndrewFirman@cartercamerons.com) or visit our website.

Organisation calls for a change in gifting rules

A letter has been sent to political leaders suggesting that people should be offered an incentive to leave legacies to good causes.

Alex McDowell, who chairs Remember a Charity, wrote to the major parties to argue in favour of changing the rules.

Mr McDowell hopes that an inducement would lead to an increase in the number of people who leave a gift.

At present, while more than one in three people are happy to leave small sums of money when preparing a Will, just six per cent make charitable gifts. Mr McDowell said: "No matter... or which individuals make up our new Parliament, government's support in developing fiscal incentives and helping make legacy giving a social norm really is critical.

"Legacies are the largest single source of voluntary income and their growth is essential if we are to enable a stronger and more resilient charitable sector.

"After today, we'll continue to work with [politicians] to enlist their support in creating the best possible environment to nurture and grow legacy giving."



If you require any advice on Inheritance Tax or gifting, please contact Ian West (IanWest@cartercamerons.com),

or Michael Woodward (MichaelWoodward@cartercamerons.com) or alternatively visit our website.

Converting your charity to a CIO

Following responses received to the government consultation on the matter, it is hoped that, in the months ahead, Parliament will make progress on the regulatory framework to allow charitable companies and Community Interest Companies (CICs) to convert to Charitable Incorporated Organisations (CIOs).

A number of charities have previously voiced their frustration that they cannot, at present, make use of the provisions envisaged in the Charities Act 2011.

Carter Lemon Camerons' Andrew Firman was a member of the Charity Law Association's working party who last summer responded to the consultation.

The most recent indication given by the Department of Culture, Media and Sport – which oversees charity law – suggests that the Order to move things forward

could be tabled when MPs return from the summer recess.

A possible timetable would see the Order tabled next month, a debate in October and the conversion provisions coming into force before the close of the year – although no firm details have been agreed at this stage.

If your charity is interested in learning more about how it could benefit from the fast track conversion process, please contact Andrew Firman (AndrewFirman@cartercamerons.com) or visit our website.



Warning to charities following Tribunal case

Charities are being urged to be mindful of minimum wage laws, after one organisation was taken to an Employment Tribunal by one of its workers.

The law as it stands can pose particular difficulties for social care charities, which will often require members of the workforce to be on call overnight.

In *Focus Care Agency v Roberts*, a dispute had arisen about how much should be paid to certain members of staff.

The charity in question offered supported living assistance to vulnerable people. Ordinarily it had two workers assigned to a night shift, one who conducted the duties and a colleague who did a “sleep shift” and would be woken in case extra help was required.

The sleep-in worker would be paid a flat rate of just £25 per shift on the basis they would normally be asleep during the period.

The claimant argued that they should in fact be receiving hourly pay – on the basis that this was still work time – and the Tribunal found in his favour.

The Judge who made the decision was at pains to point out that each case of this kind would have its own set of circumstances, but the decision emphasises the importance of charities being mindful of possible complications arising from staff required to work night shifts.

For advice on employment law matters, including defending or pursuing an Employment Tribunal claim, please contact Andrew Firman (AndrewFirman@cartercamerons.com) or Kate Boguslawska (KateBoguslawska@cartercamerons.com) or visit our website.



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