



Minimum wage decision could place considerable strain on charities

Fears have been raised about the impact that a £400million bill for back pay could have on a large number of charities.

Plus:

- CIO (Conversion) Regulations set to take effect in the New Year
- Third sector frustrated by failure to amend The Lobbying Act



Welcome

Welcome to this 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).

CIO (Conversion) Regulations set to take effect in the New Year

Last month our bulletin featured an article on 'Converting your charity to a CIO', and as predicted, on 14 September, the Government published its response to last year's consultation.



By way of reminder, the consultation addressed the issues in the current legislation surrounding the process of conversion from a charitable company or community interest company to a Charitable Incorporated Organisation ('CIO').

There have been some amendments to the draft CIO (Conversion) Regulations: whilst charitable companies are no longer required to have filed their most recent accounts or reports with Companies House before a conversion application is granted, the list of circumstances in which an application should not be granted has increased.

These Regulations are to come into force from 1 January 2018.

Smaller charities with incomes less than £12,500 will be prioritised in the conversion process so may apply from the start of next year. A phased implementation will then roll out to larger charities with higher incomes throughout 2018.

The Government has stated that although the legal status of a charity converting to a CIO does not change, there are employment implications and other financial consequences about which charities should seek independent advice.

This fast track conversion process provides an attractive route for your charity to get all the benefits of CIO status including singular regulation by the Charity Commission. If you are interested in learning more about how you could benefit or require assistance with the process, please contact Andrew Firman (AndrewFirman@cartercamerons.com) or visit our website.

Minimum wage decision could place considerable strain on charities

Fears have been raised about the impact that a £400million bill for back pay could have on a large number of charities.



The issue arose after the Government changed its position as to whether those workers who provided so-called “sleep-in support” were covered by minimum wage legislation.

It had previously been understood that individuals who were present through the night, but rarely called upon, should instead be paid a flat “on-call” allowance.

However, ministers have since decreed that individuals should in fact receive the minimum wage, raising concerns that a sizeable number of organisations could be placed under considerable financial pressure.

HM Revenue & Customs (HMRC) is pursuing firms for some six years of wages. Enforcement action was stayed in July but is due to resume soon.

Derek Lewis, the chairman of Mencap, fears that the decision will have major implications for many charities which provide care overnight. His organisation alone would face a £20million bill – all but wiping out its reserves.

“We will work constructively with Government during the next month to deepen its understanding and appreciation of the impact of back

pay bills on the sector, but the future of learning disability care across the UK is still hanging in the balance,” he said.

Well-known names including the actress Joanna Lumley, Game of Thrones star Kit Harington and new Doctor Who Jodie Whittaker have supported the charity’s campaign for Government support.

For advice on any aspect of employment law relating to the charities sector, please contact Andrew Firman (AndrewFirman@cartercamerons.com) or visit our website.

Third sector frustrated by failure to amend The Lobbying Act

Charities have been left frustrated by ministers' refusal to amend lobbying laws.



More than 100 charitable organisations have written to the Government calling for controversial measures included in The Lobbying Act to be revised.

They are concerned that current legislation is preventing them from campaigning during the period of an election, which they fear is having an impact on aspects of their day-to-day work.

Charities had outlined their concerns about the possible consequences when the law came into force in 2013 and some organisations believe that ministers have reneged on their previous commitment to review the impact of the legislation.

Tamsyn Barton, the chief executive of the charity Bond, outlined her concerns in an interview with the BBC.

"How are charities supposed to speak up for the most vulnerable and marginalised people in society, both here and globally, when they are at risk of being penalised by the Lobbying Act?"

"The Government is legislating the sector into silence at a time when our voices are needed the most."

The National Council for Voluntary Organisations (NCVO) also voiced its frustrations over ministers' handling of the situation.

A Cabinet Office spokesman said: "The rules on third party campaigning in elections ensure that activity is transparent and prevents any individual, company or organisation exerting undue influence in terms of an election outcome."

"We recognise and value the role that charities play in our society and are keen to work with voluntary bodies to ensure the rules are well understood."

If you require advice on any aspect of governance arrangements for charities, please contact Andrew Firman (AndrewFirman@cartercamerons.com) or visit our website.

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