

**NEWSLETTER**

**CIPFA CHARITIES PANEL**

**AUTUMN 2008**

AT THE HEART OF  
PUBLIC SERVICES 

Welcome to the latest edition of the newsletter for finance practitioners and CIPFA members working in the Charity Sector, which has been prepared by CIPFA's Charities Panel.

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## **Introduction to Paul Breckell The New Chair of CIPFA's Charity Panel**

CIPFA is delighted that Paul Breckell is the new Chair of its Charity Panel. Paul is the Executive Finance Director of the Royal National Institute for Deaf People (RNID), the largest charity working to change the world for the UK's 9 million deaf and hard of hearing people.

He has been at RNID since July 2007. Prior to this Paul was the Finance and Corporate Services Director of Church Mission Society for seven years and the Head of Finance at the HIV/AIDS healthcare charity Mildmay for three years. He is a Chartered Public Finance Accountant, having trained whilst working with the Audit Commission and has been a member of the CIPFA voluntary sector panel since its inception.

From 2003 to 2007 Paul was the Chair of the Charity Finance Directors Group, and was made an honorary life member in 2008. He continues to write and speak on a number of topics in relation to finance in the 'beyond profit' sector, is a Charity Trustee and is actively involved in his local community as a volunteer youth and children's worker.

## **Joint Working Between CIPFA and the Chartered Accountants for England & Wales (ICAEW)**

CIPFA has been discussing with the Chartered Accountants for England & Wales (ICAEW) ways to work jointly together in the Charitable and Voluntary sector on specific projects that would be beneficial to the membership of both Professional bodies.

The areas that present opportunities are shown below

- Responses to consultations
- Chartered attendance at CIPFA Charity Panel Meetings and reciprocal arrangements for CIPFA at the equivalent Chartered Charitable and Voluntary Special Interest Group.
- Joint planning for Charity Conferences
- ICAEW access the CIPFA Charity Newsletter

Initially the two bodies are focusing on joint Conference Planning

### Conference planning.

CIPFA has two public sector breakout sessions at the forthcoming ICAEW Charity conference being held in London on the 10<sup>th</sup> November and Leeds on the 13<sup>th</sup> November. A brochure for this excellent event is attached.



CVSG.pdf

The programme is complete and there will be linkages from the CIPFA main website to ICAEW.

**CIPFA members can attend this conference at ICAEW member rates.**

This will be an excellent event on the “Changing face of Charity Regulation”

## **Changes to the scrutiny arrangements for smaller charities** **By Nigel Davies, Charity Commission**

This article explains the recent changes to independent examination and the latest guidance available to CIPFA members working or volunteering as examiners.

CIPFA members acting as independent examiners will need to be aware of changes effective for financial years beginning on or after 1 April 2008 with new guidance and Directions issued by the Commission.

Provisions in the Companies Act 2006 have changed the scrutiny arrangements for charitable companies not subject to audit. The reporting accountant's regime ceases and the Charities Act scrutiny framework of independent examination and audit applies to all charitable companies that are not required to have an audit under company law. This means that for the first time CIPFA members can carry out independent examinations for charitable companies.

The Charities Act 1993 made provision for regulations governing the form and content of charity accounts, trustees' annual reports and the duties of charity auditors and independent examiners. A form of independent scrutiny is required for the accounts of all but the smallest charities, but that this will fall short of a full audit for many charities.

It is worth noting that of the 169,300 main charities on the register, as at 31 December 2007, after the changes take effect, circa 65,000 are now subject to independent examination with only 9,100 being audited.

Charities are eligible for independent examination if the gross income for the year is £500,000 or less, or where gross income exceeds £100,000, gross assets (total assets before liabilities) are £2.8m or less. There is, however no requirement for any independent scrutiny where the gross income for the year is £10,000 or less.

However, an audit obligation may arise due to requirements outside the 1993 Act such as;

- The Charity's governing document requires an audit
- There is a requirement for an audit under another statutory or regulatory regime (eg, Registered Social Landlord)
- A donor or financier places requirement for audit on the charity (e.g. Grant Giving institution)
- Trustees may also opt for an audit if they prefer a higher level of assurance.

Section 43(3) of the 1993 Act defines an independent examiner as an independent person who is reasonably believed by the trustees to have the requisite ability and practical experience to carry out a competent examination of the accounts. CIPFA members, possessing a formal qualification and relevant experience, would be well suited to this role.

Independent examination is a more limited assignment than an audit. Unlike an auditor, the examiner is not required to offer an opinion as to whether the accounts are 'true and fair' and is under no duty to test the effectiveness of internal controls or plan their work to identify material misstatement or fraud. However the examiner is required to undertake an analytical review and from that review identify any matters that require an explanation and obtain that explanation from the charity's trustees. If the explanation is insufficient, or the examiner is not satisfied, additional vouching procedures should be undertaken and evidence obtained.

The Charity Commission's guidance CC31 -Independent Examination of Charity accounts - is available on the Commission's web page [www.charitycommission.gov.uk](http://www.charitycommission.gov.uk) CC31 sets out by means of 10 directions the process the examiner must follow and advises our expectations of the examiner. The guidance also sets out the new legal duty on examiners to report

matters of material significance directly to the regulator effective from 1 April 2008 and includes a model whistle-blowing report.

Many cross border charities that are also registered in Scotland are small and so Appendix 3 to CC31 provides model examiner's reports that meet the requirements of both jurisdictions.

The regulations permit non-company charities with a gross income below £100,000 to prepare receipts and payments accounts. The format of these accounts is very flexible and requires only a receipts and payments account and a simple statement of assets and liabilities. Accruals accounts must follow the Statement of Recommended Practice (SORP 2005) in all circumstances irrespective of income. Smaller charities which currently prepare accruals accounts may be well advised to opt for receipts and payments where permitted, since the SORP requires a higher level of accounting expertise.

For further information on the various thresholds and for the form and content requirements for the trustees' annual report view our guidance CC15a Charity Reporting and Accounting. The Commission's booklets, CC16 Receipts and Payments, and CC17, Accruals Accounts provide templates for the accounts and trustees' annual report. The wording of the independent examiner's report must meet certain legal requirements as to form and content and appendix 4 to CC31 provides several model examples

## **Charity trusteeship & governance – understanding the basics**

### **By Laura Anderson Accounting Advisor, OSCR**

In recent months OSCR has been actively engaged in a significant piece of work with all 32 local authorities across Scotland in relation to those charities that they either administer or act as sole trustee for. It has been identified that there are around 820 charities within this grouping with total net assets of approximately £82m.

Local authority charities were exempt from charity accounting under the previous legislation in Scotland and were also restricted in reorganising their trusts as this could in many cases only be done via the courts. OSCR have now started to hold meetings with individual Councils across Scotland in order to take forward the issues in relation to accounting compliance and possible use of the charity reorganisation provisions which are available under the Charities and Trustee Investment (Scotland) Act 2005 and Charities Reorganisation (Scotland) Regulations 2007.

In the course of preparing for these meetings, it has become clear that in many cases, little is known about the charitable funds involved – for example, it is often difficult to identify the charitable purposes and sometimes the assets involved. In addition, a key issue is that it can often be difficult to ascertain who the charity trustees once were and therefore who they are now.

In the course of the local authority meetings that we have held to date, it has become clear that the concept of charity trusteeship is one that not all within the local authority environment are familiar with. This has resulted in a need for us to explain the definition of “charity trustee” as well as the principles of being required to act with the “care and diligence that it is reasonable to expect of a person who is managing the affairs of another person”.

One of the key questions perhaps to ask is, what is “general control and management of the administration of a charity” and how can it be exercised? There is not necessarily an easy answer to this and every situation needs to be carefully considered and understood before a conclusion is reached. Consideration would need to be given to the terms of the charity’s constitution as well as understanding who is involved in the performance of various functions for the charity and the degree to which these amount to management and control. It may sometimes be considered to be the elected representatives. In certain situations, staff working within finance departments of the local authority who have been assigned the task of administering the charitable funds could be said to be in management but not necessarily control. On a similar vein, an individual responsible for managing those finance staff who is imposing tasks and duties onto others may be considered to be in management and perhaps even a degree of control. Either way, it would be prudent for such individuals to act in line with best practice, giving due recognition to the principles of “care and diligence”.

Within the local authority environment, it is easy to see that there may be scenarios where a conflict of interest could arise for trustees of charitable trusts and spinout entities. Charity trustees are expected to put the interests of the charity before their own interests or those of any other person or organisation. In such situations, careful consideration needs to be given to having a balanced trustee body with appropriate skills mix that can demonstrate the accountability and transparency afforded to decision making, including clear conflict of interest procedures.

As discussed, charity trusteeship can often be a complex issue. Once a trustee body is established, there are further issues to be considered in relation to governance and duties of charity trustees. OSCR recently published a case study report into the collapse of a large Scottish charity, ‘One Plus: One Parent Families’. In the course of our enquiry into the collapse, a number of issues were identified that may apply equally to charities large and small. For example,

- A lack of adequate skills and independence of thinking within the trustee body to reflect the needs of the charity
- Charity trustees not developing an appropriate risk management strategy that identifies possible risks to the charity and how these can be minimised
- A lack of clarity on delegated authority leading to the trustee body not taking responsibility for making strategic decisions

Charity trustees must recognise the responsibilities that are associated with their role and ensure that they are kept abreast of legislative requirements that impact upon the charity. Ignorance is not an excuse! In addition, trustees must take cognizance of the operating environment faced by their charity and the implications this has for how the charity is managed. For example, if the charity is experiencing a period of growth, particularly on a sustained level, the charity trustees must satisfy themselves that the capacity of the charity's management and governance structures are sufficient and appropriate for the planned development.

In closing, let's reflect on a few examples of key responsibilities and associated good practices for charity trustees\*:

<b>Responsibilities</b>	<b>Examples of good practice</b>
<ul style="list-style-type: none"> <li>• Put interests of the charity first</li> <li>• Declare any conflict of interest and do not take part in any discussion or decision if there is an irreconcilable conflict of interest between the charity trustee and any person responsible for their appointment</li> </ul>	<ul style="list-style-type: none"> <li>• Charity trustees declare any conflict of interest and do not take part in any discussion or decision on the matter</li> <li>• New charity trustees to declare any interests that may give rise to conflicts of interest</li> <li>• Maintain up-to-date register of charity trustees' interests</li> </ul>
<ul style="list-style-type: none"> <li>• Ensure charity is run properly, responsibly and lawfully</li> <li>• Ensure board of trustees are "fit for purpose" and the charity trustees are working together</li> </ul>	<ul style="list-style-type: none"> <li>• Agree and regularly review the strategy and policies of the charity</li> <li>• Ensure procedures are in place to keep up-to-date with legal responsibilities, e.g. employment legislation</li> <li>• Agree and implement programme for charity trustee training, board building and renewal</li> </ul>

\*Extracted from OSCR's 'Guidance for Charity Trustees', available via the OSCR website at [www.oscr.org.uk](http://www.oscr.org.uk)

## Charity Accounts for Student Success

The number of qualified accountants and finance managers working for charities has grown with the news that 24 students have passed the Certificate in Charity Finance & Accountancy.

The 12 month course, devised by the Chartered Institute of Public Finance and Accountancy (CIPFA) in association with London South Bank University, aims to improve the standards of charity accounting and reporting. It is specifically designed to meet the needs of those dealing with the finances of charities, but who do not yet hold a recognised qualification directly relevant to their work. It professionalises charity finance and gives those who work within it a portable qualification on which they can build a career.

After a successful pilot, the course was officially launched in September 2007 and students studied for the qualification via the blended learning route or by attending the taught courses at London South Bank University. The blended learning route was available nationwide and helped transfer academic and professional skills normally concentrated in London right across the UK. Students studying via the blended learning route had access to audio CD ROMs of all London lectures, e-learning tools and online discussion forums. They also had two days of face-to-face classroom delivery to introduce each of the four units they studied. These classes were taught at hotspots across the UK.

Top of the class this year was Mark Manterfield of Sarum College Trust, an ecumenical Christian learning centre based in Salisbury Cathedral Close. Mark achieved an average of over 70 on the whole course.

Nigel Scott, Course Director at London South Bank University said:

*"It is so pleasing to see these students develop over the course and become fully-rounded charity finance professionals. The marks have been in some cases outstanding and my congratulations go to all students. The course is intensive but rewarding and I look forward to welcoming more students to the course in September."*

Andrew Turnbull, Chair of the CIPFA Charity Panel, said:

*"The CIPFA Certificate in Charity Finance is really establishing itself throughout the Third Sector and is becoming increasingly recognised as the industry standard. It has satisfied a major need for both charities and those who wish to work for them."*

The successful students will be formally congratulated at a graduation ceremony in September.

The next intake of the Certificate in Charity Finance & Accountancy starts in September.



CCFA Charity  
Certificate Brochure C

## **A Student's Experience of the CIPFA Certificate in Charity Finance and Accounting By Grace Ayanfalu**

*Grace Ayanfalu, a student of the course for 2006/07 has told us of her positive experience*

*"I am a Self Employed Bookkeeper/Independent Examiner. I heard about the course from the newsletter of the Association of Charity Independent Examiners (ACIE) and decided to go for it.*

*I had always wanted to do a course that will help me understand Charity Accounting but did not want to do home study or short courses. I was looking for a robust course which will cover all grounds of Charity Accounting so that I do not have to keep studying all the time.*

*Being one of the first set of students to brave this new course in Sept 2006, it was very challenging as there were no predecessors to refer to for backup. Luckily, we had an excellent lecturer, Nigel Scott, who went all the way with us. No matter how much we moaned or complained about how hard the course was, he kept us focused on the end result, which I can say is worth it. The course units cover all areas of Charity Accounting which I will recommend to any Bookkeeper, Finance worker or Accountants who want to specialise in Charity Accounting.*

*As a freelance Bookkeeper/Independent Examiner, the course has exposed me to a vast knowledge of how to deal with charities and their accounts. As we all know, charities are complex in nature and you need to understand the whole system in order to assist them with their financial reports. I have an interest and passion for Charity Accounting and the course exceeded my expectation of what I thought it would be.*

*Due to having this qualification, I have been approached by some charities to help sort out their financial records and produce reports which their boards/committees can understand better. I feel privileged to be called upon for such jobs which show that the course is also welcomed in the sector itself.*

*I would recommend this course to any finance person at anytime, whether they are a Charity Finance workers or Accountants who want to understand their clients business."*

## **CIPFA – New Charity Toolkit**

CIPFA is very pleased to be able to announce that it is working in Partnership with BPP on the development of a Charity Toolkit that will be an internet based tool to cover finance fundamentals within the smaller charity

### Objectives of the Toolkit

The objectives of the “toolkit” will be to

- Improve the financial skills for staff within charities dealing with financial matters including disbursements, cash handling, banking, gift aid , petty cash, book keeping, accounting and submission of accounting and reporting information to the Charity Commission
- Provide staff, volunteers and independent examiners with a good practice guide to follow
- Act as a refresher for staff coming back to the service
- Assist non –finance staff as part of an overall corporate induction and learning strategy.
- Provide a self assessment tool
- Assist with confirmation that Charities are following statutory obligations
- Provide a guide to the accounting and reporting requirements of the Charity Commission

Further details will be announced in January / February 2009 when the new tool is expected to be launched

## THE COMMISSIONING JOINT COMMITTEE (CJC) GUIDE TO BUYING FROM THE THIRD SECTOR (2006) SERIALISATION – FURTHER INSTALMENT

THE COMMISSIONING JOINT COMMITTEE (CJC) GUIDE TO BUYING FROM THE THIRD SECTOR (2006) RESPONDS TO THE INTENSE PRESSURE ON LOCAL AUTHORITIES TO MAKE MUCH GREATER USE OF THE THIRD SECTOR, BOTH BY GIVING FINANCIAL SUPPORT TO THIRD SECTOR BODIES TO CARRY OUT WORK WHICH AUTHORITIES WOULD OTHERWISE HAVE TO DO THEMSELVES, AND BY BUYING SERVICES FROM THEM.

THE FOLLOWING FUTURE INSTALMENT FROM THIS GUIDE WILL WE HOPE BE OF USE FOR NEWSLETTER READERS FROM THE THIRD SECTOR AND THE PUBLIC SECTOR. DETAILS OF HOW TO ORDER THE FULL GUIDE ARE AVAILABLE ONLINE AT:

<http://secure.cipfa.org.uk/cgi-bin/CIPFA.storefront/EN/product/BV021>

### PART 4 – HOW TO ENLARGE THE EXISTING MARKET

#### THE CASE FOR A CHANGE OF STRATEGY

- 4.01 There is a great deal which authorities can do to make their contracts more attractive to third sector bodies without reducing their size or otherwise making them less attractive to larger private sector contractors.
- 4.02 Not all of the necessary changes come free. Many call for the investment of appreciable procurement and service management time. Authorities cannot afford to make such time available for **all** their contracts. They need, instead, to start by making a robust (though necessarily subjective) judgment as to whether the work would lend itself to third sector input.
- 4.03 Much the same considerations apply when weighing up the scope for small business input.
- 4.04 Local authorities may help both third sector bodies and small businesses by
- **welcoming** any approaches from their members
  - placing **advertisements** wherever likely new service providers can be reached, telling them what they need to know about the contracts on offer
  - making sure to provide good **general publicity about contracts** in progress, in the pipeline, and under consideration
  - making sure to give **respondents to advertisements** the most useful and encouraging information straight away
  - **setting up** new third sector bodies
  - allowing **lotting**
  - **filling any gaps** in specialisms
  - **debriefing** third sector bodies so that they know how to do better next time.

## WELCOMING ANY APPROACHES

- 4.05 There is no reason why members of the third sector should not make the first move, to draw the attention of whichever elected members and officers seem, to them, to be the most receptive to their own ideas and strengths. Many bigger contractors (not from the third sector) already do this to great effect.
- 4.06 Third sector providers may however be inhibited by a misplaced feeling that this is unlawful, improper, unprofessional, bad form in the public sector, or otherwise unwelcome.
- 4.07 It may once sometimes have been unwelcome for one or other of these reasons, but not now. It is proper as well as constructive, at any time before procurement has begun and any advertisements have been placed, for third sector providers to draw authorities' attention to
- the service methods which their own experience and know-how suggest will be most effective
  - their own special expertise and standing
  - the packaging and selection and evaluation criteria which would best bring out their own special qualities
  - the additional services or service features (not previously specified) which they are well placed to provide
  - the additional social and environmental factors which it would be advantageous for the authority to take into account in tender evaluation, or to adopt as contract outcomes.
- 4.08 The best way to stimulate such approaches is for elected members and officers always
- to make sure that their own first reaction to the first hint of any such approach is welcoming
  - to put anybody making them in touch with the client officers or procurement officers responsible
  - to instruct staff likely to come into contact with third sector bodies to do the same.

## ADVERTISING

- 4.09 Authorities are free, **even if the directives apply**
- to place advertisements in their own newsletters, or local papers, **as well as** in OJEU, provided such advertisements include no more information, and come out no earlier, than in the corresponding OJEU notices (**168**; 42.4)
  - to **prompt** likely service providers to apply to tender. This is not the same as **inviting** them to tender, because applicants who have been prompted to respond, and then do so, can thereafter be treated like any other applicant, so that discrimination on the grounds of nationality is avoided
  - to trawl actively for **likely service providers**, and press knowledgeable contacts to suggest any they know of. These too may then be prompted to apply

- to urge them to apply to be put on any **approved, select or standing list** for which they appear likely to be eligible. The same then needs to be done for any similar service provider in any other member state who is known to be interested.

4.10 Authorities are in addition free, **when the Directive does not apply** but financial regulations still require advertisement

- to decide for themselves how to advertise their work, and in what publications, whether for example in newsletters for local businesses, local papers or trade journals
- to express all advertisements in plain language, and not in the bizarre technical terms, abstract and indirect speech, and prescriptive format required for OJEU notices.

## **GENERAL PUBLICITY ABOUT CONTRACTS**

4.11 There is no obstacle to authorities giving, to any current service provider or any other provider who is thought likely to be interested, or any third sector bodies operating on their own account in the field in question

- information about authorities'
  - contract opportunities coming up soon (**1158**)
  - medium-term commissioning plans (**1158**)
  - current community strategies and plans, and plans for service changes generally. Small VCOs normally want to take these into account in framing their own plans, and may also be able to forewarn authorities about any possible conflict or duplication with the programmes of other agencies
  - standard tenderer selection and tender evaluation criteria, and contract conditions. Providers may also be given packs of information about the authority's standard requirements as to discrimination, environmental protection, Health & Safety, quality and QA systems, and sustainability
  - any approved, select or standing lists which authorities maintain, and how to get onto them
- an outline of authorities' own departmental organisations, showing which departments and which divisions are responsible for which public services
- invitations to any 'meet the buyer' meetings aimed also at private sector service providers.

4.12 Authorities do however need to avoid raising unduly high expectations, by making clear that they are not at this early stage committing themselves to offering any contracts.

## **INFORMATION SENT TO RESPONDENTS TO ADVERTISEMENTS**

4.13 Authorities are free, in all circumstances

- to draw particular attention to any arrangements (including those described in this Guide) which might be specially helpful to any particular type of tenderer
- to give respondents and applicants the names and telephone numbers of officers who they can contact for more information.

## SETTING UP NEW THIRD SECTOR BODIES

- 4.14 Wellbeing powers enable local authorities to set up and support local authority companies (LACos) which for this purpose include companies limited by shares or by guarantee, and industrial & provident societies (27; 67). They may also establish and support trusts and commercial partnerships.
- 4.15 Most such trusts are registered as charities which, in England and Wales, enables them to act in the name of the trust, rather than in those of the individual trustees (33a; 50).
- 4.16 Many authorities have set up LACos to trade for the purposes of regeneration, and to train unemployed people in useful skills. All qualify as social enterprises.
- 4.17 Law and propriety normally preclude authorities from giving contracts to their own LACOs solely because that is who they are.

## ALLOWING LOTTING

- 4.18 There are often elements of the work which at least some members of the third sector would be reluctant to take on. Packages can however be **lotted**, so that tenderers are free to choose which lots to tender for. Evaluation panels then evaluate and compare the quality and price levels available for **every possible combination of lots**. Any lots for which no acceptable tenders are received do not then have to be contracted out at all, and continue to be done in house.
- 4.19 Lotting may thus help many third sector providers to enter the field. It gives small service providers who like the work but not large contracts an alternative to creating consortia. None of this is discriminatory, because whatever the differences between tenderers in how they propose to work, these differences can all be accommodated in tender evaluation.

## FILLING GAPS IN SPECIALISMS

- 4.20 If at any later stage (even after tendering) tenderers decide that they cannot do some element of the work, authorities can do it for them by
- either seconding their own staff (46; 2.4.e) (55; 20.1.e)
  - or accepting the delegation of the work (46; 2.4.f) (55; 20.1.f)
  - and recharging the cost.
- 4.21 There are often support services which only some third sector providers are willing and able to provide for themselves. Authorities can then offer these support services to tenderers, at cost. The necessary charges are best dealt with by adding them, in tender evaluation, to the tenders of tenderers who accept offers of services.

## DEBRIEFING

- 4.22 It is constructive to offer debriefings to all applicants and tenderers, including those who were successful, and to tell them
- which costly preparations they might dispense with next time
  - what else they might do better.
- 4.23 This may encourage newcomers to the field to persevere, if they fail at the first attempt.

## ANNEX TO PART 4 – EXTRACTS FROM THE CJC STANDING GUIDE TO THE COMMISSIONING OF LOCAL AUTHORITY WORK AND SERVICES

### PART 6 – Delegation by agreement

#### THE TERMINOLOGY

6.01 Delegation is the transfer of responsibility for functions or activities from one party (the principal) to another (the agent). Functions for this purpose are statutory powers and duties, whereas activities are those which authorities or their agents choose to carry out in order to exercise powers or discharge duties.

6.02 A distinction needs to be made between **delegation**, as just described, and

- **devolution**, which is the term now universally used for the special arrangements in Scotland and Wales, although still occasionally also used in SIs as an alternative to delegation
- **decentralisation**, meaning the transfer of responsibility by any parties to committees or others within their own organisations. It is not widely used in this sense, but is at least descriptive and unambiguous. It is covered later.
- **inter-authority trading**.

6.03 Trading has to be distinguished from agency because the relationships between clients and contractors (and between employers and employees) are different from those between principals and agents. Agency agreements are contracts, but most contracts do not require or imply any transfer of discretion. Agents therefore normally remain agents, even when they employ contractors or employees to carry out activities which have been delegated to them.

6.04 Delegation agreements normally provide for agents to recover their costs from principals. This distinguishes the acceptance of delegation by agents from trading, in which tenderers quote a price. Contractors are then entitled to be paid the price quoted, whatever the cost to them. They therefore retain any profit and stand any loss. Trading thus involves risk, and local authorities can incur it only with statutory authority.

#### POWERS

6.05 Any local authority may agree to delegate any function (**11**; 101(1)) (**12**; 56(1)) to any other local authority. Functions for this purpose include activities (**11**; 101(12)) (**12**; 56(4)) except that the provision of school meals may not be delegated (**7**; 22). Local authorities for this purpose include joint boards, joint committees, parish councils and meetings, and community councils; but not police authorities or combined fire authorities (**11**; 101(13)) (**12**; 56).

6.11 Principal authorities may accept the delegation of any of their functions which promote ESEWeb (**46**; 2(4)) (**55**). There is however no general reciprocal facility for principal authorities to **delegate** any of their own functions except with specific statutory authority, as just mentioned.

6.15 Agents of all types are free to integrate their own work with work delegated to them by principal authorities. This may enable attractive packages of work to be put together, for example the highway works of a district council, and those of the county council within the same district; whichever authority is the agent.

### PART 10 – The responsibilities of agents

10.01 The terms on which functions and activities are delegated, including arrangements for the recovery of costs, are whatever the parties may agree.

10.02 Activities carried out under agency agreements are those of agents, not of principals, so that

- agents are responsible for compliance with the EU procurement directives if the delegated procurement, when added to agents' own procurement, requires contract notices in OJEU
- Best Value duties fall on agents
  - if they are themselves Best Value authorities
  - or, if they are not, to the extent that agency agreements or grant conditions specify standards or procedures for the activities delegated which match best value standards and procedures
- agents are free to integrate their activities, as agents, with their other activities.

## **RE-DELEGATION**

10.03 Agents to whom work is delegated cannot themselves delegate it to third parties, except with the approval of the principal. If this is given, the third party becomes the agent. This party does however have to be one to whom the principal could lawfully have delegated the function in the first place. Local authorities to which NHS bodies have delegated functions cannot therefore delegate them to joint committees.

## **PART 11 – The responsibilities of principals**

11.01 Statutory responsibility for functions remains with principals, unless (as for the 'claiming' of county council highways by district councils (**18**; 42)) the statutes authorising delegation provide otherwise.

11.02 Where as usual responsibility remains with principals, they normally discharge it through the satisfactory drafting and monitoring of agency agreements. They may suspend delegation agreements in accordance with their terms.

11.03 Terms are of course dictated, or overridden, by the statutes, where delegation is compulsory (**51a**; 47(1)(b)) (**54a**; 17(6)).

## **PART 12 – Secondment**

### **DEFINING IT**

12.01 Secondment is the assignment by one employer of staff to work for another, at the secondee employer's expense. It is therefore a different process from delegation and trading, although often done in conjunction with them.

12.02 Seconded are treated for the purposes of pensions as being the employees of seconding authorities, and for all other purposes as being the employees of secondee authorities (**11**; 113) (**12**; 65).

12.03 Secondment can be part-time. Staff can work part-time for the seconding employer, and part-time for the secondee employer, or part-time for several secondee employers. In all such cases it is businesslike for the duties of seconded staff to secondee employers to be set out in agreements between these employers and the seconding employer.

12.04 Agreements often specify in advance what the terms and daily hours of secondment, but they do not have to. Terms can for example be indefinite, and hours of secondment can be made to depend on the nature of the duties assigned to staff in accordance with agreements; staff can for example be regarded as working for a seconded employer whenever they are assigned to specified work in accordance with the agreement.

## **POWERS**

12.05 Any local authority may second its own staff to other authorities and joint committees (**11**; 27(1) & 113) (**12**; 65).

12.06 Principal local authorities may (**46**; 2) second staff to any other bodies if they consider this will promote or improve the economic, social or environmental wellbeing of the whole or any part of their areas doing so is in accordance with their own community strategies, where these have been drawn up.

12.07 These do not have to be the sole purpose in seconding staff. It may also serve one or other legitimate purposes. Secondment may for example help to maintain continuous service provision and, at the same time, to promote ESEWeb (**1085**; 10).

## **SOURCES**

- 7** Education Act 1960
- 11** Local Government Act 1972
- 12** Local Government (Scotland) Act 1973
- 18** Highways Act 1980
- 46** Local Government Act 2000
- 55** Local Government in Scotland Act 2003 (20)
- 51a** Health & Social Care Act 2001
- 54a** Community Care & Health (Scotland) Act 2002
- 168** the Draft Public Contracts Regulations 2006
- 1085** DETR Statutory Guidance on ESEWeb (2001)
- 1158** ODPM-LGA National Procurement Strategy for England, 2003

## **Charity Commission Update & News (Including new Charity Financial Thresholds)**

The Charity Commission publishes a great deal of authoritative guidance which is available free of charge to trustees and practitioners via the Charity Commission's website:

<http://www.charitycommission.gov.uk/index.asp>

The following updates were new in the period June to September 2008. In considering this guidance, local Authority or NHS bodies acting as a managing trustee (corporate trustee) of charitable funds should be aware that they are legally a trustee and have responsibilities under charity law in the same way that individuals appointed as trustees are trustees.

### **New publications issued**

For financial years beginning on or after 1 April 2008 charity trustees must have regard to the Commission's guidance on public benefit when planning and reporting on their charity's activities. The general public benefit guidance is now published in both summary and detailed format:

<http://www.charitycommission.gov.uk/publicbenefit/default.asp>

Trustees have a legal responsibility (where the charity's income exceeds £10,000) to provide certain information to the Charity Commission. Serious incidents must be reported when they happen and the guidance requiring trustees to report serious incidents to the Commission has been revised:

<http://www.charitycommission.gov.uk/investigations/rsi.asp>

To assist Local Authorities acting as managing corporate trustee, or which appoint charity trustees, a separate 'toolkit' has been developed aimed at Councillors and officers to provide clear and brief information which includes their role and common governance issues:

<http://www.charitycommission.gov.uk/enhancingcharities/toolindex.asp>

To assist charities identify and develop best practice in charity governance our Hallmarks guidance has been updated and reissued:

<http://www.charitycommission.gov.uk/publications/cc10.asp>

For a broader insight into the work of the Commission view its annual report:

[http://www.charitycommission.gov.uk/recent\\_changes/annualreport.asp](http://www.charitycommission.gov.uk/recent_changes/annualreport.asp)

and its strategic plan 2008-2011:

<http://www.charitycommission.gov.uk/news/corpplan08.asp>

### **Other developments for information**

At the CC open board meeting of 23 July 2008 public benefit reporting was considered and an initial worked example provided. The September Board meeting is to approve the final approach before all the Commission examples are updated.

<http://www.charitycommission.gov.uk/tcc/boarddet.asp>

The Government has responded to the joint Charity Commission/Office of the Third Sector consultation on financial thresholds. The full details of the consultation and the Government's response can be found at:

[http://www.cabinetoffice.gov.uk/third\\_sector/Consultations/completed\\_consultations/financial\\_thresholds\\_charities\\_act.aspx](http://www.cabinetoffice.gov.uk/third_sector/Consultations/completed_consultations/financial_thresholds_charities_act.aspx)

## **THE CHARITIES PANEL**

Further information about the Panel's activities and publications is available on the Panel website at <http://www.cipfa.org.uk/panels/charity/index.cfm> or from the Panel Secretary, Matthew Allen, email: [matthew.allen@cipfa.org](mailto:matthew.allen@cipfa.org) or telephone 020 7543 5608.

The Panel is especially keen to receive feedback on this newsletter and suggestions on areas that finance professionals in the Charities sector feel should be covered.