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Thoughts for Charity Trustees

The charities' sector is one which is now "benefiting" from an increasing exposure to regulation. This is creating an environment where those involved with charities, which will include many Chamber members, need to be aware of their responsibilities and some of the associated pitfalls.

- The Office of the Scottish Charity Regulator ("OSCR") is the body which keeps the Scottish Charity Register and monitors compliance with the legislation. If there is any apparent misconduct OSCR will investigate and take action to protect charitable assets.
- The Scottish Executive has announced that it will amend the legislation to remove restrictions on a charity's ability to provide trustee indemnity insurance ("TI"). With new regulations and the associated risks, this may be worth considering.
- New trustees need to understand their roles and responsibilities from the outset and some form of induction process can be very beneficial. As a minimum, trustees should receive an induction pack containing the most recent financial information, most recent annual report and audited accounts, minutes of recent board meetings and a copy of the OSCR publication: Guidance for Charity Trustees.
- Avoid technical insolvency; in particular, accounting practice requires that constructive obligations should be recognised in the accounts once created. Charities often make long term funding commitments with a view to meeting this from future income. This can lead to a deficit on the charity's balance sheet. Trustees would be wise to ensure the charity is certain of entitlement to any incoming funds before committing to future expenditure or engineer the commitments to avoid obligations arising.
- In order to achieve tax efficiency, charities should ensure that any trading subsidiaries can demonstrate a legal or constructive liability to make any gift aid payment to the charity. The simplest way to achieve this is to ensure that the intention is communicated, in writing, to the charity **before** the year end, with the amount to be quantified once the subsidiary's results for the year are known.
- The Scottish Charity Register and OSCR guidance booklets can be found at www.oscr.org.uk.

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