

## BRIEFING NOTE:

### Implementation timetable:

#### Charities (Protection and Social Investment) Act 2016 (“the Act”)

On 20 May the Charity Commission published a blog confirming that the Cabinet Office has now published a timetable for the implementation of the Act, which received Royal Assent on 16 March. Please see the attached link: <https://www.gov.uk/government/news/how-will-the-new-charities-act-affect-your-charity>.

### Implementation timetable

#### July 2016

- **Additional Charity Commission “statutory inquiry” regulatory and protective powers:**
  - o failure to act and taking into account a range of conduct;
  - o power to direct that specified action is not to be taken;
  - o power to direct the winding up of a charity.
  
- **New Charity Commission power to remove and disqualify a trustee.** On 23 May the Charity Commission launched a three month consultation on its updated policy paper relating to this new power. The consultation ends on 22 August. Please see the attached link: <https://www.gov.uk/government/news/views-sought-on-use-of-the-commissions-trustee-disqualification-power>.
  
- **Power to make social investments.** The Charity Commission has confirmed that before implementation of this provision it will be updating its CC14 guidance on charity investments. The Charity Law Association has recommended that the Charity Commission consults on any changes, but it does not appear that this will be the case.

#### October 2016

- **New Charity Commission power to give official warnings.** The Charity Commission has confirmed that it will begin a consultation in June on how it will use this new power.
  
- **Fundraising: new terms required in agreements with professional fundraisers and commercial participators and new reporting requirements.** The Charity Commission has confirmed that it will be updating its fundraising guidance CC20 (due in June) and its accountancy guidance.

#### April 2017

- **Extension of criminal offences leading to automatic disqualification as a charity trustee (convictions for terrorism, money laundering, bribery, perjury and sexual offences).**

## **Practical implications for charities and their trustees**

### **Increase of use by the Charity Commission of its regulatory and protective powers?**

In its Press Release of 20 May, the Charity Commission said that *“Many of the act’s provisions will only affect a relatively small number of charities and individuals.”*

Here, it is presumed that the Commission is referring to its enhanced regulatory and protective powers. However, in the light of (a) recent high profile media stories involving charities, which research has shown have had a negative impact on the public’s attitudes towards charities; (b) the fact that one of the Charity Commission’s statutory objectives is to increase public trust and confidence in charities; and (c) the fact that the Commission can use some of its new powers without having to open a statutory inquiry (power to issue official warnings and power to remove and disqualify a trustee), many in the sector believe that we are in fact likely to see an increase in the number of charities being subject to the Commission’s regulatory and protective powers.

### **Charity Commission consultations and amended guidance**

Charities may wish to take part (as appropriate) in the various Charity Commission consultations. Trustees should ensure that they read and take note of the various updated Charity Commission guidance (so far as they are relevant to their charity).

### **Update your charity’s governing document to include the new provisions regarding automatic disqualification of trustees**

In its Press Release of 20 May, the Charity Commission confirmed that all charities need to be aware of the new disqualification provisions. It is recommended, therefore, that when next reviewing or updating their charity’s governing document, trustees ensure that the governing document is amended to reflect these new provisions.

### **Fundraising agreements**

At present, it is not clear whether the new provisions relating to fundraising agreements will apply only to those agreements entered into on or after the date of implementation (October 2016) or to all existing agreements. Trustees will need to review the position, as appropriate, once we have clarification in this regard.

### **Further information about the Act**

For further details of the provisions of the Act please see the attached link to our briefing note of 21 March:

[http://filanthropia.co.uk/Briefing\\_Note\\_Charitys\\_\(Protection\\_and\\_Social\\_Investment\)\\_Act\\_2016\\_21\\_March\\_2016\\_final.pdf](http://filanthropia.co.uk/Briefing_Note_Charitys_(Protection_and_Social_Investment)_Act_2016_21_March_2016_final.pdf)

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**Filanthropia Consulting, 24 May 2016**

*This document provides a general summary only and it does not constitute legal advice. It is recommended that specific advice is sought in relation to the particular facts of a given situation.*