

**BULLETIN OCTOBER 2010**



*This is a monthly bulletin going out to around 10,000 clients, contacts, friends, friends of friend's so forth, to keep them in touch with what's going on in the world of charities. Tip: if like me you have a low attention span or this came to you by mistake, scroll down to the ...And Finally.*

*Daryl Martin*

to make this a gentle bulletin; there's quite enough hard edged stuff around. aware that I've tilted at a few organisations this time; well, we do need to stop g so silly and restore common sense and balance. And I know I'm not perfect er. Just be glad my name isn't Rod Liddle: he's excoriating.

**UNINCORPORATED CHARITIES AND PERSONAL LIABILITY OF BOARD MEMBERS:**

end a lot of time visiting charities to warn about the dangers of being incorporated when there are elements of risk, especially where the charity employs staff. An employee with a grievance put her claim to the Employment Tribunal for racial harassment and discrimination and succeeded. She made a common mistake of naming the organisation in the claim, along with 2 of the board members. The defendants appealed on the basis that the organisation has no legal status and couldn't be sued. The tribunal agreed that this was so but still, quite rightly, dismissed the appeal. There are some lessons here: First, there is now a precedent for a claim against an unincorporated charity; this **could** result in innocent board members being made liable even if they aren't named in the claim. Secondly, make sure you are being well advised (see below). Thirdly, [let me know](#) or someone else to come in and tell you whether you should incorporate. (Thanks to Russell-Cooke)

**COMPANY LAW REQUIREMENT TO HAVE AT LEAST ONE HUMAN BEING AS A DIRECTOR:**

Some of my readers wonder why I bother with such an obscure item. From October 2008, a company, the directors, and officers are breaking the law if there isn't at least one human being on the board. And I bet my shirt that there are a lot of charities, particularly older ones where this is so. Check it out if you have a wholly owned trading company. I know a solicitor that was setting them up like this at the time; I remember wondering why at the time. You can also have a corporate trustee owning a charity or a company. If you are in a tangle like this [let me know](#) and I will unravel it for you (or more likely Rachel will; she's so much better on the job!!)



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## **POLICY ISSUES:**

As I do in a house with a lot of glass I'm reluctant to throw stones, but once the RSPCA has got itself into a right muddle over its entitlement with regard to its legacy. Charity trustees have a duty to maximise their assets, but some of the challenges recently have been so odd, one has to ask who is advising them. The latest piece of nonsense is RSPCA v Sharp. If they are going to carry on like this I advise they keep their Trustee Indemnity Insurance up-to-date. (Again thanks to the sharp eyed solicitors at Russell-Cooke: I bet they know how to give good advice)

## **BEST FUNDRAISING SITES:**

These are getting more important. The London Marathon put them on the map, but they are getting increasingly used as a means of easily collecting donations. Take care though, charges vary from a little to a lot, sometimes there are upfront fees, and there can be vat implications. Martin Lewis, has done a tremendous job of bringing all the information together on his site ([MoneySavingExpert.com](http://MoneySavingExpert.com)). If you want to know about setting up a page to collect donations or compare your options with others, this is for you.

## **YOU SETTING UP A NEW CHARITY WITH LIMITED FUNDS?**

Well fellow directors will hate me for this one, but I'm going to risk it. Our charity set up service is exceptionally high quality, you get well looked after and it's well spent. However I get regular calls from people who want to set up a charity but can't afford our (modest) fees. When we get this we can offer an advice support service at an hourly rate. The danger of DIY set ups is that they end up with a governing document that might be flawed. We can help you avoid this. The benefit of using us is that you get the benefit of our experience and specialist knowledge and you can make a significant saving in costs if you have someone at the end that can get their head around the paperwork. (and has the time!)

## **ADVICE:**

A recent report from the RNID told supporters that they are thinking of changing their name as part of a £260,000 rebrand, attracted an enormous amount of adverse comment. There are rather too many people complaining about the charity generally and the fact that such a big sum might have been better spent elsewhere. **There are two important lessons here for all of us** and the RNIB in particular. I was always taught that for every complaint, there are 12 people who are unhappy but haven't complained. If so many people are queuing to complain, something is badly wrong and a period of quiet reflection on the part of the trustees is a must.

## **COMPLAINTS (Some free advice to the RNID and to the rest of us, so don't get complacent now, you might be as bad):**

At times, when we are unhappy we can't be bothered to complain; you know it's true. Research tells us that 1 in 12 complaints are actually registered. But worse: those 12 people tell 10 others about their bad experiences, who in turn tell another 5 (it's called the dreaded pyramid of dissatisfaction). If you do the sums you understand why a restaurant can so quickly lose its custom. A membership can go from 500 members to none in a matter of months if those little annoyances aren't looked at properly: I've seen it happen. Of course there are always disaffected members of a congregation, you can't please everyone.

Nevertheless we need a robust complaints policy. Let's build a culture of honour



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**Sandy Adirondack** is a freelance management consultant and trainer, working exclusively in the voluntary/non-profit sector. Her main specialisms are the legal aspects of voluntary sector governance and management and helping boards become more effective.

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## **End of Year accounts,**

truth and integrity and transparency in every organisation we are part of. (The stats tell us, that a complaint dealt with well has its own pyramid of satisfaction and leads onto bright sunny uplands of healthy strong growth and prosperity.)

### GS:

ent blogs include the promised Rule number 6 which has already changed lives, another on trust, which is a big issue right now. Little bite sized chunks to get thinking (and encourage me to practise what I preach). Next month I shall be ing at developing a Culture of Honour.

### PRIVATE SCHOOL CHARITY RULES:

st frail green shoots of common sense are beginning to emerge amongst the ds of political correctness and the dreaded health and safety and so forth. The rney General has ordered a review into the guidance issued by the charities lator regarding the public benefit test that effectively requires bursaries that t be afforded and have to be paid for out of fees that have already been taxed e hilt.

### EMPLOYMENT LAW UPDATE:

first stage of the Equality Act has now begun. It's an important Act; they said s really a harmonisation of existing law, but I'm sure it's more than that when npack it. I'm going to get my head round it and have notes ready for the next e; promise.

### PUBLIC SPENDING CUTS:

od deal of hot air being spoken by people frightened of all the cuts that have n announced. However, when Hackney Learning Trust can spend £13,000 on a ny Bunny costume, used twice in 2 years, and Hampstead's Royal Free hospital t £70,000 on 4 new desks in the reception, one has to wonder just how deep cuts could go before they get anywhere near front line services. To be fair, the pital spokeswoman revealed that the desks had solid laminate surfaces for ons of hygiene and durability. So that's all right then. (Oh, the £5m overhaul e hospitals' front entrance has run £560,000 over budget.) Read and weep.

### ING STRENGTHENS YOU:

sters, when you take up your offering on Sunday morning please take note you are doing your congregation an enormous favour. Separate studies, ed out by Harvard and Newcastle Universities have demonstrated that making nation to charity not only benefits others, but it can make the giver mentally her, physically stronger and more popular. Well done Fiona Macrae of the Daily for digging this one out. (She warned us recently that laptops can toast the on our thighs if we aren't careful, complete with a photo of an actual toasted n, not pretty.)

### INING:

d a good response to my last mention of training in far flung Devon and even Northern fastnesses and all I need is a bit of peace and quiet to try to put e proposals together. I've even had an offer of a training room. [Let me know](#) if are interested. (If you've previously written and I acknowledged no need to e again!).

**FINALLY... You might enjoy these quotes from one of the first books**

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**ever read, Alice in Wonderland. Enjoy and ponder (how many can you into your next talk?):**

**e:** What is the use of a book, without pictures or conversations?

**bit:** Oh my ears and whiskers, how late it's getting!

**e:** Curiouser and curiouser!

**e:** I wonder if I've changed in the night? Let me think. Was I the same when I up this morning? I almost think I can remember feeling a little different. But if not the same, the next question is 'who in the world am I?' Ah, that's the great le!

**et:** Speak English! I don't know the meaning of half those long words, and I t believe you do either!

**Duchess:** If everybody minded their own business, the world would go nd a great deal faster than it does.

**Cat:** We're all mad here.

**Queen:** Off with her head. (Later): Now, I give you fair warning, either you or head must be off, and that in about half no time! Take your choice.

**Duchess:** Take care of the sense and the sounds will take care of themselves.

**Mock Turtle:** We called him tortoise because he taught us.

**Mock Turtle:** Reeling and Writhing, of course, to begin with, and then the rent branches of arithmetic - Ambition, Distraction, Uglification, and Derision.

**Mock Turtle:** Well I never heard it before, but it sounds uncommon sense.

**King:** Begin at the beginning and go on 'till you come to the end, then stop.

**e:** You're nothing but a pack of cards.

**e:** I think I should understand that better if I had written it down: but I can't e follow it as you say it.

**Hatter:** No wonder you're late. Why this watch is exactly two days slow.

**e:** It was much pleasanter at home, when one wasn't always growing larger or ller, and being ordered about by mice and rabbits.

**more from the Mock Turtle:** Ah! Then yours wasn't a really good school. at ours they had at the end of the bill: French, music and washing - extra.

**e's more;** go and enjoy reading the book to a child, yours or anybodies.

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