

Annual Charity Forum

Monday 8 May 2017



Gordon Reid

Head of Charities

01483 464224

gordonreid@barlowrobbins.com

"I trust all the firm's advice and value its feedback - it's very good and you know where you stand."

Chambers UK, 2015

PROGRAMME

Arrival/Registration	5:30pm
Welcome and introduction	6:00pm
<i>Gordon Reid</i>	
The Commission's revised regulatory approach	6:05pm
<i>Paula Sussex</i>	
The Commission's digital services	6:20pm
<i>David Holdsworth</i>	
Legal update	6:45pm
<i>Gordon Reid, Scott Taylor & Kenji Batchelor</i>	
Q&A Panel Discussion followed by drinks & canapés	7:15pm
Close	8:30pm



Paula Sussex

Chief Executive
Charity Commission

The Commission's revised regulatory approach

by **Paula Sussex**



Where we are headed...





What that has meant...

Focus on compliance and enforcement

- becoming more proactive in identifying abuse & mismanagement
- responding robustly to most serious cases
- using compliance powers effectively & strategically
- ensuring powers are fit for purpose (Charities Protection and Social Investment Act 2016)



Serious incidents



2117
reported to us
by charities

Facts and figures
about our
compliance case
work in 2015-16

Cases opened

The number of cases
we opened to assess
concerns about charities



1804
compared to 1509 in 2014-5

Legal Powers

Number of incidents
where we used our
legal powers



1248

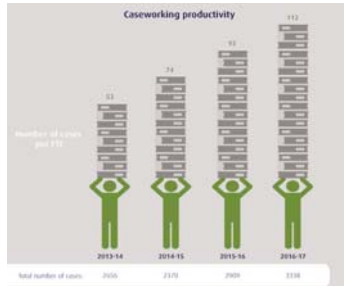
Charities in England
and Wales

165,000
registered charities



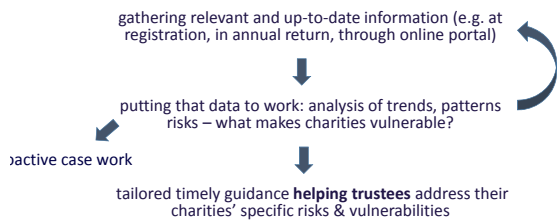


950,000
total population





Now: from firefighting to preventing fires





Risk-based regulation is good for charities

Quicker, simpler transactions in low risk cases

- e.g. changes to your governing document

Better, more user-friendly general services

- e.g. new online charity registration service
- e.g. self-service charity portal

Advice and guidance that feels relevant, timely, 'actionable'



Risk-based approach is good for us

Short term: focusing limited resources on the highest risk cases
(our income: 2008-9- £31.7m v 2015 -£21m – a real terms halving)

Medium term: fewer problems in charities over all

Longer term: increasing public trust and confidence...



...reversing this trend



Source: Public Trust and Confidence Survey, 2016



Enablement



Charity Commission's statement of regulatory approach

- Our statement has been revised to place new emphasis on enablement
- Enablement will include further support to trustees





Increasing reach and engagement

New methods and channels of communication, especially for key guidance (e.g. financial distress, fundraising):

- Charity Services portal
- Commission blog
- More articles and speaking engagements
- Webinars





'The Essential Trustee'





Financial management

- Recently re-launched core guidance on *Charity finances – trustee essentials* (CC25)
- Sets out the very basics for trustees – not aimed at financial advisors or accountants
- Vital that trustees of all charities understand the basics of financial management – and fulfil their legal duties and responsibilities.
- Find the guidance on gov.uk!



15 questions on charity governance, finance and resilience.

“What effect is the current economic climate having on our charity and its activities?”

“Are we financially strong enough to continue to provide services for our beneficiaries?”

“Do we have adequate safeguards in place to prevent fraud?”



Trustee awareness research

- Collaborative project with Cass Business School and Cranfield Trust
- Benchmarking levels of familiarity with core duties and responsibilities of trustees.
- Campaign to raise awareness and target the hard-to-reach trustees

[illegible]



David Holdsworth

Chief Operating Officer
Charity Commission

The Commission's digital services

by **David Holdsworth**

Vision

- More efficient and responsive
- User-friendly
- Clear guidance and information
- Take advantage of developments in digital communications

Journey – where we started

- Income halved
- Do more with less – focus on high risk
- Aged IT infrastructure
- Service – culture changes to put customer first
- Accessibility


What we did first

- Investment in new corporate technology
- Improved infrastructure to support delivery of future services
- Improving how we capture & store data
- Staff more user-focused

Full Charitable Status Service

Apply to register a charity online

- Improving the process
- Improving the data
- Now getting better applications




Charity Commission for England and Wales

Document Title
Date

Annual Return 2017

- Down from 5mins to 1 for small charities to complete
- 15% more returns
- Welsh language service
- Assisted Digital Support helpline & help with 'co-browsing'



Charity Commission for England and Wales

Document Title
Date

Next step of the journey

- Name change (launches next month)
 - Easy, streamlined process
 - Low risk digital only – no case worker
 - Can track application
- Amend governing document (launches next month)
 - First full end-to-end automated service
- Charity services portal

Charity Services Portal

- One Stop Shop
- Charity user has ownership
- Track progress of application
- Tailored guidance and content
- Alerts by via email notification



Keeping in touch

- New channels of communication for key guidance
- Commission blog
- News and speaking engagements
- Webinars



UK CHARITY COMMISSION

www.gov.uk/charity-commission



@ChityCommission

"They are very helpful, have good relationships, and have good communication. They are reliable in passing on papers, as well as very quick, efficient and capable."

Chambers UK, 2016

Legal Update

by **Gordon Reid, Scott Taylor & Kenji Batchelor**

BARLOW
ROBBINS
SOLICITORS

Legal Update

Gordon Reid
Partner - Head of Charities

Kenji Batchelor
Associate

Scott Taylor
Senior Associate

8 May 2017

Annual Charity Forum 2017

0

BARLOW
ROBBINS
SOLICITORS

Legal Update

1. Data Protection and fundraising

- ICO penalties
- Fundraising Regulator update

2. Legacy update

3. Recent Charity Commission Inquiries

- KICC – conflicts of interest
- Hospice Aid UK – fundraising costs
- The Spiritualist Association of Great Britain – dealing with charity property

8 May 2017

Annual Charity Forum 2017

1

BARLOW
ROBBINS
SOLICITORS

1. Data Protection and fundraising



8 May 2017

Annual Charity Forum 2017

2

BARLOW
ROBBINS
SOLUTIONS

1. Data Protection and fundraising

ico.

Information Commissioner's Office

8 May 2017

Annual Charity Forum 2017

3


BARLOW
ROBBINS
SOLUTIONS

1. Data Protection and fundraising

"I will tell you that getting it right can be done, that it should be done and how it can be done."


Elizabeth Denham

Information Commissioner




ico.

Information Commissioner's Office



CHARITY COMMISSION
FOR ENGLAND AND WALES



FUNDRAISING
REGULATOR


8 May 2017

Annual Charity Forum 2017

4

BARLOW
ROBBINS
SOLUTIONS

1. Data Protection and fundraising



FUNDRAISING
REGULATOR

PURPOSE & STRATEGY

HISTORY

THE TEAM


GOVERNANCE

CAREERS

FAQS

CONTACT US

RESPONSIBLE
FUNDRAISING,
CONFIDENT
GIVING



8 May 2017

Annual Charity Forum 2017

5

BARLOW
ROBBINS
SOLUTIONS

1. Data Protection and fundraising

GDPR

GOT CONSENT?



8 May 2017

Annual Charity Forum 20176

BARLOW
ROBBINS
SOLUTIONS

1. Data Protection and fundraising



8 May 2017

Annual Charity Forum 20177

BARLOW
ROBBINS
SOLUTIONS

1. Data Protection and fundraising

Tips to get ready for the new GDPR regime

- Don't leave it to May 2018 – there may be a lot to do!
- Train and educate board/SMT/staff/volunteers

1. Data audit (and review legal basis for processing)
2. Privacy notices
3. Consents
4. New rights for individuals
5. Protection of data by design and default

8 May 2017

Annual Charity Forum 20178

BARLOW
ROBBINS
SOLUTIONS

1. Data Protection and fundraising

Useful information

- ICO GDPR guidance: <https://ico.org.uk/for-organisations/data-protection-reform/>
- Fundraising Regulator guidance: <https://www.fundraisingregulator.org.uk/information-registration-for-fundraisers/guidance/>
- Keep an eye out for e-Privacy Regulation also due to come into force May 2018

8 May 2017


Annual Charity Forum 2017

9

BARLOW
ROBBINS
SOLUTIONS

2. Legacy Update

Ilott v The Blue Cross and others



8 May 2017

Annual Charity Forum 2017

10

BARLOW
ROBBINS
SOLUTIONS

Ilott v The Blue Cross and others

Chronology:

1978	Mrs Melita Jackson's only child, Mrs Ilott, left home (and had been estranged ever since).
29 June 2004	Mrs Melita Jackson died leaving left her entire estate (just under £500,000) by her Will to Blue Cross, the RSPCA and RSPB.
2004	Mrs Ilott brought a claim for financial provision from her mother's estate (pursuant to the Inheritance (Provision for Family and Dependents) Act 1975).
2007	Court awards Mrs Ilott £50,000.
2015	Court of Appeal allows Mrs Ilott £143,000 to buy her property plus a further £20,000.
2017	Supreme Court allows the Charities' appeal and reinstates award of £50,000.

8 May 2017

Annual Charity Forum 2017

11

BARLOW
ROBBINS
SOLUTIONS

2. Legacy Update



8 May 2017

Annual Charity Forum 2017 | 12

BARLOW
ROBBINS
SOLUTIONS

Estate of Patricia Deeley...

Chronology:

2008	Death of Peter Harding (Patricia's long-term partner) who died intestate.
2011	Claim by Patricia Deeley pursuant to the Inheritance (Provision for Family and Dependants) Act 1975 and awarded a 'life-interest' in property.
2014	Death of Patricia Deeley leaving her estate to British Red Cross, WWF, Brooke, the RSPCA and PDSA.
2014	Discovery of Peter Harding's Will.
2017	Court overturns 2011 decision and house/proceeds of sale pass to 5 charities.


8 May 2017

Annual Charity Forum 2017 | 13

BARLOW
ROBBINS
SOLUTIONS

2. Legacy Update

Charities and litigation: a guide for trustees (CC38)



8 May 2017

Annual Charity Forum 2017 | 14

BARLOW
ROBBINS
SOLUTIONS

3. Charity Commission Inquiries



CHARITY COMMISSION
FOR ENGLAND AND WALES

<https://www.gov.uk/government/collections/inquiry-reports-charity-commission>

8 May 2017

Annual Charity Forum 2017 | 15

BARLOW
ROBBINS
SOLUTIONS

3. Charity Commission Inquiries

1. KICC



8 May 2017

Annual Charity Forum 2017 | 16

BARLOW
ROBBINS
SOLUTIONS

3. Charity Commission Inquiries

1. KICC

"This case is a reminder that trustees must ensure that they do not permit any personal associations to interfere inappropriately with their judgement as charity trustees and that any decisions they make are in the best interests of their charity. When trustees are considering a high risk decision, particularly one involving significant sums of money, they should take independent professional advice from properly qualified persons to ensure that they are not exposing the charity to significant risk. Donors and beneficiaries have a right to expect trustees to take appropriate steps to protect property of the charity."

Michelle Russell, Director of Investigations, Monitoring and Enforcement at the Charity Commission

8 May 2017

Annual Charity Forum 2017 | 17

BARLOW
ROBBINS
SOLUTIONS

3. Charity Commission Inquiries

2. Hospice Aid UK

Euro DM Ltd

8 May 2017Annual Charity Forum 201718

BARLOW
ROBBINS
SOLUTIONS

3. Charity Commission Inquiries

2. Hospice Aid UK

A. 60%

B. 30%

C. 5%

8 May 2017Annual Charity Forum 201719

BARLOW
ROBBINS
SOLUTIONS

3. Charity Commission Inquiries

2. Hospice Aid UK

4.7%

8 May 2017Annual Charity Forum 201720

3. Charity Commission Inquiries

3. The Spiritualist Association of Great Britain



An aerial photograph showing a large, historic building complex with a central courtyard and surrounding urban environment. The complex is surrounded by other buildings and greenery.

8 May 2017

Annual Charity Forum 2017

21

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slight shadow on the right side, suggesting it's resting on a surface.

[illegible]

PROFILES



Paula Sussex

Chief Executive
Charity Commission

Paula Sussex joined the Charity Commission as CEO in June 2014. Paula has extensive leadership experience, particularly in delivering solutions and services to the public, private and voluntary sectors. Her previous roles include:

- Senior Vice President (Public Sector), CGI
- CEO, Atos Consulting
- Director, KPMG Consulting

Paula is qualified as a barrister and holds a Sloan Masters Degree from London Business School. She has a longstanding association with Crisis, the charity for single homeless people, where she was a trustee for six years.



David Holdsworth

Chief Operating Officer
Charity Commission

David joined the Charity Commission in August 2015. David has extensive experience in both the public and private sectors at an executive leadership level.

David spent over a decade at the Home Office in various roles including senior operational roles in the Immigration Service where he led several large UK wide transformation projects. He also held different policy roles in the Home Office and was a Deputy Chief Caseworker.

More recently David has spent 5 years in the private sector in senior executive positions of Managing Director and Partnership Director at 2 different FTSE 100 companies.

David is a Fellow of the Institute of Directors and Chair of the Liverpool City Region Branch.

As Chief Operating Officer & Registrar David is accountable for all but the commission's most serious investigations (known as Statutory Inquiries) including Registrations, Regulatory Permissions and Advice, Compliance investigations and cases and in his role as SRO of the transformation programme for its 'digital by default' agenda.

CHARITIES TEAM



Gordon Reid

Partner
Head of Charities
01483 464224
gordonreid@barlowrobbins.com

Gordon leads the Charities team. He works with charities of all shapes and sizes, advising on all aspects of charity law and practice – initial formation and registration, day-to-day advice on constitutional and governance issues, mergers, dealing with charity property and dissolution. He regularly runs training sessions for trustees, helping them to better understand their role and responsibilities.

Gordon seeks to get to know his clients well, to understand their priorities and challenges. He serves as a trustee for a number of charities and believes that hands-on experience means he gives practical advice to his clients.

He is on the Charity Commission's panel of approved Interim Managers and a member of the Charity Law Association, where he has served on working parties.



Helen Harvie

Consultant
Charities
01483 464219
helenharvie@barlowrobbins.com

Helen is a specialist charity practitioner and advises on charity registration, restructuring, governance and constitutional issues, trustees duties and responsibilities and all aspects of charity law.

Helen acts as both trustee and advisor to a wide range of charitable trusts, associations and companies, on a national and international basis. She is a member of the Charity Law Association and has also advised on major projects for not-for-profit organisations and social enterprises, including Community Interest Companies. She has acted as Interim Manager for the Charity Commission.

Helen is co-author of "Tolley's Guide to the Charities Act 2006".



"a brilliant lawyer, calm, knowledgeable and patient."

Chambers UK, 2015

CHARITIES TEAM



Kenji Batchelor

Associate
Charities

01483 464248

kenjibatchelor@barlowrobbins.com

Kenji is an Associate in the Schools & Charities Team and advises on a wide range of charity law-related matters including charity formations, registration, governance and constitutional issues, restructures, property matters, data protection, FSMA regulation and trustees' duties and responsibilities.

He is a governor of an independent school, trustee of a local arts charity, has previously been seconded to WWF-UK and is a member of the Charity Law Association, Charities' Property Association and the Lawyers' Christian Fellowship.

As a member of the Charity Law Association Kenji has sat on working parties reviewing changes to:

- permanent endowment;
- the Charity Commission Annual Return;
- the Fundraising Regulator's Code of Practice; and
- serious incident reporting to the Charity Commission.

"Having Kenji seconded to WWF was invaluable. Kenji was personable and a good communicator... quick to understand the needs of the organisation and use his legal skills to help further the work of WWF-UK."

Simon Major, Former General Counsel, WWF-UK



Scott Taylor

Senior Associate
Dispute Resolution

01483 464274

scotttaylor@barlowrobbins.com

Scott is a Senior Associate and acts for private individuals, charities and not-for-profit organisations in relation to all aspects of contentious trust and probate work for which he has been recommended by Legal 500.

Scott regularly advises on disputes concerning the validity of wills, rectification, revocation of wills, disputes between executors and beneficiaries and claims under the Inheritance (Provision for Family and Dependents) Act 1975.

Scott is an associate member of the Association of Contentious Trust and Probate Specialists (ACTAPS) and was recently named as one of eprivateclient's 2016 top 35 lawyers under 35 for private client advisory work.



CHARITIES TEAM



Joanna Lada-Walicki

Partner
Head of Schools & Charities
01483 464216
joannalw@barlowrobbins.com

Joanna heads the firm's School & Charities practice and specialises in education and employment law. She advises on a range of employment and pastoral issues, in particular when the reputation of a school (or other non-school charity) is at stake.

An area of particular interest for Joanna is safeguarding and she has spoken widely on this subject at a number of national conferences and has also written widely on this and other issues affecting schools and charities. A growing area of our practice is in relation to allegations of historic abuse – advising on the criminal process and civil claims (and the reputational impact) and she is currently advising a number of organisations about this.

Joanna's approach is to take a strategic overview with the client and to provide practical and straightforward advice that will enable the client to reach its objectives and to minimise any risks.

Joanna Lada-Walicki is praised by clients as a "well-informed, highly professional and insightful" practitioner."

Chambers UK 2017

"Joanna Lada-Walicki has an active education practice covering disputes relating to staff members and highly sensitive safeguarding and abuse matters.

Sources say: "Her experience is very evident. I am always amazed at how quickly she gets back to me - she is highly efficient."

Chambers UK 2017

"Joanna has been excellent in the advice that she has offered, and has a clear understanding of the sort of issues that we have had to deal with."

Chambers UK 2016



David Foster

Partner
Dispute Resolution
01483 464243
davidfoster@barlowrobbins.com

David specialises in dispute resolution and civil and commercial mediation. The litigation he handles is complex in nature and is undertaken for independent schools and other charities as well as for commercial entities and private individuals.

Many of my cases involve international issues. Since the 1980s David has handled a wide range of abuse claims and is currently dealing with a number of these. David is also well known for handling judicial review cases and challenging the decisions of public bodies and he is an internationally known mediator with a success rate of over 90% in settling disputes.

David is a Member of the Executive of the Commercial Litigation Association; the International Bar Association and the Institute of Directors.

CHARITIES TEAM



Mark Lucas

Partner
Corporate & Commercial
01483 464202
marklucas@barlowrobbins.com

Mark advises a large number of independent schools and other charities on mergers and acquisitions and a wide range of commercial contracts including those with catering companies, IT and other providers of services. He really enjoys identifying and achieving the right solutions and outcomes for clients. Mark strongly believes that good service consists of excellent and responsive communication and the creation of long-lasting solutions that reduce complexity, delay and risk. Mark believes that the best lawyers are likely to have a broad range of experience of business and life. He is the chair of the governing body at a very successful prep school in West Sussex.

Mark has served as a member of the Law Society's Company Law Committee. He is a regular contributor to the Solicitors' Journal, for which he writes a quarterly update on commercial contract law.



Laurie Heizler

Of Counsel
Corporate & Commercial
01483 464272
laurieheizler@barlowrobbins.com

Laurie deals with the acquisition, protection and exploitation of intellectual property (IP) rights such as patents, trade marks, design rights and copyright in technologies, branded goods, designs and other creative works. He has advised a range of independent schools and charities (as well as other organisations).

Laurie helps clients reach a good understanding of IP and show why it can add inherent value to their enterprises, create revenue and protect key assets. Previous experience as in-house counsel has given him insight into what clients expect from their lawyers. He has worked with independent schools in connection with brand name protection and exploitation. Laurie is a Fellow of the Royal Society of Arts and a member of the Institute of Trade Mark Attorneys.

**BARLOW
ROBBINS**
SOLICITORS

GUILDFORD

The Oriel
Sydenham Road
Guildford, Surrey GU1 3SR

T: +44 (0)1483 543210

F: +44 (0)1483 464260

E: enquiries@barlowrobbins.com

WOKING

Concord House
165 Church Street East
Woking, Surrey GU21 6HJ

T: +44 (0)1483 748500

F: +44 (0)1483 729933

E: woking@barlowrobbins.com

GODALMING

Church House
30 Church Street
Godalming, Surrey GU7 1EP

T: +44 (0)1483 417121

F: +44 (0)1483 426836

E: godalming@barlowrobbins.com