

SK | STONE KING

Annual Review of 2019

Charity & Social
Enterprise Sector





What will the new decade bring?

We are into a new year and at the start of a new decade, but what legal developments do the coming months hold for charities and social enterprises?

Welcome to Stone King's third Annual Review for the Charity & Social Enterprise Sector Group.

We have no crystal ball, but by reflecting on the year gone by we can look at how developments in 2019 are likely to influence the events of 2020, as well as doing some horizon scanning of our own.

As usual, alongside our analysis of legal developments in the sector, a handful of our clients have allowed us to share some of their exciting projects, including the magnificent Downside Abbey. We put eye health under the spotlight at Moorfields Eye Charity and talk climate change with the pioneering Energy4All. Their stories can be read from page 7 onwards. We also include a variety of other insights, news and highlights from the team and Stone King.

I would like to thank you, on behalf of Stone King, for being a valued client of the firm and for giving us the opportunity to work with you in 2019.

We hope you enjoy reading this Annual Review and look forward to continuing our relationship with you in 2020 and throughout the next decade.

Thank you,



Tim Rutherford

Head of the Charity & Social Enterprise Sector Group

Legal highlights in 2019 and looking ahead at 2020

Looking back

In our Annual Review we reflect on the main legal developments in 2019 and consider what 2020 might have in store.

Fundraising



In April the Fundraising Regulator (FR) referred 59 charities to the Information Commissioner's Office (ICO) for ignoring suppression requests made through the Fundraising Preference Service (FPS). It says these charities are in breach of the Code of Fundraising Practice and the ICO confirmed it may consider failure to act on FPS requests as a potential breach of the Data Protection Act 2018. The key point is to ensure your charity's contact person listed on the Charity Commission's Register of Charities is up to date and that you have a protocol in place for how to deal with suppression requests within the (now shortened) time frame.

The FR has begun to publish investigation reports into complaints made by members of the public about fundraising practices of charities and third parties. The new Code of Fundraising Practice came into effect in October 2019.

Campaigning: elections and referendums

In October 2019, the Electoral Commission published new guidance for charities about campaigning in the lead up to elections and referendums. Following the snap general election in 2017, non-party campaigners

called for greater clarity on how the regulated period and other rules worked, so they could campaign with confidence. The clarification the latest guidance offers on the 'intention' test is helpful, providing reassurance to charities that campaigns that have the following purposes will not amount to regulated expenditure: raising awareness of an issue; influencing political parties to adopt a policy in their manifestos; campaigning for or against government legislation; providing information to voters; encouraging people to register to vote; encouraging people to vote, but not for anyone in particular.

Charity Commission



In 2019 the Charity Commission (the Commission) continued to implement its strategy set out in its Statement of Strategic Intent (2018-2023). The common theme has been that a charity must be a living example of charitable purpose, attitudes and behaviour. This will continue to be a focus in 2020.

In January, the Commission published its annual report on its work to protect charities from wrongdoing or abuse. It provided lessons for trustees drawn from the key themes and issues that the Commission had dealt with over the past year, including insider fraud, safeguarding, reporting serious incidents, counter-terrorism, data protection and military charities.

The Commission launched new guidance for charities working with non-charities in March 2019. It is broadly positive about these relationships and the benefits they can bring, but there are some concerns around practicality and the high bar set

in terms of documentation required between charity and non-charity. The guidance draws together current requirements and best practice and is relevant where a charity is working with a commercial business, another not-for-profit organisation or social enterprise or when working with its own trading company.

The Commission worked on improving its whistleblowing guidance in 2019. In June, it updated its guidance for reporting serious wrongdoing at a charity as a worker or volunteer, to make it easier for these groups to bring serious concerns to the Commission's attention, particularly where the charity's trustees and senior management team are not addressing them. The Commission has extended its ability to act and started to treat charity volunteers as whistleblowers, where appropriate, even though such volunteers do not receive statutory protections afforded to charity workers.

Also in June, the Commission published its long-awaited report on its inquiry into Oxfam GB's safeguarding practices in Haiti and more widely. Highly critical of Oxfam's safeguarding record, the report found the charity failed to heed warnings, including the concerns raised by its own staff; that its culture and response around safeguarding was inadequate; and that it repeatedly fell below the standards expected and had a culture of tolerating poor behaviour.

THERE MUST BE CLEAR CONSEQUENCES FOR POOR CONDUCT REGARDLESS OF SENIORITY.

There are numerous lessons for the wider sector including that: protecting people and safeguarding responsibilities should be a governance priority for all charities; failure to take reasonable steps cannot be excused by a difficult context; there must be clear consequences for poor conduct regardless of seniority; there must be full and frank disclosure where failure occurs; and a focus on avoiding negative media coverage will not fulfil trustees' duties to protect a charity's reputation, let alone the charity's duty of care towards the victims. The Commission updated its safeguarding guidance in October to help charities and



PROTECTING PEOPLE AND SAFEGUARDING RESPONSIBILITIES SHOULD BE A GOVERNANCE PRIORITY FOR ALL CHARITIES.

trustees understand their legal duties.

The Commission issued updated guidance on reporting serious incidents, including a new form. In our experience so far, where action is already being taken by trustees, no further action has been required from the Commission.

There have been interesting developments around refusal of donations, with The Sackler Trust and other galleries in the news. Trustees must weigh up any issues around how funds were raised that may include reputational concerns against the financial impact on the charity of refusing a donation. Trustees can approach the Commission for advice and this links to their duty to report serious incidents that could harm their charity's reputation. More charities are developing policies and frameworks to help make consistent decisions.

The Commission has been steadily elevating the issue of charity fraud and cybercrime over recent years. There has also been a push to improve the quality of charity accounts, with the Commission updating its guidance and working closely with accountant bodies to improve their members' awareness of charity reporting and accounting requirements.

The Commission continued to use its range of powers to hold charities to account in 2019, including issuing several official warnings, opening regulatory cases and statutory inquiries, and using its discretionary disqualification powers and power to wind-up a charity.

Data Protection

2019 was a busy year for the Information Commissioner's Office (ICO). Alongside carrying out consensual audits and adding information to their Guide to the GDPR (notably in the area of special category data such as health and religion), they received over 14,000 data breach reports, compared to just over 3,000 in 2018, and the number of concerns raised by the public more than doubled to over 41,000. The ICO said that complaints about charities often relate to a failure to respond to subject access requests (SAR) in the shortened statutory time frame. As well as recommending tightened procedures for responding to SARs, good practice tips offered include:

- transparency (being clear to data subjects what you are doing with their data);
- accountability (evidencing and justifying your decisions);
- privacy by design and default (building data protection into all new projects and operations);
- establishing an appropriate lawful basis for processing (moving away from consent where it is not required); and
- using only data that is needed, for the reasons it is needed.



Upcoming guidance from the ICO of particular relevance for charities include the Direct Marketing Code of Practice and the finalised Data Sharing Code of Practice. It is also worth remembering that if you are reporting a data breach to the ICO, you are highly likely to need to report that to the Charity Commission as well.

Social Finance & Social Enterprise

In May 2019, Social Enterprise UK published a report 'Front and Centre: Putting Social Value at the Heart of Inclusive Growth'. The report says that councils increasingly see social value as an important way to drive economic growth in their local areas. Central government is evaluating social value across more than £100bn worth of public sector contracts, already resulting in a number of examples of innovative thinking by local authorities that recognised that procuring on a wider basis than cost in one area can support and potentially lead to savings in another. Social Enterprise UK concluded that the Social Value Act should be extended to cover other parts of public sector procurement, in addition to services.

Stone King worked with Big Society Capital on their response to the Social Investment Tax Relief (SITR) consultation in July. We also submitted our own response, highlighting key areas for opportunity and explaining why the current model (built upon the Enterprise Investment Scheme (EIS)) does not fit this sector. The consultation provided an opportunity to improve SITR so that it better facilitates improvements in areas of social policy, which could benefit from private investment.

We believe that SITR has been under-utilised due to restrictions inherited from the SEIS (Seed Enterprise Investment Scheme) and EIS regime that do not take sufficient account of the difference in the nature of a social enterprise (as defined in the SITR legislation) and that of a commercial company in the private sector. We know there are numerous worthwhile projects that could move forwards should the criteria be updated.

Whilst we understand HMRC's legitimate concerns around potential for abuse, we believe that more nuanced and innovative criteria can be developed to address these concerns whilst also enabling what could be a transformative access to finance.

Charity Tax

The Charity Tax Commission (CTC) published its report 'Reforming charity taxation – towards a stronger civil society' with several recommendations aimed at making charitable tax reliefs more effective. The Charity Tax Group (CTG) noted that the Commission adopted a fiscally neutral approach so there would be no excuse for not implementing the recommended reforms. Stone King assisted Philanthropy Impact in its submission to the CTC.

The government has since confirmed it has no plans to undertake a formal review of charity taxation and reliefs, a disappointment to many charities.

Charity Governance Code

In November 2019, the Charity Governance Code Steering Group launched a consultation on the Charity Code of Governance. The Steering Group is proposing a 'light refresh' of the Code in 2020, with a focus on additions and revisions to the Code's recommended practice rather than to the seven principles of the Code and their associated rationale and outcomes. More far-ranging changes will take place in 2023.

What about 2020?

The Commission will continue to embed its strategy for the coming years, holding charities to a high standard and providing clear lessons to be learnt from regulatory cases and inquiries.

By the time this Annual Review is published, we will have left the European Union. The future relationship between the EU and the UK will become clearer as we move through the transition period, but whatever the outcome, it will impact on the third sector in various ways and we will report on that in due course.

The Law Commission's report on 'Technical Issues in Charity Law' has been on the backburner for some time. The report makes a number of recommendations to maximise the efficient use of charitable funds whilst ensuring proper safeguards for the public. It is hoped it will be brought before Parliament before too long, although (at the time of writing) there is no indication of when that may be.

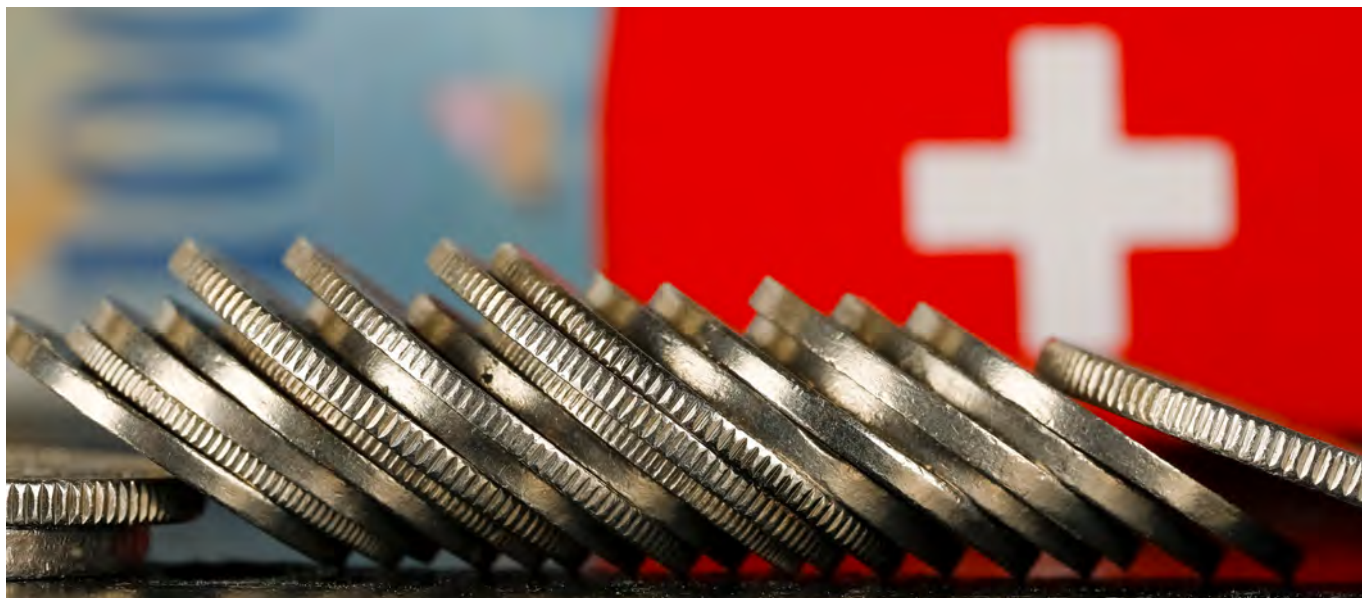
The much-delayed consultation on fee charging by the Charity Commission may be launched in 2020. The Treasury gave permission to launch the consultation over two years ago. The Commission has received £5 million per year funding from government to help it respond to significantly increased demand on its



core regulatory functions, including registration and compliance. This was intended as an interim solution while the Commission considers longer-term, more sustainable funding models.

The Supreme Court heard an appeal against a ruling in favour of Mencap in February 2019, with a decision expected by July 2020. The case relates to social care workers who carry out 'sleep-in shifts' for patients, where they are on-call overnight but are expected to sleep through the majority of the shift. In the past, employers such as Mencap historically paid flat-rate fees at rates below the minimum wage. The case will have significant implications for the many charities providing such services.

UK charities receive £14m Swiss tax windfall



When two UK charities were left a significant sum by an Englishman living in Switzerland, cross-border complications brought the administrative process to a standstill. Stone King's specialist team helped the UK executor solicitors and Swiss lawyers negotiate these obstacles, saving the charities up to £14 million in tax.

Dan Harris, Head of Stone King's International & Cross-Border Team, said: "With a gross estate worth nearly £40 million, small margins could save large sums so we examined the cross-border taxation position in detail."

The tax facts

The deceased had lived in Switzerland for more than 50 years and Swiss tax law led to a tax liability in the region of £20 million for the charities to pay.

Stone King considered the Anglo-Swiss Double Taxation Treaty; what if the deceased could be shown to be common-law domiciled in England & Wales ('England')? There would be no Swiss tax to pay on assets in the UK and no tax payable in the UK on gifts to charity.

But common-law domicile is enshrined in complicated case law. The question was whether the deceased's English domicile of origin had been displaced by a Swiss domicile of choice, involving a two-part test.

The English domicile case

The burden of proof rested with the Swiss tax authority to prove in English law that the deceased had acquired a domicile of choice in Switzerland. English case law also applied some helpful principles, including that the acquisition of a domicile of choice must be 'unequivocally proved' and that the decision would be determined by the English courts in accordance with English law.

Stone King also built a robust case that the deceased had not lost his English domicile of origin. The team unearthed a quantity of evidence, supported by affidavits, including the deceased's wish that English law should govern the devolution of his estate and that substantial assets were left to British-based causes close to his birthplace, among other compelling evidence.

Stone King also had to convince Swiss tax inspectors at two high level meetings in Switzerland.

Dan says:

"Explaining common-law domicile and case law to incredulous civil law tax collectors was a challenge. They were eventually swayed by the strength of our case and interpretation of the double taxation treaty. Saving so much tax for UK charities is one of the most rewarding experiences of my career."

Downside Abbey: looking to share its history and its future with a wider audience



A magnificent Benedictine Monastery nestled in the Somerset countryside, Downside Abbey is a sight to behold. It boasts one of only four Minor Basilicas in England and is cared for by a congregation of monks who have been there since 1814, having been granted formal Abbey status in 1899. Sir Nikolaus Pevsner described the Abbey as “the most splendid demonstration of the renaissance of Roman Catholicism in England”.

If you gaze at Downside Abbey and the adjoining Downside School, which has been operated by the Abbey since the 17th century, they may seem timeless and unchanged, however over the last 12 months there



SIR NIKOLAUS PEVSNER DESCRIBED THE ABBEY AS “THE MOST SPLENDID DEMONSTRATION OF THE RENAISSANCE OF ROMAN CATHOLICISM IN ENGLAND”.

has been an important and fundamental change to the relationship between the two. Since September 2019 the Abbey and the School have been formally and legally separated. This new status follows an intricate and complicated process to separate two institutions that have operated together for more than 400 years, requiring detailed discussions and due diligence and the resulting quantity of paperwork. They now run as Downside Abbey Charitable Trust and, operating as its own independent business, Downside School.

With the process complete, the beautiful Abbey and the monks that care for it can for the first time focus on building their own future.

Dom Nicholas Wetz was appointed as Prior Administrator for Downside Abbey from September 2018 to manage the separation process. Father Nicholas said: “We now have the opportunity to refocus

THEY NOW RUN AS DOWNSIDE ABBEY CHARITABLE TRUST AND, OPERATING AS ITS OWN INDEPENDENT BUSINESS, DOWNSIDE SCHOOL.

on our own monastic lives and look at our heritage and hospitality in a way that we haven't before now. We want to share what we have with more people."

The backdrop to the separation has been well documented. Following an IICSA investigation of English Benedictine Congregation (EBC) communities, including Downside, the Charity Commission directed Downside Abbey to separate the School from the charity. The Abbey welcomed the report pledging that the mistakes of the past should never be repeated and set in motion the process to separate School from Abbey. Stone King represented Downside Abbey in the separation process, working towards the deadline of the new school year, September 2019.

Father Nicholas said: "We knew it wouldn't be simple but it was a far more detailed process than I ever imagined."

The Abbey has leased all the School's buildings on a 125-year lease, and gifted or loaned the assets within them, such as items of historical and cultural importance. Further assets, including data records were given to the School and a new lay chair of governors and board of trustees were appointed to run the School. To fund the separation and provide ongoing support for the School's future so it can continue to flourish, the Abbey also sold a number of its portfolio of mainly residential properties in the area.

Father Nicholas explained: "We had to discuss and agree details we hadn't even thought about, like 'what if this happens in 10 years' or 'how does this affect that in 50 years', because we had drawn up a 125-year lease. We're delighted the separation is now finalised and that all the various bodies, such as the Independent School Inspectorate boards, Companies House and the Charity Commission, are happy."

He added: "Stone King were extremely helpful and pulled out all the stops to make it as easy as possible. We would never have got through this process if not for the way in which a number of partners reached out to us, guiding us as well as giving legal advice."

Downside Abbey are Stone King's oldest client, having worked with the Abbey since the early years of their

formation. Stone King were involved in 1924 when the original charitable trust was founded (taking into account the varied implications of the Roman Catholic Relief Acts from the 1790s which made a Benedictine Society illegal and the Roman Catholic Charities Act 1860). The firm was also involved in incorporating the charitable trust as a company limited by guarantee in 2014, and again in this latest important step in the life of the charity.

As a new charity, Downside Abbey Charitable Trust can now focus on itself and explore new ventures. The Abbey houses one of the finest monastic libraries in Europe, with an eclectic collection of almost 500,000 books. Many of its treasures are considered 'rare' and the earliest of which dates back to the 12th century. The Abbey recently completed a £1.3m, three-year restoration project with the Heritage Lottery Fund, protecting the cultural and intellectual patrimony of the Abbey for future generations.

"We recently held a joint exhibition with the University of Bristol showing very old bibles", said Father Nicholas. "We would like to have an exhibition centre but are aware that visitors would probably want a cup of tea and perhaps a souvenir so we're looking at this. We also have a guest wing and would like to develop those facilities for people who want to come and share in the peace and quiet away from the Monday to Friday."

Tim Rutherford says:

"Stone King has been working with Downside Abbey for well over 100 years and involved in every landmark step in the evolution of the Abbey, including now the separation of the School to ensure its continued future. From a legal point of view, this was a very complicated process to separate two institutions that have been completely interlinked for over 200 years. It required a breadth of expertise from Stone King, including property, commercial services, intellectual property, safeguarding, data protection and charity law with a number of teams working together very closely. We were delighted to assist Downside Abbey in taking the necessary steps to provide Downside School with independence and a robust structure that should enable it to thrive well into the next century and beyond."

Energy4All: one way to combat climate change



Most of us do our recycling and make small adjustments in our day-to-day lives in an attempt to combat climate change. Energy4All has been working at the other end of the scale for almost 20 years by setting up nearly 30 co-operatives that run their own renewable energy schemes, supporting the UK's transition to a low carbon economy.

The consultancy has supported, developed and managed projects from the south coast of Hampshire up to the Isle of Skye, including wind, biomass, solar and hydropower schemes, in collaboration with and funded by the communities that own them.

The organisation was formed in 2002 by the team behind the award-winning Baywind Co-operative Limited, which was the first UK co-operative to build wind turbines after it successfully raised £2 million through community share offers in 1997. Energy4All and its 'family' of co-operatives now have a cabinet overflowing with awards, including the prestigious Ashden Award given to sustainable energy pioneers and in 2018 the Outstanding Contribution to Community Energy Award by Community Energy England.

THEY RECEIVE PROJECT PROPOSALS FROM LANDOWNERS, FARMERS, COMMUNITY GROUPS AND EVEN COMMERCIAL DEVELOPERS.

THEY RAISE THE CAPITAL TO BUILD EACH PROJECT AND CONNECT IT TO THE GRID AND THE CO-OPERATIVE THEN EARNS INCOME FROM ELECTRICITY GENERATION UNDER A POWER PURCHASE AGREEMENT.

Annette Heslop MBE, Company Secretary and Finance Director, explains: "After Baywind we kept getting inundated with people wanting to replicate it. We've grown at a gradual rate since 2002 and we've created 27 co-operatives and counting, and every one of these has been a success."

To date, every project supported by Energy4All has successfully raised the money required for construction and, once built, has performed profitably, providing benefits to the community while delivering an annual return on capital to members.



And where does the money come from?

Local fundraising is usually not enough to pay for a project, which is why Energy4All reaches out to their growing membership to invest. “We make sure that local people have shares,” says Annette, “but people living in the city shouldn’t be excluded for not living close to a wind farm or not having a roof that they can put solar panels on. Each new co-operative brings in more members, so for each new share offer we can reach out to more people.”

WITH LEGISLATIVE CHANGES AHEAD, INCLUDING THE CLOSING OF THE RENEWABLES OBLIGATION AND FEED-IN TARIFFS SCHEME, THERE IS LIKELY TO BE AN EXPANSION IN SOLAR ENERGY PROJECTS.

So how do they work?

Energy4All is owned by the co-operatives it assists and each new co-operative takes a share in the organisation. They receive project proposals from landowners, farmers, community groups and even commercial developers.

Their business model, approved by the Financial Conduct Authority, offers environmental and community benefit with a reasonable investment return. They raise the capital to build each project and connect it to the grid and the co-operative then earns income from electricity generation under a Power Purchase Agreement.

Annette says: “We do a lot of hand-holding in the early stages. We find local people to act as directors and support them through the whole process, from pre-planning, funding and building the project. We then manage the projects once they are up and running, funded through an annual fee.”

Energy4All has moved from wind on to other forms of renewable energy, each requiring very different expertise, which the organisation has built up over the years.

“You bring in your experts but we’ve also found great people along the way with knowledge that we can tap into.” Annette explains. “We have also built up a huge bank of knowledge over time through our projects, we know the pitfalls.”

With legislative changes ahead, including the closing of the Renewables Obligation and Feed-In Tariffs scheme, there is likely to be an expansion in solar energy projects. For example, the Schools’ Energy Co-operative, set up by Energy4All, is one of the UK’s biggest rooftop solar co-operatives. Having completed five share offers, it now operates at more than 60 schools, with more signed up.

Annette concludes: “Every project has enabled people to do something practical about climate change and every share offer has been over-subscribed. Not everyone can install solar or build a wind turbine, but they still want to do something about climate change and taking a share in a community owned project is the next best thing.”

Julian Blake says:

“I have had the privilege of working with Energy4All since its first project in 2002. It is a leading and pioneering community renewable consultancy and each new co-operative they create is making a valuable contribution to its community and the national renewable energy agenda.”

Putting eye health under the spotlight

Over the past four years Moorfields Eye Charity has reinvented itself as a charity. Operating independently from the NHS, it has launched a new strategy and branding and has rolled out a new website earlier this year. All this, and its new legal structure is supporting the charity's ambition to become the leading independent funder of research into eye health and enabled it to push forward on a major £100 million capital campaign to build a pioneering facility for advancing eye health.

Moorfields Eye Charity supports Moorfields Eye Hospital NHS Foundation Trust and its academic partner the UCL Institute of Ophthalmology. Every year the charity raises millions of pounds so it can make vital grants for NHS staff development, research and facilities. In partnership with UCL and the NHS Foundation Trust, the charity is also pushing forward a capital campaign to build a cutting-edge integrated treatment, research and education centre. The new facility will be situated near Kings Cross in London and is due to open in 2026.



Moorfields Eye Charity

Besides its important work, one particularly noteworthy aspect of Moorfields Eye Charity is its origin as one of the first independent non-NHS charities under a structure which was innovative at the time it was set up, and the resulting relationship that it has with the non-charity that it supports.

Moorfields Eye Charity was established in 2011 as an independent fundraising charity associated with the NHS Trust but not subject to the restrictions then

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applying to NHS charities. Alongside this was the Special Trustees of Moorfields, an NHS charity. Stone King assisted the charities when they later officially combined forces within Moorfields Eye Charity, from 1 January 2016. The newly strengthened charity then recruited Robert Dufton as Chief Executive, who joined in January 2017 to bring about effective integration and create a new strategy. A number of employees were brought over from the NHS to the charity, which now has a total of 25 staff.

Robert Dufton explains: “Most NHS charities are controlled by the NHS but there was a public policy shift and encouragement from the Department of Health and Social Care for charities to take advantage of being separate. We were one of the earliest ones to do this. It means we can support but are able to exercise a clear discretion on how we achieve our charitable objects. The new charity is enabling us to strategically integrate our grant making and fundraising and has positioned us well to succeed in our capital campaign.”

Robert believes being an independent charity is also more attractive to donors. He says: “Working with major donors and for individuals considering making a donation or leaving one in their will, being an independent charity but linked to the NHS is a more effective way to gain their support. They can be confident that their donation is used as productively as possible.”

“WE NEEDED ADVICE TO GUIDE US BUT ALSO A PRACTICAL SOLUTION TO MANAGE CONFLICTS OF INTEREST BECAUSE THEY HAPPEN ALL THE TIME.”

This relationship as a charity that supports a non-charity is a critical one to manage in order to avoid conflicts of interest and running into legal difficulties.

Robert said: “How we manage our relationship with the NHS and be absolutely sure that we adhere to the Charity Commission’s guidance is vital. The NHS Foundation Trust appoints a minority of our trustees and provides services for us and the housing of the charity, and we support the Trust, so we have a deeply embedded relationship.

“We needed advice to guide us but also a practical solution to manage conflicts of interest because they happen all the time. This is one very critical area in which Stone King has given a lot of support. We worked with them to identify where the conflicts were arising, we then classified the type of conflicts and agreed a process. This means we don’t have to start from scratch every time a conflict comes up. We received some really clear, practical advice on how to meet our obligations and I believe providing practical solutions is the hallmark of really effective legal advice.”

Ann Phillips says:

“We have worked with Moorfields charities for over 15 years and it has been a privilege to support the merged charity as it grows and navigates any hurdles along the way. The charity plays a vital role as a funder of the incredible work now going on in the eye health sphere.”

Two IM appointments concluded in 2019

Continuing Stone King's long history of Interim Manager (IM) instructions, two further such appointments concluded in 2019. Interim Managers are appointed by the Charity Commission for a range of reasons, such as tax avoidance, religious disputes, terrorism and extremism.

Jonathan Burchfield, Consultant at Stone King who retired in December 2019, was appointed IM to the Fazal Ellahi Charitable Trust in August 2018. Concluding that the charity had no viable future, he closed it down and distributed its remaining funds to similar charities. In May 2019 the Charity Commission's inquiry report found that the trustees had failed to properly manage, administer and protect the charity and its resources, resulting in it being used to facilitate terrorism offences. The trustees were removed and disqualified.

In September 2019, the Commission published its inquiry report into the Essex Islamic Academy. The inquiry was announced after Umar Ahmed Haque was sentenced to life in prison for preparing terrorist

acts whilst employed at the charity. Mr Haque had previously pleaded guilty to disseminating terrorist material to children who attended the charity's madrassah. Among the Commission's findings was that the trustees had failed to act in accordance with the charity's safeguarding policies and they were removed and disqualified from acting as charity trustees.

Jonathan Burchfield, who was appointed as IM to Essex Islamic Academy with the Stone King team, said: "My role was to implement safeguarding procedures, review the charity's governing document, and its financial controls and policies, and then to find and appoint new trustees. I'm delighted the charity is now in the hands of a new, very committed and well-qualified board of trustees."

Stone King has one ongoing appointment, with Tom Murdoch, Partner in the Charity & Social Enterprise Team, appointed IM of The Central Gurdwara, for the purpose of determining the membership and supervising the election of a new board of trustees.

Stone King helping start-ups solve global challenges

An important new project for Stone King in 2019 was partnering with the Allia Future Business Centre on their exciting initiative to help innovative start-ups.

The venture is called The Future 20, a no-fee, no-equity incubator programme which is supporting 20 businesses all wanting to solve global challenges, such as climate action, clean water and sanitation, responsible consumption and wellbeing.

Successful applicants are receiving a bespoke 12 to 18 month package of strategic support and practical business advice from Allia and a network of professional partners, with Stone King contributing tailored legal guidance in areas including governance, raising investor funds, intellectual property and employment issues.

Tamsin Eastwood, a Partner in Stone King's Corporate & Commercial Team, said: "The Future 20 is an exciting opportunity to highlight the support that is available to innovative businesses that want to improve the world. At Stone King we have a wealth of experience in working with this sector establishing and building on relationships between private sector investors



and community initiatives as well as providing skilled and tailored legal expertise. We are delighted to be involved and help these forward-thinking initiatives."

Start-ups are supported at one of Allia's three Future Business Centres in east London, Cambridge or Peterborough, or through its network of partner locations nationally.

Martin Clark, CEO of Allia Future Business Centres, said: "We are looking to leverage everything we and our partners can provide to ensure their acceleration and success in their ambition. Our partners represent some of the best sector specific and professional support available and we are delighted to collaborate with them all in this programme."



To be, or not to be (a registered charity)

“CHARITIES ARE THE EYES, EARS AND CONSCIENCE OF SOCIETY. THEY MOBILISE, THEY PROVIDE, THEY INSPIRE, THEY ADVOCATE, AND THEY UNITE.”

In October 2019, Stone King hosted a high profile debate chaired by Baroness Pitkeathley, President of NCVO, which explored the ‘traditional’ charity model and whether the future may lie in social enterprises (and other alternative vehicles). It left the floor and expert panellists with ample food for thought.

“Charities are the eyes, ears and conscience of society. They mobilise, they provide, they inspire, they advocate, and they unite”, quoted panellist Rosie Chapman, Chair of the Charity Governance Code Steering Group, citing the 2017 House of Lords Committee report ‘Stronger Charities for a Stronger Society’. Putting forward her case for charities she highlighted the voluntary nature of trusteeship as one of charities’ distinguishing features, with transparency and regulation giving registered charities credibility. Kathy Evans, Children England’s Chief Executive, echoed the view that gift-giving, be it financial or volunteering, is one to be cherished and emphasised that charitable mission comes before money.

Chris Wright, Chief Executive of Catch 22, argued that social enterprises are more responsive to people’s needs and lend themselves to entrepreneurship, with fellow panellist Precious Sithole, CEO of the Social Practice ENT, highlighting that limited funding coupled with a high level of regulation can impede charities from engaging with some of the time’s most pressing issues, with high expectations laid at the feet of voluntary trustees.

Panellists agreed an overall conclusion that the development of social enterprises was welcomed with consensus that the two models, and their various incarnations, can co-exist.

67% FAVOURED THE MOTION DEFENDING THE ‘TRADITIONAL’ CHARITY MODEL.

In a series of yes / no questions posed to the floor after the debate, 67% favoured the motion defending the ‘traditional’ charity model. In addition, 73% believed there should be a legal definition of ‘social enterprise’ and 67% agreed they should be subject to specific regulation. Furthermore, 70% favoured charities having paid executive trustees and 71% felt charities should be allowed to undertake purely commercial trading to raise funds.

Our charity law consultant Jonathan Burchfield retires after four decades

Forty-three years after his first day as a practising lawyer, our charity law consultant Jonathan Burchfield, former head of our charity team, has retired from legal practice after some 14 years with Stone King.

Having started out as a private client lawyer at Kenneth Brown Baker Baker in 1976, Jonathan's career took a turn towards charity law in the early 1990s. Working at what was by then Turner Kenneth Brown (TKB) at the time of the Charities Bill in 1992, it became clear that charity law was becoming a specialist sector. He formed a charity sector group and found himself quickly building up a number of high profile clients. TKB became part of Nabarro Nathanson in 1995, and Jonathan moved with Nabarro's charity team to join Stone King in 2006.

For Jonathan, headline cases have included a major reorganisation of an international children's charity, a high profile merger of four separate charitable organisations; several 'charitisations' (where a public sector organisation reorganises into a charity structure in order to better deliver its purpose), and as a trustee of a major spend-out grant-making charity.



Jonathan was also appointed interim manager three times by the Charity Commission, to oversee charities going through Charity Commission Inquiries, including those of The Cup Trust, The Fazal Ellahi Charitable Trust and, most recently, The Essex Islamic Academy.

He said: "My varied work has taught me so much. Most of all I have learnt what a privilege it is to work with these clients in order to help them achieve their charitable objectives. With that privilege comes a huge responsibility for us as charity lawyers. I have been helped in discharging that responsibility by having a great team of lawyers around me at Stone King."

A significant year for our Chairman

In the same year that Stone King Chairman Ann Phillips was named Outstanding Individual of the Year at the Citywealth Powerwomen Awards, she also reached the 40th anniversary of her admission as a solicitor. Ann has chalked up an impressive list of achievements but says her 'ambition has always been the same and that is simply to do the best job I can'.

Having studied law at Oxford University, Ann started on her training contract, or Articles as it then was, with Stephenson Harwood.

Law was a 'natural choice' for Ann. She said: "My father was a solicitor in local government. I watched him when he was in court and became really interested in the process. The course I did was quite academic and I felt I knew very little about the practical side when I started as a trainee, but when

I began meeting clients and working on their legal problems I knew I had made the right decision."



After 24 years at Stephenson Harwood Ann joined Stone King in 2001, keen to join its growing charity team in what was then a small London office. She has been Chairman of the firm for six years and has been instrumental in building up Stone King's expertise and reputation in the charity legal sector. She was also Chairman of the Charity Law Association from 2011 to 2014 and continues to be a trustee for a number of charities.

Ann is stepping down from her role as Chairman in 2020 when she retires as a Partner - but we are pleased to say she will still be with us for a while as a Consultant.

ACEVO Conference 2019



Stone King was delighted to sponsor the 2019 ACEVO Annual Conference. Talks and panel discussions focused on a broad range of issues, including challenges faced by charity leaders; creating positive, empathetic and inclusive cultures; responsible fundraising; making the most of young talent; responding to climate change; charity governance, and many others.

Hannah Kubie, Partner in the firm's Charity & Social Enterprise Team, said: "We had a constant stream of people at our stand. They came from a range of different types of organisations which shows the breadth of the conference's audience and it was fascinating to learn more about the charities and social enterprises they represented."

Stone King's Reema Mathur appointed vice chair of the Charity Law Association

Reema Mathur, Partner in Stone King's Charity & Social Enterprise Team, has been appointed to the role of vice chair of the Charity Law Association (CLA). The CLA plays a leading role in improving knowledge and awareness of charity law issues by responding to proposed changes to the law and liaising with sector bodies such as the Charity Commission.



Stone King advises South Korean Legislature on charity legacy taxation



Stone King was appointed to advise the South Korean Legislature on tax incentives for leaving money to charity in wills. In June 2019, Partner Dan Harris, Head of Stone King's International & Cross-Border Team, delivered a presentation in the National Assembly to members of the South Korean Legislature, followed by detailed discussions with government advisors, heads of South Korean charities and academics.

He said: "The South Korean Legislature is looking for advice on tax incentives used in other countries, to encourage individuals to give to charity. We are honoured to have been invited to advise on such an important issue."

Stone King voted one of the UK's Best Law Firms

Stone King has once again been included in the prestigious Times Best Law Firms 2020 survey, singled out as a top 3 law firm in the charity sector and commended for its excellence in education law. Solicitors in England and Wales were asked to recommend which they think are the best law firms across several categories to identify the top 200 out of a possible 10,000 firms.

Giving back



Fundraising

At Stone King we care about our communities. As part of the firm's Corporate Social Responsibility (CSR) policy, our people are encouraged to take a paid day per year to support a charity. Firm-wide fundraising activities also support our chosen charity, which in 2019 was mental health charity Mind. Events included a spinathon, sweepstakes, quizzes and sponsored sports events. Teams and individuals also took part in a myriad of other fundraisers across our national office network to support their own chosen charities.

The firm also supports other causes, such as sponsoring the inaugural Big Hearted Bike Day in Bath and we are proud sponsors of the Charity Category at the Bath Life Awards, offering free legal training sessions to all shortlisted and winning charities.



Stone King Foundation

We also support charities through the Stone King Foundation, which acts as a grant-making body, using funds donated by the firm. Its trustees are Stone King partners and colleagues. The Foundation supported more than 40 charities in 2019.



Sustainability

We are committed to sustainability and doing our part to protect the environment. Over the last year we launched a Going Green campaign and our people are challenged to put forward workable ideas of how we can be a more sustainable business. Winning ideas have included building eco-bricks, replacing cow's milk with plant-based alternatives and getting rid of desk bins to reduce single-use bin bags. Our marketing team has swapped to sustainable promotional materials, including recycled newspaper pens, sustainably-sourced paper, bamboo USB sticks, fabric banners, and it has removed highlighters and plastic carrier bags.

Businesses join Stone King for litter pick

We launched a community litter pick initiative in September 2019, and asked local businesses to join us. Our Cambridge and Bath offices arranged local litter picks on the same day, with a particularly enthusiastic response from Bath businesses. More than 40 volunteers from 14 firms helped to clear rubbish and some 30 bags were collected in just one hour. More litter picks are in the pipeline for 2020.

Charity Essentials Training 2020

ENTHUSIASM, PLUS EXPERTISE AND EXPERIENCE - CHARITY TRAINING FROM STONE KING

We have developed our training programme to equip charity trustees and members of senior management teams with the knowledge needed to carry out your roles effectively. Our Charity Essentials programme offers a number of introductory sessions across various locations in the UK. Covering key Charity Commission guidance and the underlying charity law duties, the aim is to guide you to implement best practice, prevent problems, as well as helping you deal with them should they arise, and to recognise when further input is needed.

The sessions are built around the Charity Commission's core guidance, including 'The Essential Trustee', 'Conflicts of Interest: a Guide for Charity Trustees', and the Governance Codes of Practice endorsed by the Commission. You will improve your understanding of the context in which the Charity Commission operates by exploring their strategy and approach in areas such as safeguarding and serious incident reporting. The session considers case studies to examine best practice governance in practical settings. Topics include:

- the evolving role of the Charity Commission and its interaction with other regulators;
- key duties and liabilities of charity trustees as illustrated by recent case reports;
- working as a board, with senior management, and managing difficult situations; and
- updates on the latest developments.

All sessions are interactive and provide the opportunity for you to put your questions to expert advisors. They are all are priced at £25 (including VAT).

Bath

Monday 16 March | Tuesday 20 October

Birmingham

Thursday 12 March

Cambridge

Thursday 4 June

Leeds

Wednesday 6 May | Thursday 24 September

London

Tuesday 24 March | Tuesday 19 May

Thursday 8 October | Thursday 3 December

We are also running a series of training sessions on specific topics, including those below. In addition, sessions on Property, Accounts and Third Parties will run later in the year, all priced at £25 (including VAT).

Employment

London - Wednesday 26 February

Bath - Thursday 19 March

Immigration

London - Tuesday 31 March

Safeguarding

London - Wednesday 17 June

Bath - Thursday 25 June

For further details on all these training events and to book, please visit our website at stoneking.co.uk/events or contact us on 0800 111 4336 or events@stoneking.co.uk

About Stone King

We are one of the three top rated charity law firms nationally, recognised by Chambers and Partners. Our work with charities and social enterprises is at the centre of our practice and approximately two thirds of our work is for not-for-profit organisations. Our lawyers act for many hundreds of charities across the sector from household names, including almost 200 of the largest charities in the UK, through to local community groups. The depth and breadth of our experience means we understand the environment in which charities and social enterprises operate and the issues that they face. Charity is not a speciality for us, it is at the heart of what we do.

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