



Charity and Community – Facts and Figures

- The different types of organisation in this sector?
- The overall market size and profile

Specific Underwriting Considerations

- Safeguarding
- Use of volunteers
- Fundraising
- Provision of advice and services
- Structure, Trustee role and duties



What is a charity?

The Charities Act 2011 (applicable to charities in England and Wales) defines a charity as a body or trust which:

- is for a charitable purpose and
- is for the public benefit

Charities are diverse in terms of size, structure and purpose

What is a Community Interest Company (CIC)?

- Limited companies, for those who want to conduct a business or other activity for community benefit.
- Achieved by a "community interest test" and "asset lock"
- Separate regulator – “lighter touch” regulation
- not a charity but could be subsidiary trading company of a charity.

What are other “not for profits” ?

- There are other “not for profit” voluntary organisations for which charitable status may not be appropriate.
- Many small societies, clubs operate on a “not for profit” basis but do not necessarily have charitable status.

Market Size and Profile

Charities

- Over 180,000 charities in England and Wales **registered** with the Charity Commission
- estimated that there are another 80,000 charities that do not need to register (because they are too small or are **exempt** or **excepted** from registration)
- There are 23,000 charities in Scotland registered with the Scottish Charity Regulator (OSCR)

Market Size and Profile

Community Interest Companies

- There are almost 10,000 Community Interest Companies in the UK

Other “not for profit” organisations

- Estimate of 100,000 is not unreasonable – these organisations will generally be micro in size with an income below £5,000.

Market Size and Profile

Charities

- 94% charities are small and have an income of less than £500k but account for only 11% of the total charity market income
- 1% of charities have an income of more than £10m
- The top 500 charities by size account for almost 50% of the total charity market income



Understanding the risk

- **Safeguarding and Abuse** - Work with vulnerable people ?
- **Volunteers** – numbers, supervision, activities?
- **Fundraising events** – nature and involvement?
- **Provision of services or advice** – PI cover needed?
- **Structure, Role and Duties** – Trustee liability?

Safeguarding and Abuse

Many charities work with vulnerable groups:

- Public liability is **generally** the relevant cover for civil liability claims
- An indemnity to the employer if held legally liable to pay damages for bodily injury/illness arising from abuse
- No indemnity to the perpetrator – an intentional criminal act

Safeguarding and Abuse

The challenge for insurers:

- Over the last 15 years the law has developed in favour of the claimant
- Abuse claims may not materialise for many years after the incident
- Conventional losses occurring cover - the insurer at the time of the incident who would deal with the claim
- Long term nature of abuse – difficultly for the insurer investigating what happened many years ago and an uncertainty about future claims and pricing

Safeguarding and Abuse

Insurance market response:

- Some insurers have changed to claims made - the insurer at the time of the claim who would respond
- Cover would die with policy cancellation – less certainty of future cover
- Other changes – “inner limits”; “per period limits”; “exclude abuse”
- A very mixed and evolving market

Safeguarding and Abuse

The future:

- More litigation to determine extent of judicial discretion to extend and developments in case law/legislation
- Greater focus on safeguarding issues – prevention and mitigation is key
- Defending is unlikely to be an option for many civil claims – especially where there has already been a conviction
- Poorly managed risks are unlikely to be able to secure cover

Volunteers and exposure

- Most charities could not operate without volunteers
- Insurers need to understand the number (FTE) and nature of work undertaken – exposure and risk exposure
- Volunteers should be treated as employees – selection, training and supervision
- Catastrophic injuries can happen where volunteers undertake tasks beyond their capability – falls from height the most common

Fundraising events

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Risk & liability

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**Charity
as the
beneficiary**

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**Charity as
the
facilitator**

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**Charity as
the
organiser**

Case study: Bottomley v Todmorden Cricket Club

- Insufficient third party checks
- Breach of duty of care
- Foreseeable injury



Case Study: Gwilliam v West Herts NHS Trust

- Contractor operated a splat wall at an NHS fun day
- Wall was poorly constructed and not supervised
- A member of the public was injured
- Competence of the contractor and insurance was checked
- NHS Trust not jointly liable even though contractors insurance had lapsed



Provision of services or advice

Issues impacting the charity market

- Austerity increasing charities reliance on volunteers
- Charities being contracted by local authorities exposing them to higher risks
- Underinsurance is a potential problem facing charity market

Provision of services or advice

UK charity survey - 2014

Did Non-profit organisations provide professional advice to clients as part of their service?

- **59.7%** - Did not provide any advice
- **40.3%** - Did provide advice

Provision of services or advice

UK charity survey – 2014

Of those Non-profit organisations providing professional advice, how many carry professional indemnity cover?

- **63%** - Have PI insurance
- **37%** - Do not have PI insurance

Provision of services or advice

Questions you should ask your clients.

- Does your organisation provide advice or support, given by staff who hold specialist knowledge or a particular skill set?
- Do you consider your organisation to offer professional or expert advice or knowledge and information on a specific subject matter?
- Does your organisation handle, hold or store customers information and publicise all your services via a website?

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If Yes, then Opportunity



Structure

Legal Structure of Charity (eg Trust, Association, CIC, Ltd Co)?

Charity

Trustee

Which one?

- **Incorporated** charity – a legal entity, Trustees have more protection
- **Unincorporated** charity – not a legal entity, Trustees unlimited liability

Structure

Charities governing document, regulation and the Law?

- Trust deed, constitution, articles of association, will, conveyance, Royal Charter, Scheme of the Commission
- Charity Commission, The Office of the Scottish Charity Regulator, The Charity Commission of Northern Ireland
- Charities Act 2011, Trustees Act 2000, Companies Act 2006

Trustees Role

- have independent control over, legal responsibility for, a Charity's management and administration
 - also known as officers, board members, governors or committee members and directors
- extends to include employees

Organisation

- named in schedule (title ?)

Trustees Duties

There are Six clear duties

- **Ensure charity is carrying out its purpose for the public benefit**
- **Comply with charity's governing document and the law**
- **Act in the charity's best interests**
- **Manage the charity's resources responsibly**
- **Act with reasonable care and skill**
- **Ensure the charity is accountable**

Charity and Community - Conclusion

- **Diverse sector**
- **Opportunities**
- **Education**
- **Specialist market**
- **One size does not fit all !**

Questions ?