



Africa Now

Review Visit Report

8 March 2007

1. Introduction	1
2. Charity Profile.....	3
3. Objective A – To identify good practice and innovation in operation at the charity	5
4. Objective B – To review key aspects relating to the charity’s governance	6
5. Objective C – To explore issues relating to working internationally	9
Annex - Guidance relating to the support of social enterprises by charities.....	11
Charity Action Plan.....	12

This report was compiled on the basis of information provided to Commission staff before, during and after the visit to the charity on the date shown. Whilst the Commission has taken care to ensure the accuracy of the report and that it adequately reflects the charity’s activities, we cannot guarantee the accuracy of the information received upon which this report is based.

© Crown copyright 2007. This report may be reproduced free of charge in any format or medium provided that it is reproduced accurately and not used in a misleading context. The material must be acknowledged as Crown copyright and the title of the report specified.

1. Introduction

This report has been prepared by the Charity Commission ('the Commission') following a Review Visit to Africa Now on 8 March 2007.

The Review Visit was conducted by the following Commission staff: Tony Pino and Caroline Timms.

The Charity was represented by: Phillip Angel (Chair), Usha Kar (Executive Director, and David Basham ((Head of Finance & Administration)

A Review Visit is one of the primary methods that the Commission uses to engage in dialogue with the charitable sector. The purpose is to:

- Ensure compliance with the legal framework within which the charity operates;
- Identify evidence of good practices already in place and advise on areas for improvement;
- Learn about how charities in different parts of the charitable sector operate, and what issues are currently influencing or concerning them.

A Review Visit cannot cover every aspect of a charity. It is instead based around agreed objectives, which relate either to particular issues arising from our analysis of background information on the charity, or to specific projects/interests of the Commission.

For this reason, a Review Visit should not be regarded as an audit or an inspection; nor does it provide an accreditation. Nor is the report intended to be a full record of all the issues or of the information considered or discussed.

The Commission aims to be a proportionate regulator: the report only addresses those matters which the Commission identifies as being of genuine regulatory concern or of significant regulatory interest.

In addition to any sources of information signposted in the report, we would encourage charities to take advantage of the wide range of advice and guidance available to the

charitable sector from the Commission and other bodies. In particular, we would recommend the following sources of information:

- The Commission's guidance¹ [CC3 The Essential Trustee: what you need to know](#);
- [CC60 Hallmarks of an Effective Charity](#);
- [CC30 Finding New Trustees - What charities need to know](#);
- Guidance from The National Hub of Expertise in Governance: [Good Governance: a Code for the Voluntary and Community Sector](#)²;
- Guidance from the UK Workforce Hub: [The National Occupational Standards for trustees and management committee members](#)³;
- Guidance from [HM Revenue & Customs Charities](#)⁴

All of these publications signpost to further sources of information.

As far as it is compatible with the Commission's regulatory role, the Commission intends Review Visits to be based on co-operation between the charity and the Commission. We will seek to agree Recommendations with the charity and try to ensure that any deadlines for action are reasonable. The Commission can provide further guidance if the trustees require it.

Following changes to the format of the Review Visit programme, many of our visits, as well as continuing to aim at benefiting the individual charities concerned, are also part of wider projects which may lead to the publication of topical or sector reports. In the case of this

¹ All our guidance and publications are available on our website www.charitycommission.gov.uk.

² Published by the NCVO on behalf of the Hub and available on the Governance Hub website www.governancehub.org.uk.

³ Published by the NCVO Publications on behalf of the Hub and available on the UK Workforce Hub website <http://www.ukworkforcehub.org.uk/DisplayPage.asp?pageid=8702>.

⁴ HM Revenue & Customs Charities website <http://www.hmrc.gov.uk/charities/index.htm>.

Review Visit, we are collating information in order to undertake an analysis of those charities which work overseas, either fully or as a part of their charitable activities. This may include making grants overseas. The Commission's current guidance on [*Charities Working Internationally*](#) can be found at: www.charitycommission.gov.uk/supportingcharities/cwi.asp

2. Charity Profile

2.1 Charity Details

Charity Name:	Africa Now
Registration Number:	283024
Governing document:	Memorandum and Articles of Association, as amended 25 September 1996 and 23 July 1999.
Objects:	The relief of poverty, the relief of sickness and the advancement of education in any part of Africa.

2.2 Management & other structures:

The members of the Council of Management are responsible for the management and administration of the charity and are the charity trustees for the purpose of section 97(1) of the Charities Act 1993: they are referred to as 'trustees' throughout this report. The trustees are also the directors for the purposes of company law.

small-scale African producers and workers. This is more likely when African people play a significant role in the definition of these ethical criteria and standards.

2.3 Background information (from charity sources)

Africa Now is an international development organisation tackling poverty in Africa by helping small-scale producers, and promoting ethical trade.

Africa Now promotes equitable and sustainable work and jobs for rural Africans through projects, services and advocacy which enable them to take advantage of market opportunities and fairer trade to achieve a decent standard of living.

The charity wants to see Africa free from poverty. Opportunities for enterprise in farming, business and paid employment in Africa will enable all people to realise their full potential and achieve a decent standard of living.

Africa Now helps marginalised smallholders with:

Africa Now believes that market-based opportunities in business and trade can be made accessible to everyone.

- Knowledge of higher value products
Techniques and equipment to process their crops to add value to them when they are sold
- Training in small business skills such as planning, budgeting, financial and legal knowledge
- Market knowledge: when and how to get the best prices for their products, what standards are required for the export market, and how to meet them
- Links to financial services: not only loans, but also secure deposits, savings, leasing arrangements, and insurance
-

With the right kind of support, disadvantaged people in Africa can make use of these opportunities to improve their standard of living permanently.

Ethical and fair trade practices can increase the income and wellbeing of

Africa Now works with the private sector to:

- Encourage international companies doing business with Africa to adopt ethical trading practices and investment policies
- Conduct ethical audits, producing and implementing corrective action plans
- Raise the capacity of African nations to provide ethical business development services

The charity is looking to expand – possibly to an approximate annual income level of £4m. This is believed to represent a level of critical mass that would allow the charity to optimise its ability to attract funding. This growth has been anticipated in the form of improvements to governance, particularly in the area of financial reporting and controls. However, the charity is committed to ensuring that it does not have a dash for growth at the expense of quality.

In the year ended 31 March 2006, the charity's income was £1,017,695 and its expenditure was £757,034.

3. Objective A – To identify good practice and innovation in operation at the charity

The information provided by the charity before and during the review visit gave rise to no cause for concern and painted a picture of an organisation which is working innovatively and is anticipating change.

The general impression was of a charity that already had numerous characteristics of an effective charity. Evidence of this includes (where not referred to elsewhere) the following – the list is not intended to be exhaustive:

- A clear focus on the vision, mission and values of the charity
 - Annual business-planning cycle, and strategic planning for organisational growth
 - A culture of planning for projects and measuring their outcomes
 - A risk-management process that covers risks in the field to staff and resources
 - Trustees drawn from a diverse background with a range of skills
 - Collaborative working with commercial, public and third sector bodies and communities in Africa
 - Trustees' Report and Accounts, and the charity's website provide comprehensive details of the activities of the charity.
 - Trustees' minutes demonstrate a good level of discussion of a wide range of important governance and financial issues.
 - Systemised financial controls in the field
 - A conflicts of interest policy
 - Trustee eligibility check via self-declaration
 - The small number and nature of the action points identified in this report
- The charity's accounts for the year ended 31 March 2006 were compliant with the Charities' SORP⁵

⁵ "Accounting and Reporting by Charities: Statement of Recommended Practice" (revised 2005), available from our website at: <http://www.charitycommission.gov.uk/investigations/sorp/sorp05docs.asp>

4. Objective B – To review key aspects relating to the charity’s governance

4.1 Action points

Recommendation 1: Consider including a new object for community capacity building

The Commission generally recommends that all charities keep their objects under review to ensure that they remain relevant to the charity’s work. The charity’s objects give the trustees fairly wide discretion in applying the charity’s funds. Whilst this can be an advantage, it can make it more difficult for trustees to identify the charitable purpose that a particular activity is intended to further. This is particularly so when the charity using more innovative and creative means to achieve its objects.

The charity’s current activities reflect a specific approach aimed at helping create sustainability in the communities it supports. In our view, these activities are consistent with the charitable purpose of community capacity building.⁶ We would recommend that the trustees consider whether the standard objects for community capacity building provide a clearer remit for the charity. Such objects would seem to carry two main advantages:

- they would give a specific legal framework within which the trustees would have clearer guidelines, as set out in the Commission’s guidance. This would make it easier to match outcomes with a specific object, and to demonstrate public benefit

- they would give a better picture to the external observer of the charity’s principle activities.

The standard objects are:

"To develop the capacity and skills of the members of the [socially and economically] [socially] disadvantaged community of [] in such a way that they are better able to identify, and help meet, their needs and to participate more fully in society"

Changes to the objects would require the prior written consent of the Commission under section 64 of the Charities Act 1993.

Recommendation 2: Consider updating the the charity’s memorandum and articles of association.

We generally recommend a periodic review of charities’ governing documents to ensure that their provisions reflect current practice. Some specific areas where we would recommend a review are:

- (a) Modern drafting practice would separate out the present sub-clauses 3(A) to (J) into a new clause 4. This preserves the objects clause as exclusively charitable (rather than a mixture of objects and powers as at present), and can make it easier to make subsequent changes to the powers. Proposed changes to clause 3 require the Commission’s prior consent under section 64 of the Charities Act 1983.
- (b) Appointments of the vice-chair and treasurer are not specifically covered. For the avoidance of doubt about procedure, the procedures currently referred to on the Trustees’ Annual report could be incorporated formally into the articles.
- (c) Article 113 could be updated to refer to disqualifications under section 72 of the Charities Act 1983 (and any subsequent re-enactments).
- (d) It is not clear if the trustee appointments process described in the Annual Report is

⁶ For further information, see the Commission’s publication RR5: *The Promotion of Community Capacity Building*, available from our website at: <http://www.charitycommission.gov.uk/publications/rr5.asp>

consistent with the provisions of the articles. These should be aligned to avoid invalid or contested appointments.

Recommendation 3: Consider building a public benefit test into the charity's planning processes, particularly at project level

We have no concerns about the types of activities in which the charity engages. This recommendation relates only to enhancements to the charity's existing risk-management and planning/reporting processes.

The charity operates in a fascinating area of charitable activity where it is helping African communities establish sustainable livelihoods. This involves it in an entrepreneurial environment where charities have a proper role to play, but where there are risks to be identified and managed. These arise particularly in relation to ensuring the primacy of public benefit where individuals (or possibly commercial bodies) may be receiving a private benefit from the charity's activities.

For example, a charitable purpose such as urban and rural regeneration⁷ (which include activities similar to those of the charity) envisages a level of private benefit to individual entrepreneurs as an appropriate and incidental by-product of the delivery of wider public benefit. An entrepreneur him/herself is only likely to qualify as a charitable beneficiary in certain limited circumstances, and then probably for a restricted period of time (i.e. at start-up of his/her business). The public benefit is usually to be found in the charitable service provided to a wider community through, for example, the employment or training opportunities provided by the entrepreneur's activities.

⁷ See the Commission's guidance RR2 *Promotion of Urban and Rural Regeneration*, available from its website at: <http://www.charitycommission.gov.uk/Library/publications/pdfs/rr2text.pdf>

Similar considerations arise where charities are supporting social enterprises. Some general advice on this area is given in the Annex to this report.

Given the emphasis in the new Charities Act 2006 on public benefit, charities are going to have to be able to demonstrate that they meet the public benefit test. This may take the form of additional information provided through their annual reports.⁸

To simplify the trustees' task in demonstrating public benefit, we would recommend that they consider building into project planning a process which relates specifically to the public benefit test. For example, this could include:

- identifying any benefit to a private individual (say, a local entrepreneur) or other commercial interest that is likely to arise from the project
- assessing if that private benefit is legitimately incidental (see annex for definition)
- considering what safeguards need to be planned to manage a private benefit - the charity's existing policy of ceasing support when a business has reached a certain point in its development would seem to be a good example
- keeping an audit trail of the process/decisions that can feed into project and top-level reports

Such an approach would seem to fit well with the charity's ethos and culture. It is already clearly focused on desired outcomes in its project planning.

4.2 For reference

There was a general discussion at the meeting about how to deal with the negative consequences of serious dissension on trustee boards. (This does not reflect any problem with the current board). One possibility is a code of

⁸ See the Commission's Consultation on Draft Public Benefit Guidance, available at: <http://www.charitycommission.gov.uk/news/pbnewsindex.asp>

conduct for trustees to remind them of what the charity considers to be acceptable behaviour.⁹

The charity operates an Ethical Business Service, and has already taken advice from the Commission about it as a trading activity. The service is seen by the charity as a primary purpose trading activity. This means that it is an activity which directly furthers the charity's objects and is properly undertaken by the charity itself.

Such activities should always be kept under review, particularly when they expand. If, for example:

- the main driver of the service changes to one of income-generation, or
- the benefit becomes primarily a private one enjoyed by the commercial organisations it helps,

then it will be necessary to hive it off to a trading subsidiary. The issue surrounding public benefit mentioned above is, therefore, also relevant here. The questions to ask are: What charitable purpose is the service furthering? Is there a predominant public benefit?

Even where the service remains a primary purpose trading activity, it may still be appropriate to consider hiving it off to ring fence any financial risk to the charity.¹⁰

⁹ A sample code of conduct is available from the NCVO's website at:
<http://www.ncvo-vol.org.uk/askncvo/TrusteeGovernance/?id=626>

¹⁰ Further information can be found in the Commission's guidance CC35 *Charities and Trading*, available at:
<http://www.charitycommission.gov.uk/Library/publications/pdfs/cc35text.pdf>

5. Objective C – To explore issues relating to working internationally

5.1 Activities, Objects and Nature

The charity supports the creation of sustainable enterprises by producing business models and guidance that are appropriate to local circumstances. The charity's projects help to link people with markets, and operate in partnerships with the corporate and micro-finance sectors. This includes the setting up of infrastructures and providing training. It is intended that the benefits cascade down through the local communities.

The charity undertakes community needs assessments before the start of its projects. This might start with discussions with other agencies to assess the global picture affecting the region and to map what services are already being provided. The local communities in Africa are also very important stakeholders of the charity. The charity sees ownership of its activities resting with these communities and most of its activities are driven from the field. The charity liaises with other NGOs on the ground to avoid duplication.

Most of the charity's income is applied in Africa. Projects often require matched funding.

The charity has staff in the UK but most of its employees are in Africa. These include project managers and field accountants.

5.2 Impact measurement

Evaluations are carried out at each stage of a project and at completion. Outcomes and successes are partially defined by those the projects are set up to benefit, and also by the requirements of donors. The charity is also thinking about carrying out a 'longitudinal' impact assessment, looking at the negative and unintended outcomes of projects.

5.3 Processes and Security

Money is sent overseas via bank transfer. A monthly report is submitted by the charity's country representatives. Local accounts are reconciled. Transferred funds can be either:

- project-related, in which case the money is sent out in tranches, or
- local office administration costs – these are generated by local office requests which are considered by Head Office and questioned as necessary

The charity has field accounting, using SAGE software and locally-based accountants. There is a detailed audit for each project, with pre- and post-evaluations, and reconciliations. The charity has also strengthened financial management at Head Office in last few years – this is now in-house – and includes the formalisation of budgets, planning and monitoring.

Because ethical business is at the heart of what the charity does, it will not countenance the misuse of funds. It will not condone misappropriation in the field and has sacked staff to establish a clear message about the standards it expects. The charity's Ethical Business Service is a clear demonstration of its philosophy and makes the charity very aware of the ethical risks. It is looking to commission an ethical audit of the charity and to develop a child protection policy.

5.4 Governmental issues and financial transfer regulations

The charity's experience of foreign regulation has so far been a reasonable one. It is prohibited from working in Zimbabwe (along with other UK NGOs), and gets round this by running its Zimbabwean operations from over the border in Namibia. Registration as an NGO is required in Namibia. There have been no problems with government corruption. The problems the charity experiences are more to do with local egos and power bases.

The charity finds out about regulatory issues through its local networks in Africa. The charity has had experience of AML but this has been reasonable.

5.5 Risk Management

The charity considers the risks associated with staff operating overseas and with the proper use of funds in the field. Every field officer has a security plan that covers the relevant issues, including financial controls and accounting, and health and

safety. Mitigation includes the financial control regime mentioned above. The charity has attracted staff from other, larger, NGOs and who are already familiar with infrastructural/governance issues. This has meant that the charity has not had to reinvent the wheel when establishing its own processes and procedures.

5.6 Charity Commission

The charity does use the Commission's guidance as and when necessary. It was not previously aware of the guidance on Charities Operating Internationally.¹¹

¹¹ Available at:
<http://www.charitycommission.gov.uk/supportingcharities/cwi.asp>

Annex - Guidance relating to the support of social enterprises by charities

1. Principles relating to the character of charity

It is worth setting out some of the important principles that underpin the character of the legal concept of charity. They are:

- charities are bodies established for charitable purposes only;
- charities can only undertake activities which further those purposes;
- there must be a sufficient link between those activities and the objects; and
- charities are established for the *public* benefit.

The first three of these principles are relevant because they explain why one body, undertaking the very same activities properly undertaken by a charity, may not necessarily itself be a charity. For example, providing work experience opportunities and training can be activities which are carried out by both charitable and non-charitable organisations

The last principle is one that explains the importance of the context in which activities are undertaken by a charity. Any *private* benefit that may arise from a charitable purpose or activity can only ever be acceptable where it is legitimately incidental to the provision of *public* benefit. Therefore, the same activity can be acceptable where there is no, or incidental, private benefit and be unacceptable where the primary benefit is to private individuals.

A private benefit is legitimately incidental if:

- it arises as a necessary but incidental consequence of a decision by the trustees; and
- that decision is directed only at furthering the organisation's charitable purposes; and
- the amount of private benefit is reasonable.

We usually refer to the concept of where the predominant benefit lies as the 'poise' of an activity or organisation.¹²

¹² For further details, please refer to the Commission's guidance on the Public Character of

2. Supporting social enterprises

(a) If the social enterprise is a charity...

... it is open to a charity to support it or any of its activities, provided that the charity's trustees are satisfied that the activity to be supported is directly in furtherance of:

- their charity's stated objects; and
- the social enterprise's stated objects.¹³

(b) If the social enterprise is not a charity¹⁴

... it is still possible that it carries out activities or provides services which are capable of furthering charitable purposes. It will be possible for the charity to provide support to it provided that:-

- the activity being supported is one which falls within the charity's objects
- the support is confined to the activity which furthers the charity's objects, and not the wider activities of the social enterprise; and
- any benefit accruing to the social enterprise is legitimately incidental and is outweighed by public benefit.¹⁵

Charities (RR8), which is available at www.charitycommission.gov.uk/publications/rr8.asp

¹³ This is same consideration for any project to be supported by a charity.

¹⁴ This will always apply to organisations established abroad. By definition, any organisation established outside the jurisdiction of the High Court for England or Wales cannot be a charity. However, foreign-based bodies may well have many, and even all, of the characteristics of a charity under English and Welsh law.

¹⁵ Further information is available in our guidance on Charities and Social Investment, particularly paragraphs 22 to 25. The guidance is available at: www.charitycommission.gov.uk/supportingcharities/casi.asp

Charity Action Plan

Charity: Africa Now
 Date of Review: 8 March 2007

Charity number: 283024

Legal Requirements		
Requirement	Date for implementation	Comments

Recommendations		
Recommendation	Acted on / Not acted on	Comments

To enable the Commission to record the impact it is having, and as a means of helping us to determine the extent of any further follow-up needed, we would ask that the charity's representatives provide information on the actions they have undertaken in relation to the above legal requirements/ recommendations, including any comments they might have, and return the form to the Review Visits Support Team, Charity Commission, PO Box 1199, Liverpool, L69 3UT by 11 June 2008.

We certify that the information provided is correct to the best of our knowledge and belief.

Signed: (Trustee) (CEO or 2nd Trustee)