CHARITY NEWS

A ROUNDUP OF THE LATEST ACCOUNTING, TAXATION AND GOVERNANCE ISSUES THAT IMPACT HOW YOU RUN YOUR CHARITY

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Advice that adds up

Fundraising scandals, data protection breaches and continued reductions in funding... just a few of the challenges that are currently faced by the charity sector. Our charity newsletter will give you the inside track on the sector's current hot topics and the guidance and support you need to fulfil your role.

New fundraising rules

The Charities Protection and Social Investment Act 2016 (the Act), which only applies to charities in England and Wales, was introduced following a number of scandals in the Charity Sector such as the tragedy associated with Olive Cooke and fundraising ethics, and the demise of Kids Company. The fundraising sections of the Act came into force from 1 November 2016 and cover two new requirements that trustees and senior management must be aware of:

- where a charity (registered or unregistered) uses a professional fundraiser or commercial participator to raise funds, new terms must be included with the compulsory written agreement, already required between the two parties, that cover:
  - details of any voluntary regulatory fundraising scheme or standard that the commercial organisation undertakes to be bound by
  - how the organisation will protect the public from unreasonable intrusion, persistent approaches or undue pressure; and
  - how compliance with the agreement will be monitored.
- those registered charities that have to have their accounts audited also have to include the following additional information regarding fundraising in their trustees' annual report:
  - approach to fundraising
  - work with, and oversight of, any commercial participators or professional fundraisers
  - fundraising conforming to recognised standards
  - fundraising complaints, and
  - protection of the public from unreasonable intrusion, persistent approaches or undue pressure.

The Charity Commission for England and Wales (CCEW) and the Fundraising Regulator have jointly developed guidance on how charities will be affected by these new provisions.

FAQs **goo.gl/vqR5sw**

In response to this new Act and recent scandals, the Institute of Fundraising, National Council for Voluntary Organisations, Charity Finance Group and Association of Chief Executives of Voluntary Organisations have published a new guide on fundraising aimed at all trustees. The handbook provides an overview on the key issues associated with fundraising for charities and identifies the key questions that should be asked by trustees. These include the following:

- Is our charity compliant with the Codes of Fundraising Practice?
- What is our fundraising strategy?
- How can we ensure our fundraising is sustainable?
- Are we making the most of tax-effective giving?
- Is our fundraising legal?
- Is our fundraising ethical?

Further details are available in the practical guide: **goo.gl/M2cwVQ**

Code of Fundraising Practice

The Fundraising Regulator has been consulting on the Code of Fundraising Practice. The first consultation focused on the following areas:

- charity trustees
- the fundraising ask
- solicitation (disclosure) statements
- raising concerns about fundraising practice - Whistleblowing
- people in vulnerable circumstances
- charity collection bags
- third parties
- general questions on the Code.

Charity trustees have a duty to oversee the fundraising activities of their charity. This code is therefore crucial reading. **goo.gl/WcVHs9**

Greater control for the public

The Fundraising Regulator (the Regulator) announced at the end of 2016 its plans for the Fundraising Preference Service (FPS) to give members of the public greater control over the contact they receive from charities. The FPS will ensure:

- individuals can select charities that they no longer want to receive communications from
- the opt-out from specified charities will apply to all charities and all forms of communication with a named individual (email, text, phone and addressed mail)
- the FPS will be IT based but with a phone service to support those who are vulnerable or without IT
- the Regulator will notify specified charities of suppression (those people opting out) and monitor compliance, through a largely automated system
- there will be signposting to the Telephone and Mail Preference Services.
- accompanying guidance will explain how the public can best manage their contacts with charities.

Charities need to ensure they comply with these new rules and consider how this will impact on future fundraising strategies. The FPS is now live.

Further information on the service is available on the Regulator's website. **goo.gl/6QNMmN**

Fundraising and data protection

At the end of 2016, the Information Commissioner's Office (ICO) reported that they had issued monetary penalty notices against the British Heart Foundation and the RSPCA as a result of data protection breaches when engaging in the following activities:

- sharing and swapping the personal data of donors
- using wealth screening companies to analyse the financial position of supporters
- data-matching and tele-matching.

As a result of these penalty notices, the CCEW and the Regulator issued a joint alert to charities, reminding trustees that they must comply with their legal duties when overseeing their charity's fundraising. The key steps that the regulators expect trustees to take are to:

- immediately cease activity in breach of data protection law
- review and assess activities in the areas of data collection, storage and use to ensure compliance
- review and assess current data governance systems and processes to ensure they are fit for purpose and evidence sufficient oversight, control and are operating and effective.

Where breaches are identified ensure you review the requirements and comply with them.

Where breaches have occurred consider the risk to those whose data has been breached and any action required to mitigate risks to those individuals and their data. Notify the Charity Commission about any investigation of their charity by the ICO.

With a further 11 charities informed of the intention to issue fines for breaching the Data Protection Act in January 2017, this is an area that charities must ensure they comply with. **goo.gl/sA800s**

New digital resource

'12 Questions about digital for trustees' is a new resource launched jointly by the CCEW, Grant Thornton and Zoe Amar Communications. The resource is intended to help charities exploit digital opportunities for their charity and includes examples of key questions that every board should be considering and discussing including:

- how can digital inform future decision making?
- are new trustees briefed on the charity's social media policy?
- what digital skills do we have amongst our team?
- how can we use digital to reach new audiences?

These questions are a starting point for discussion to identify ways in which digital can be used to deliver your charity's vision, mission and strategy. Digital represents a huge opportunity for all charities. **goo.gl/YU3wiv**

Financial distress

As charity funding continues to fall, financial resilience has become an important consideration for all charities. Last September the CCEW identified a total of 94 charities with income over £1m, totalling £462m, whose auditors highlighted that they were in possible financial difficulties. As part of their response to this, the CCEW monitoring team identified 10 charities that were showing signs of financial distress and carried out proactive analysis of and compliance visits to these charities in order to seek assurances that trustees understood their duties and to identify common risk factors and good practice.

Guidance **goo.gl/AVRkFE**

Charities against fraud

The CCEW in collaboration with members of the Charity Sector Counter Fraud Group have set up a website to help charities tackle fraud by providing guidance, top tips, case studies and signposts to other relevant organisations. **goo.gl/6SBhRb**

Also as part of Charity Fraud Awareness Week, the CCEW issued its first ever summary analysis of fraud issues reported to the CCEW via the 'Reporting Serious Incidents' regime. The key findings included the following:

- over a third of frauds were internal
- the highest single reported loss was over £1m
- several cases related to charities overseas partners
- cyber-related frauds are relatively common.

Use this guidance to reduce the risk of fraud within your charity. **goo.gl/MSvmzb**

Cyber scams

At the end of last year the CCEW issued an alert setting out two prevalent cyber scams:

- Crime prevention advice email: Fraudsters send a high number of phishing emails with the message subject 'Crime Prevention Advice' which appears to distribute a powerful malware via an email attachment.
- Notice of intended prosecution email: Fraudsters are sending out phishing emails with the message subject 'Notice of Intended Prosecution' with the primary function of distributing Banking Trojan malware through a link embedded within the email.

Don't let your charity get caught out. **goo.gl/nY9oNG**

Official warnings - Consultation

The Charities (Protection and Social Investment) Act 2016 (the Act) gave the CCEW a new power, to issue official warnings to charities and trustees if there has been a breach of trust or duty, or other misconduct or mismanagement.

In Summer 2016 the CCEW published a consultation **goo.gl/gsY6Sx** seeking views on draft guidance on their approach to using this new power. The key themes and summary of the CCEW's responses were:

- the guidance needs to give greater clarity: the CCEW is replacing the draft guidance with more details practical and operational guidance
- the issuing of official warnings needs to be fair: the CCEW has responded with various changes including giving 28 days' notice of intention to issue a warning
- concerns about publication of warnings: the CCEW will consider in each case if publication is appropriate; and where action is taken by trustees, will consider modifying or removing the warning notice.

Annual return for 2017

The CCEW has been carrying out a consultation on the changes to the content and structure of the annual return - time to have your say.

This consultation is the first stage of work being carried out to develop the annual return to ensure it meets future needs both for charities and for the CCEW. This first stage is reviewing how information is collected in the annual return for 2017. The second stage of work (anticipated later in 2017) will be reviewing the purpose of the annual return and its relationship with other reporting.

We will update you on the outcome of the consultation and how this will impact on your future reporting requirements. **goo.gl/91oMmE**

Reporting serious incidents

The CCEW have been consulting on proposed updated guidance for charities 'What to do if something goes wrong: reporting serious incidents'.

The updated guidance aims to help charities to identify what to report and when. It also provides guidance including: a list of the most common types of incidents; and explains who to report to for example the CCEW, the police etc.

The consultation is now closed and the CCEW are currently analysing their feedback. We will update you in due course. **goo.gl/QfQxye**

Governance Code - draft

The Code of Good Governance Steering Group has developed a draft new Governance Code.

The draft Code proposes higher standards in a number of areas, including:

- increased expectation in relation to aspects of board composition, dynamics and behaviours with explicit good practice recommendations about board size, frequency of board performance reviews and trustees' terms of office
- a new emphasis on the chair's role in promoting good governance
- emphasis on board diversity, supporting leadership and decision-making with a recommendation that larger charities publish an annual statement of the steps they have taken to address the board's diversity
- a presumption that charities should be open in their work, including a public register of trustees' interests, unless there is good reason not to
- a recommendation that charities use their annual report to say how they apply the code and an explanation of any aspects which they do differently.

The CCEW has published their response to the consultation on this draft new code.

We will update you on the conclusions from the consultation. **goo.gl/M0T8gG goo.gl/WWt6tF**

A new Code for Sports Governance has also been launched by UK Sport and Sport England which sets out the levels of transparency, accountability and financial integrity that will be required from any organisation seeking funding from Sport England or UK Sport. **goo.gl/qb7FKp**

Common tax mistakes

The Charities Outreach Team which was set up by HMRC aims to provide help and support to charities, and enable them to understand, benefit and claim reliefs through Gift Aid, the Gift Aid Small Donations Scheme (GASDS) and the Employment Allowance. The Team have published useful feedback on the recurrent errors identified from claim forms which included the following:

- incorrect authorised official / agent / nominee submitting the claim as the charity had failed to complete and submit to HMRC a change of details form
- claiming amounts in excess of the maximum specified amounts under the Gift Aid Small Donations Scheme
- out of date claims under the Gift Aid Small Donations Scheme – charities can only claim back for the previous two years, compared with four years under Gift Aid
- errors completing a paper claim form such as providing additional correspondence which is not required or missing information
- non-qualifying donations such as out of date or joint donations.

A dedicated phone line for the Outreach Team is planned, but charities can access team members by calling the HMRC Charities Helpline on 0300 123 1073 and asking to be forwarded to the Outreach Team.

Gift Aid Small Donations Scheme

The Small Charitable Donations and Childcare Payments Act received Royal Assent in January 2017 and makes amendments to the legislation that underpins the Gift Aid Small Donations Scheme (GASDS). The changes have been made to simplify the scheme and extend access to smaller and newer charities. The key amendments are as follows:

- removes the condition that charities must be registered for at least two tax years before making a claim
- removes the condition that charities must make at least two out of four successful Gift Aid claims before making a claim through the GASDS
- allows for contactless payments as well as cash
- the community buildings rules are amended so that charities will not be able to claim under both the main allowance and the community buildings allowance rules
- donations raised outside the community building but in the same local authority area will be eligible for GASDS.

This Act takes effect from 6 April 2017. Further details on the Act **goo.gl/EiWlKF**

Updated Gift Aid spreadsheets

In response to an analysis of common errors made by charities when submitting Gift Aid Small Donations Scheme (GASDS) claims, HMRC have made available revised instructions and spreadsheets. **goo.gl/bDE4fT**

Gift Aid donor benefit

The government have been reviewing the Gift Aid donor benefit rules with the intention of simplifying them. The government launched a consultation in early 2016 (now closed) setting out a range of options for simplifying the current rules:

- removing or reducing the monetary thresholds. For example value of the benefit for donations up to £100 can equate to 25% of the donation; capped at £25 for donations between £100-£1000.
- setting a disregard limit for low value benefits

- withdrawal or legislate the Extra Statutory Concessions for example using the averaging method.

The government issued a response to the consultation. The key points were as follows:

- there is no consensus regarding monetary thresholds therefore a further set of proposals have been put forward for response
- positive responses were received to disregard low value benefits, but further questions arose that have been put forward for response
- the government intends to legislate all four of the Extra Statutory Concessions.

A number of new questions relating to these proposals have arisen and we will update you on the final revisions to these rules. **goo.gl/MLcEaD**

Gift Aid and intermediaries

New processes being introduced by HMRC will make it easier for individuals to give to charities through digital channels. Currently a donor has to complete a Gift Aid declaration (GAD) each time they give to a new charity through an intermediary. This has resulted in restrictions on the take up of Gift Aid when donating through digital channels such as SMS.

From 6 April 2017 new rules will allow a donor to give permission to an intermediary to create GADs on their behalf for all subsequent donations made in that tax year.

There are new penalties for intermediaries that breach their obligations. The obligations include keeping records of:

- the donor's authorisation allowing them to complete declarations on the donor's behalf
- the date on which the Gift Aid regime was explained to the donor
- cancellation of any of the donor's authorisations
- the annual statement. An annual statement must be sent to donors who use the new process.

These changes could increase the number of Gift Aid donations available for your charity. More details on this policy paper can be found: **goo.gl/lMlc4k**

SORP FRS 102

The joint SORP-making body and SORP Committee are in the process of a research exercise to identify necessary changes to the SORP as part of the triennial update. An 'Invitation to comment' document was published in May 2016 seeking responses from all charity stakeholders. The questions raised as part of this consultation include:

- is the SORP meeting the needs of all those preparing accounts including smaller charities?
- is the retention of a SORP still necessary in the charity sector?
- suggestions for changes to address issues on implementation
- does there need to be a third tier of reporting by the largest charities?
- comments on the suggested areas for review of the trustees' annual report
- are there any items in the report or accounts which could be removed?

As part of this exercise, the joint SORP making body and SORP Committee issued a response to the Financial Reporting Standard in October 2016 on the SORP FRS 102. Their response was in relation to a particular concern regarding the requirement to disclose comparatives which they state is 'in contradiction to the FRC's aim to reduce 'clutter' in annual reporting'.

The consultation closed at the end of 2016 and responses are currently being analysed. An Exposure Draft of the next SORP is anticipated for 2018.

We will update you on the conclusions from the consultation along with the impact on your future reporting requirements. **goo.gl/PJDAal**

Matters of material significance

Auditors and independent examiners have a duty to report to the relevant Regulator matters of material significance which they discover in the course of carrying out their audit or examination work. CCEW and OSCR previously produced a list of matters to be reported; the establishment of CCNI has led to a proposed new list which has led to some consultation to obtain views on:

- whether the matters outlined are the correct matters which should be reported
- are the descriptions of the matters clear and helpful
- if there are any other matters which should be included or removed.

The consultation may not directly impact on charities, but it is important to be aware of the responsibilities of auditors and independent examiners. Regulators do not look kindly on a charity whose auditor or examiner reports a matter of material significant and the charity itself has not reported the matter.

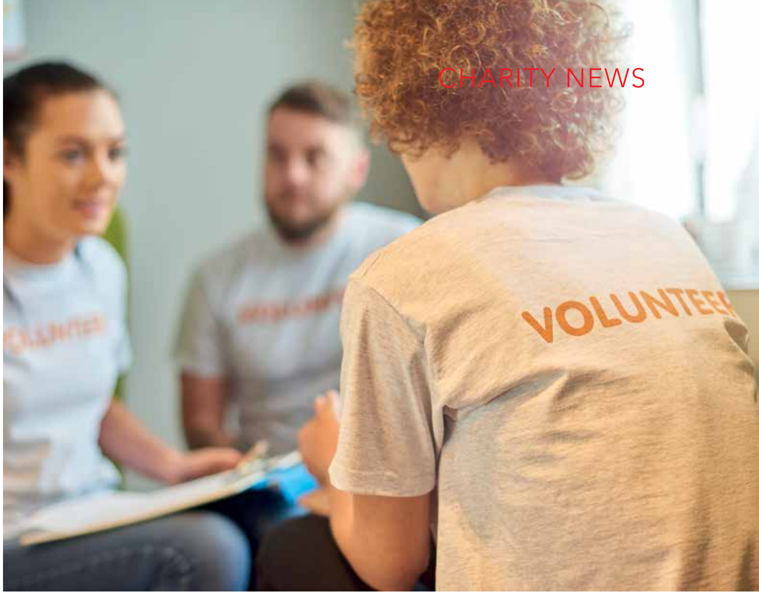
The consultation is now closed and the feedback is currently being analysed. We will update you on the outcome. **goo.gl/LjhBy5**

Power to disqualify

The CCEW has completed a consultation which sought views on the use of their discretionary disqualification powers which were introduced in October 2016. The Charities (Protection and Social Investment) Act 2016 (the Act) gives the CCEW a new power to disqualify persons from being trustees and carrying out a senior management function for a period of up to 15 years. The key themes from the consultation were:

- providing more detail on the proposed approach to the use of the power
- more detail regarding the process to be followed when exercising the power
- the approach to be taken when deciding on scope of the disqualification
- the approach to be taken when deciding on the period of the disqualification

The CCEW have subsequently published an explanatory statement and Q and A document to provide further details on their approach. **goo.gl/38KYQZ**



Independent examination

Several recent developments such as the increase in the audit threshold to £1,000,000 and the increased threshold for preparation of consolidated accounts to £1,000,000, have led to the CCEW publishing a consultation on updated Directions and guidance which independent examiners must follow. Some of the key changes include the following:

- the number of Directions have increased
- the order of some of the Directions has changed
- guidance has been reworded to use a plain English approach emphasising the word 'should'
- additional guidance is provided on conflicts of interest / related parties and financial sustainability
- new reports for company and non-company charities.

It is anticipated that the work completed by independent examiners will not change significantly, however the report that is issued on a charity's financial statements will look different.

The consultation is now closed and the CCEW are currently analysing the feedback. We will update you on the impact of the changes in due course. **goo.gl/y1pe6W**

England and Wales - new guidance

The CCEW have issued updated guidance aimed at supporting charities to meet their annual reporting duties under SORP FRS 102, the following documents are available on their website:

- Charity reporting and accounting: the essentials November 2016 (CC15d) **goo.gl/eNpelp**
- Accruals accounts pack (CC17) **goo.gl/fcrqJ8**
- Independent examiner's report template **goo.gl/AohHdO**
- Trustees' annual report template **goo.gl/byqnnz**
- Charity accounting templates: accruals accounts (CC17) **goo.gl/Du4lgb**

Some useful updated publications and news:	
Charity Commission Revised Regulatory Statement	January 2017 **goo.gl/uo2teC**
Tackling abuse and mismanagement: 2015-16	December 2016 **goo.gl/5yQyfs**
Official warnings to charities and trustees: Q and A	December 2016 **goo.gl/irHazR**
Trustees' Week webinar on key trustee duties	November 2016 **goo.gl/iKVlgi**

Apprenticeship Levy

From 6 April 2017 all employers, including charities, who have an annual paybill (broadly earnings subject to class 1 national insurance) of over £3,000,000 will be subject to the apprenticeship levy. Some of the key considerations are as follows:

- the levy is charged at 0.5% of your annual pay bill
- there is an annual allowance of £15,000 which is applied on a monthly basis, this allowance is shared with connected companies or charities
- if you are connected to other companies or charities which in total have an annual pay bill of more than £3,000,000, you will be subject to this levy
- you need to report your apprenticeship levy each month using your Employer Payment Summary
- employers can use the funding in their account to pay for apprenticeship training
- there is a 10% government top-up on funds for spending on apprenticeship training in England
- funds will expire 24 months after they enter your account.

The levy applies to employers across the UK, authorities in each of the UK nations manage their own apprenticeship programmes including how funding is spent on training.

For further details on how the levy will affect your charity go to: **goo.gl/mz91s8**