Charity News
Winter 2021

Chartered accountants, tax and business advisers

124 Finchley Road, London NW3 5JS

t: 020 7433 2400 www.nlpca.co.uk

Our Charity News includes the latest guidance and support available for the not-for-profit sector as COVID-19 restrictions ease. We also consider the impact of recent reporting and tax developments and other pertinent issues, giving you the inside track on the sector's current hot topics and latest guidance.

The newsletter is applicable to the whole of the United Kingdom and makes reference to the three UK charity regulators:

- The Charity Commission for Northern Ireland (CCNI)
- The Office of the Scottish Charity Regulator (OSCR) and
- The Charity Commission for England and Wales (CCEW).

All the articles may be of interest; however, to aid you we have included the following key:

United Kingdom
Scotland
England
Northern Ireland
Wales

Hot topics

Trust in the charity sector

Public perception of the charity sector is improving, as demonstrated by recent research commissioned by CCEW. Three years ago trust in charities hit an all-time low following several high-profile scandals, but an independent study by Yonder shows that charities are among the most trusted groups in society, third only after doctors and the police.

The improvement seems to have arisen in part as a consequence to the COVID-19 pandemic, and the role the charity sector has played in responding to the crisis, in areas such as support for the NHS and other key workers, and tackling food poverty. These findings are supported by separate research by nfpSynergy and Pro-Bono Economics, which showed that giving to charities rose during the pandemic, although around half of all charities have reported a fall in overall income due to the inability to hold fundraising events or raise income from retail activities. The report highlighted the uneven impact the pandemic has had on the sector and that not all charities will have had similar experiences, with larger charities better able to adapt and raise funds from alternative sources compared to smaller organisations.

Charities cannot be complacent though as trust remains fragile. Further work remains needed if the sector is to consistently meet the high expectations placed upon it and return to the levels of trust seen a decade ago. To do so charities should address the public's key drivers of trust, namely:

- to demonstrate that they make a positive difference to society;
- to spend a high proportion of funds on delivering charitable activities; and
- to live their values through their behaviours and actions.

CCNI has also published research on public trust and confidence in charities, which echoed the findings of CCEW in reporting that 84% of the public had a medium to high level of trust in charities. Areas identified that can negatively impact on trust an apparent failure to deliver on their core objectives, aggressive fundraising methods and perceived excessive remuneration being paid to charity executives.

Research such as this can prove to be a useful tool for trustees to highlight areas that need to be addressed in their own charities to improve levels of trust and confidence in the work they do.

Guidance:
CCEW https://bit.ly/3mRq56y
CCNI https://bit.ly/3DIYt9K

Hybrid working

It may have only accelerated an existing trend, but one of the consequences of the COVID-19 pandemic is a growing expectation from employees on flexible working arrangements going forward, and the ability to work regularly from home after the pandemic has ended. 40% of employers report that they expect more than half their workforce to work regularly from home once the pandemic ends.

Charities are not immune from this trend and will need to factor this into their future plans as a failure to do so risks increased employee turnover, reduced employee engagement and limitations on the ability to attract future staff.

The benefits of hybrid working for the employee are clear, offering a better work-life balance, saved commuting time and cost and a greater ability to focus with fewer distractions. There are also potential benefits for the charity as well, with the possibility of reducing estate and facility costs, enabling employee wellbeing and supporting greater inclusion and diversity.

Hybrid working though does present challenges. The Chartered Institute of Personnel and Development (CIPD) has produced a useful guide for employers

on planning for hybrid working which can be obtained free of charge from their website. It covers immediate issues such as planning for a COVID-

safe return to office working, as well as covering longer term issues that need to be considered when planning for the future, such as determining policy, legal implications, training and development needs, employee wellbeing and technology needs.

For smaller charities that do not employ their own HR personnel, a guide such as this can be useful means of the steps that need to be undertaken when moving to a new way of working.

Guidance: https://bit.ly/3ByytMk

Charity law reform

Currently making its way through Parliament is the Charities Bill 2021, implementing a number of recommendations from the Law Commission's 2017 Technical Issues in Charity Law Report that seek to reform and simplify a number of charity processes.

The main measures in the Bill are as follows:

- Amending governing documents - reducing inconsistency by more closely aligning the amendment mechanisms for incorporated and unincorporated charities, providing consistent criteria for the CCEW to consider before consenting to a change of purposes, and providing a new, clearer power for all unincorporated charities to amend their governing documents by resolution.
- Improving land transactions - providing greater flexibility to obtain advice on disposals of land from a greater range of professional advisers, removing overly prescriptive and burdensome statutory requirements and providing a more reliable and straightforward process for certifying compliance with Charities Act requirements.
- Permanent endowments - a new definition of permanent endowment that better aligns with the sector's understanding of the term, a new power to borrow from permanent endowment and where a total return investment is opted into, the ability to use a permanent endowment for loss-making social investments when it is expected that those losses can be offset elsewhere in order to promote long-term investment for social good.
- Incorporations and mergers - allowing legacies in wills to be transferred to a merged charity removing the need for 'shell charities' to be maintained, giving corporate charities 'trust corporation status' automatically if they administer charitable trusts, providing greater certainty about costs before the Charity Tribunal and the introduction of 'authorised costs orders' to provide assurance that costs incurred by trustees can be properly paid from the charity's funds.

Other measures included in the Bill relate to fundraising appeals and how funds from a failed fundraising appeal can be applied to other purposes of a charity with appropriate CCEW oversight, remuneration for the supply of goods from trustees to be aligned with remuneration for services, the ability of the CCEW to authorise trustees to be paid for exceptional skill and effort when it would be unjust not to do so, making small ex gratia payments without CCEW approval and expanding the CCEW's powers in respect of charity names and identifying charity trustees.

It has also been announced that the accounting and assurance thresholds for charity reporting will be reviewed in 2022, increasing them in line with inflation, when the Bill comes into force next year. This could, for example, see the audit threshold for charities based in England and Wales increased to £1.25 million compared to the existing figure of £1 million, increasing the number of charities that can take advantage of audit exemption and opt for an independent examination of their accounts instead. It is expected that a review of thresholds should take place at least every 10 years.

Details: https://bit.ly/38FgFCA

Dormant assets

Separate from the Charities Bill, the Dormant Assets Bill is also being considered by Parliament and will enable additional dormant assets from the insurance and pensions, investments, wealth management and securities sectors to be transferred into the dormant assets scheme. This could make an estimated £880 million available to fund social investment across the UK.

Guidance: https://bit.ly/3zGeY3W

Fundraising guidance

Several areas of the Fundraising Regulator's guidance for charities have been updated in recent months that charities should be aware of. The Fundraising Regulator regulates all fundraising in England, Wales and Northern Ireland carried out by charitable institutions. In July guidance was issued in conjunction

with the Chartered Institute of Fundraising on supporting safe and responsible fundraising as COVID-19 restrictions are eased, setting out five key considerations for charities in addition to the need to continue to comply with the Code of Fundraising Practice:

1. Keep up to date with and follow Government guidance and any continuing or new restrictions, including regional or local ones
2. Carry out a thorough risk assessment to identify the risks associated with your fundraising activity
3. Following the outcome of your risk assessment, identify the steps that are needed to protect the public, fundraisers and volunteers
4. onsider the public mood and likely feelings and preferences of supporters
5. Ensure that decisions made to carry out a fundraising activity are thoroughly considered, carefully evaluated and regularly reviewed.

Guidance: https://bit.ly/2WOdcj0

The Fundraising Regulator does not operate in Scotland, but OSCR have separately issued similar guidance on the restart of fundraising activities.

Guidance: https://bit.ly/2VfDutO

Not all of the guidance recently issued relates to the pandemic though. In June new guidance from the Fundraising Regulator was issued that sets out the key behaviours expected of fundraisers, given that their actions and behaviours can affect trust and confidence in fundraising and the charity sector in general. Four core values are identified in the guidance that all fundraisers should adopt, namely being open and clear with the public about your process and being willing to explain them further, acting honestly and with integrity, demonstrating respect whenever there is contact with the public and operating lawfully.

Guidance: https://bit.ly/3yyZ8qo

The Fundraising Regulator has also issued guidance for fundraisers and the public on the use of charity bags, an important source of income for many charities and an easy way for many to clear out old items and support good causes at the same time. The guidance details the legal and regulatory requirements that need to be followed when charity bags are used and the information that should be made available to the public. It also includes lessons learned from complaints that have been received, often related to charity bags being delivered to properties that have made clear that they do not wish to receive them, and the subsequent investigations that have been held.

Guidance: https://bit.ly/3yBHmml

Lastly the Code of Fundraising Practice issued by the Fundraising Regulator has been updated, with a minor change made to more accurately reflect the legislation that underpins standard 12.6.2 on hosting a free draw for charitable fundraising purposes.

Guidance: https://bit.ly/3DEUNpj

Faith charities

CCEW has updated its guidance on faith charities in order to make it easier to find information, including retitling its guidance to 'managing faith charities as trustees'.

The guidance covers a range of issues where the nature of faith charities necessitates additional, specific guidance beyond that provided in the CCEW's more general guidance for charities. These include issues such as when faith charities are required to register with CCEW and the process for doing so, appointing trustees and when they can be paid, safeguarding and reporting serious incidents and managing charity finances.

The issue of safeguarding is of particular importance, with a recent report by the Independent Inquiry into Child Sex Abuse highlighting the extent to which children involved in religious organisations are vulnerable to sexual abuse in a cultural setting where victim blaming, abuse of power and mistrust of external authorities are common. Faith charities should learn from reports such as these and ensure that they have robust safeguarding policies in force that seek to protect the vulnerable, and to take appropriate action when standards of behaviour fall short.

This updated guidance is timely, with the announcement by CCEW that it is beginning preparations for expanding its register of charities, working with the Church of England to pilot and manage the receipt of applications from cathedrals applying for charitable status followed by 35,000 church charities, which are currently excepted from the need to register over the next decade.

Guidance:
https://bit.ly/3gVEXx4
https://bit.ly/3h6yTlq

Operating overseas

A report published by the UK Parliament's International Development Committee on progress on tackling the sexual exploitation and abuse of aid beneficiaries, coupled with the CCEW's own findings, have demonstrated that further work is still required to deliver transformative change.

In response the CCEW has alerted international aid charities of what steps they can take to achieve more effective safeguarding practices, whilst acknowledging that there has been progress in recent years in this area.

The alert highlights the following areas needing attention:

- strengthen safeguarding risk prevention and risk management measures;
- improve reporting by local beneficiaries; and
- develop management responses including victim and survivor support.

The alert acknowledges that effective safeguarding is never complete and that charities need to remain vigilant and place the highest priority on keeping people safe.

Guidance:
https://bit.ly/3yCfU7V
https://bit.ly/3DPYuZD

Combatting terrorism

First issued in 2012, CCEW's compliance toolkit on charities and terrorism has been updated to keep track with UK counter-terrorism legislative developments that have been made since then. The toolkit provides charities with advice on how that legislation is likely to affect charities and the work they perform, and helps trustees to properly discharge their duties through providing examples of good practice and risk management that helps safeguard charities from potential harm.

Guidance: https://bit.ly/2WLploq

Trustee recruitment

A new website has been published by Trustee Recruitment Cycle that provides guidance, tools and tips to help charities recruit trustees and improve diversity. Developed by Reach Volunteering, a charity that aims to match organisations with potential volunteers and trustees and in collaboration with the Association of Chairs, Small Charities Coalition and Getting on Board, it aims to support charities to recruit trustees in an effective and inclusive way.

As the name suggests, the site contains guidance on the complete process, from reflecting on a charity's needs and the preparation stage, through the recruitment and appointment phases and finally to the evaluation of the process. It also includes tools on how to complete a skills audit, example trustee role descriptions, interview questions and a sample appointment letter.

Guidance: https://bit.ly/2WH1h6a

Lotteries

Since 7 September 2021 charities in Northern Ireland have been allowed to promote and sell lottery tickets online. The move, which has been made in advance of more widespread reform of gambling laws, has been introduced to allow charities, sports clubs and other voluntary groups to be able to raise funds using their website or social media at a time when COVID-19 restrictions have reduced their ability to do so by more traditional means.

Guidance:
https://bit.ly/3yGyfAK
https://bit.ly/3DRd037

Accountancy and tax update

Updated COVID guidance

With restrictions being eased across the UK, each of the charity regulators have been busy updating their guidance.

In England and Wales CCEW have made clear that the temporary approach to filing extensions has been brought to an end, and that they expect all charities that were granted an extension up to 30 June 2021 to have met their filing commitments by 30 September 2021. Between those dates charities can still apply to the CCEW for a new 3 month filing extension if they are unable to meet their obligations.

Their updated guidance also addresses the holding of meetings, and the expectation that most charities will now be able to revert to holding meetings face-to-face and hold any outstanding AGMs or other meetings. Where this is still not considered appropriate, charities should review their governing documents to see if they allow meetings to be held virtually or on a hybrid basis, and if not to consider whether they are able to amend the governing documents to permit a more flexible approach. This should be done as soon as possible, as should the approval of any previous decisions made. If this is not possible charities are advised to contact CCEW who can give advice or authorise the trustees' actions as appropriate. As always charities are advised to record their decisions and reasons why they were made as a matter of good governance.

In Scotland OSCR returned to their regular timescale for charity submissions on 1 April 2021, removing the additional grace period that was implemented in response to the pandemic, so the normal 9 month period for filing the annual report and accounts is now in place for charities with a filing deadline falling after that date. They have also advised charities of the need to consider their governing documents if they plan on continuing to hold virtual meetings, and they published some useful FAQs for charities to refer to if they need to change their governing documents.

In Northern Ireland CCNI have advised that for the present they are not planning on penalising any charities for missing their reporting deadlines, but have requested that charities keep them advised where this is the case.

Guidance:
CCEW https://bit.ly/310HSMO
OSCR https://bit.ly/2YqfiGp
CCNI https://bit.ly/38AdYlX

Charity model accounts

In the Spring 2021 edition of Charity News we reported that there were plans to publish model accounts that included examples of how charities should be reporting on the implications of the COVID-19 pandemic.

These model accounts for England and Wales are now available, and consider how the pandemic's effects might be reflected in a grantmaking charity where there have been implications for both income and activities, and a theatre trust that faces a challenging financial position and which has taken advantage of government financial assistance.

The examples initially developed for England and Wales are being reworked by OSCR for reporting in Scotland.

Guidance: https://bit.ly/36A3AtR

Signing accounts

The CCEW has updated its guidance on charity accounting that unless a charity's governing documents specify otherwise, handwritten 'wet' signatures are not required when the trustees sign the annual report and accounts.

Instead electronic signatures can be used, for example a typed signature or an electronic version of a handwritten signature. This updated guidance also applies to the signature on the independent examiner's report.

This applies to both the copy of the annual report and accounts that are filed with the CCEW and any copies retained by the charity.

Guidance: https://bit.ly/38ytDCn

SORP developments

There are no changes to the Charity SORP to report in this edition of Charity News, but there has been an announcement of the areas that have been agreed will be considered as part of the next update of the SORP. Drafting of the next version of the SORP won't start until 2023, but this does give an indication of what charities can expect to see.

One of the key issues to be considered is a tiered approach to reporting that could see a reduction in the reporting requirements for smaller charities and allow them to better focus on the information most relevant to them, and could also see reporting thresholds being reconsidered. Other areas being considered can be grouped into four areas:

- **Narrative reporting** - areas being looked at include summary financial information, an enhanced focus on impact reporting, sustainability reporting to cover topics such as climate change and diversity reporting, and the need for clearer guidance for reporting on charity reserves.
- **Income** - the issue on whether charities should be permitted to adopt the accrual basis for recognising grant income is being considered, along with the inclusion of donated goods and services in the Statement of Financial Activities and providing greater clarity on the recognition of legacy income.

- **Expenditure** - the presentation of overheads and support costs is being considered to improve comparability and address the problematic negative perception current disclosure requirements has, as is the poorly understood area of activity reporting.
- **Presentation** - ways of reducing the length and complexity of the notes to the accounts are being considered, which could include a rethink on the need for detailed comparative information and how to improve clarity on the disclosure of funds, and guidance on materiality to help larger charities present a clearer message is being developed.

Those with an interest in the future of charity accounting can keep track of developments from the meeting minutes and supporting papers published by the SORP Committee as they emerge.

Guidance: https://bit.ly/38DSJQh

Funding social care

Parliament has approved controversial plans to increase rates of national insurance in order to pay for the impact of the COVID-19 pandemic on the NHS and to address the funding gap for health and social care. Those charities employing staff will be hit by these changes, as will be their staff.

From 6 April 2022 there will be a temporary 1.25% increase in Class 1 national insurance contributions payable by employees earning more than the primary threshold, which is currently £9,568 in 2021/22.

Employer contributions will also be increasing by 1.25% on earnings above the secondary threshold, currently £8,840. This increase also applies to any Class 1A or Class 1B contributions payable on benefits and PAYE settlements. This temporary increase will last for a year, when it will be replaced by a new health and social care levy. HMRC estimates that the impact on an individual earning the median basic rate taxpayer's income of £24,100 will be an additional £180 a year.

Charities will need to budget for these changes coming in next year which has the potential to significantly increase payroll costs. Looking further ahead they will also need to ensure that their payroll systems are ready to handle the health and social care levy when it is introduced.

Guidance: https://bit.ly/2YPbaji

Autumn budget

On 27 October the Chancellor Rishi Sunak unveiled his Autumn Budget and Spending Review which contained a number of measures of potential interest to the charity sector, including:

- From 1 April 2022 the National Living Wage (for those aged 23 and over) and National Minimum Wage (for those of at least school leaving age) is set to increase to the levels shown in the table below, relevant for those charities that employ staff based upon these levels.

	23 & over	21 to 22	18 to 20	Under 18	Apprentice
Current rate	£8.91	£8.36	£6.56	£4.62	£4.30
From 1 April 2022	£9.50	£9.18	£6.83	£4.81	£4.81

- It was confirmed that the existing business rates relief available for charities is set to continue for the time being, which is worth over £2bn a year to the sector. A number of reforms to business rates are planned though including new reliefs for the retail, hospitality and leisure industries that have been affected by the pandemic, relief for properties where qualifying improvements have been made, freezing the business rates multiplier for another year and increasing the frequency of business rates revaluations.

- The Museums and Galleries Exhibition Tax Relief is to be extended for a further two years until 31 March 2024, and the value of this relief along with the Theatre Tax Relief and Orchestra Tax Relief will temporarily increase to support cultural organisations' recovery from the pandemic.
- The September CPI inflation figure of 3.1% will be used as the basis for updating the National Insurance thresholds for the 2022/23 tax year.
- Fuel duty will be frozen for the 2022/23 tax year.
- Consultation will take place on simplifying the VAT treatment of fund management fees.

The Chancellor also announced an increase in funding to support museums, cultural and sporting bodies that will potentially be of benefit to certain organisations in the sector.

Other changes were announced that seek to provide support to the lower paid, such as an end to the public sector pay freeze and changes to the taper rate used to calculate Universal Credit paid to working claimants. Despite this many observers are predicting that the moves do not go far enough, with increasing inflation likely to see many being effectively worse off than before, and those charities that seek to offer help to those experiencing hardship may well see an increase in the demand for their services over the coming months.

Guidance: https://bit.ly/3vS3Xvl

Gift Aid developments

HMRC has issued guidance that confirms that Gift Aid can be claimed on waived refunds and loan repayments, provided that the agreement to waive the amount owed is clear and irrevocable, and that a record of the waiver is held by the charity.

This makes permanent a temporary concession that was introduced at the start of the COVID-19 pandemic in response to the large number of cancelled events, to unlock valuable tax reliefs at a time when charity cash flows were under significant strain. Previously a waiver of debt did not qualify for Gift Aid as it was not considered to be payment of a sum of money.

The evidence of the waiver that needs to be retained by the charity will depend upon the amount being waived. For nominal amounts, such as the amount paid for a couple of tickets for a cancelled event, this

could be an email exchange, a recorded telephone call or other correspondence. For larger amounts HMRC would expect there to be a legally enforceable document to be in place, that would confirm what is being waived and that it should be treated as a donation for Gift Aid purposes.

Note that the donation will be considered to have been made at the date of the waiver, not of the original payment, and a Gift Aid declaration will need to be obtained if one is not already held for the donor.

HMRC has also agreed a series of pragmatic concessions to the Retail Gift Aid scheme with the Charity Tax Group, where it has not been possible to fully comply with the requirements to the scheme whilst their offices and shops have been closed during the pandemic. These relate to the issue of end of year letters, the treatment of returned mail, oral Gift Aid declarations, staff and volunteer training and the operation of Gift Aid audits. As charities return to normal operations they are expected to revert to full compliance with the requirements of the scheme.

Guidance:
https://bit.ly/3mYhjDB
https://bit.ly/3n4pI8y

Consultations

Regulatory review

An independent review is underway in Northern Ireland, examining the regulatory framework and the operation of CCNI.

It follows a legal judgement made last year which found that the Charity Commissioners did not have the implied or express power to delegate their functions to the CCNI's staff acting alone, rendering decisions made by the staff unlawful. The review will not be revisiting past decisions, but will be recommending changes to be made to the operation of the regulatory framework going forward.

Guidance: https://bit.ly/2WN9Xs5

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