HM

Hall Morrice

www.hall-morrice.co.uk

charity news

Autumn 2019

Our Charity News includes useful guidance on the new Fundraising Code of Practice, good governance and related party transactions. We also consider the impact of cybercrime, updated SORP requirements 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:

Key

- United Kingdom
- England
- Wales
- Scotland
- Northern Ireland

Hot topics

Oxfam and the implications for all charities

One of the most widely publicised charity scandals of recent years involved Oxfam and the conduct of some aid workers. In June CCEW published the results of its inquiry into Oxfam which raises a number of issues that all charities can learn from.

The inquiry provides a timely reminder that trustees are collectively responsible for their charity and are ultimately accountable for everything done by that charity and its representatives. Trustees must understand the risks to their charity and ensure that they are properly managed, recognising the higher the risk, the greater the level of oversight required. Where a charity is large enough to employ a management team the trustees must be willing to hold the executives to account.

Protecting all those who come into contact with the charity and safeguarding responsibilities should be a governance priority for all charities, as a fundamental and integral part of operating as a charity for the public benefit. The complexity of a charity's operations or the importance of the cause, cannot be used as an excuse for a failure to ensure that all reasonable steps to protect people are adopted.

To be effective, trustee boards must recognise that they need to lead by example, establishing the charity's values, setting the standards, exhibiting behaviours that reflect those values, and by expecting anyone representing the charity to do the same. By implementing a culture that prioritises the need to keep people safe, charities can hope to deter and tackle unacceptable behaviour. Such a culture recognises the need for transparency when things go wrong, and that there are consequences for anyone whose conduct falls short of what is expected of them, regardless of how senior they are. Handling incidents which cause harm to people properly, reporting them and ensuring that lessons are learned and acted upon will protect the reputation of the charity in the long term by providing assurance to stakeholders that the charity acts with integrity.

Revised Fundraising Code of Practice published

In June the Fundraising Regulator published an improved Code of Fundraising Practice that is effective across the UK from 1 October 2019.

The changes are designed to make it easier for fundraisers, charities and third-party organisations to understand the standards expected of them when fundraising. It has also been designed to make it easier for the public to use so that they can know what to expect from ethical fundraising.

The changes to the Code of Practice include:

- a new three-part structure for better navigation, making it easier to know which standards apply depending on the type of fundraising being undertaken
- greater clarity about the legal differences between England and Wales, Scotland and Northern Ireland
- adding the rulebooks and legal appendices to the former code to provide a 'one-stop shop' by having all the standards in one place
- revised jargon-free language that provides greater transparency.

Guidance: bit.ly/2o6kvRu

Related party transactions

In a new report CCEW has expressed concern that charities are not fully disclosing, in their accounts, details of the transactions they have entered into with related parties.

The Charities SORP requires full disclosure of trustees' remuneration and expenses along with any other related party transactions that have taken place (or a statement that there were none) in order to provide full transparency of a charity's activities.

This disclosure is considered so important that where accounts do not include the required disclosures, the UK's charity regulators require auditors and independent examiners to report the matter as a matter of material significance. The regulators are concerned that a failure to disclose related party transactions could be a sign that a charity is failing to handle a conflict of interest in an appropriate manner.

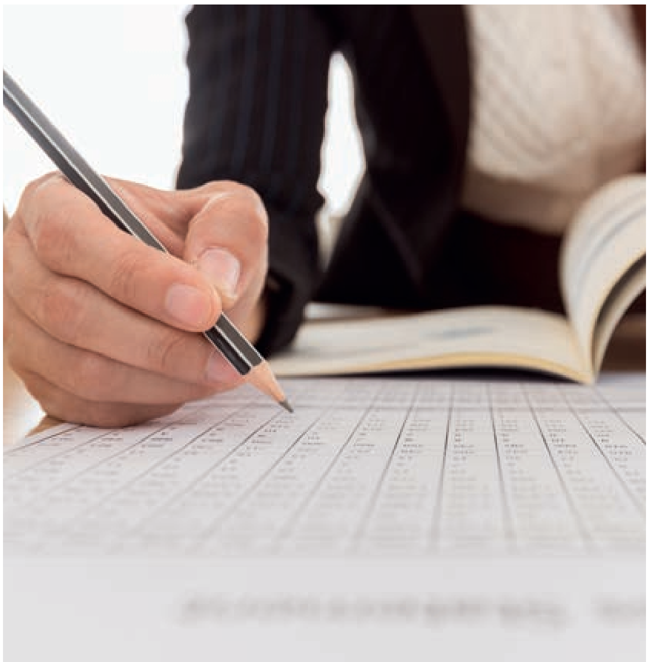
In order to ensure that your accounts fully disclose all related party transactions it is vital that you understand who the charity's related parties are, using the SORP's definition of a related party as a guide, whether transactions have taken place with them or not. We recommend that you maintain and regularly review a register of related parties for this purpose that provides a complete listing of the charity's related parties and the nature of any transactions that have taken place with them.

This register would need to include details of trustees and their close family. Many trustees have been reluctant to provide this information in the past, particularly where it might involve disclosing the names of minor children. Although in the vast majority of cases this will not have resulted in any related party transactions going undisclosed, such a stance is likely to be seen as increasingly unacceptable with the growing demands on trustees to be fully transparent.

Trustees are also reminded that before any transactions are entered into with a related party the possibility of any conflict of interest needs to be declared to the board of trustees. The board can then consider the potential issue before determining whether it is appropriate for the charity to proceed with the proposed transaction. By handling potential conflicts of interest in an appropriate manner trustees can avoid the possibility that their actions may see them reported to their regulator and the potential sanctions that could follow.

Independent examination

In August CCEW updated their guidance to trustees on independent examinations. The guidance is intended to help trustees understand what an independent examination is, whether they are required to have one, who to appoint to undertake the examination and how to prepare for it.



Trustees are encouraged to prepare for their examination by understanding the process the examiner will follow, agree arrangements and timetables for preparing the accounts and their examination, make the relevant documents available, make and agree any recommended changes and finally file the accounts and trustees' report.

The guidance aims to remove some of the confusion that exists by explaining how an examination differs from an audit and should be considered essential reading for all trustees of charities that are subject to independent examination.

Separately OSCR has also updated its independent examination guidance for trustees which covers similar issues as the CCEW guidance but reflects changes that exist due to the different regulatory framework that exists in Scotland.

Guidance: bit.ly/1GtmQFi bit.ly/2oV6576

Revitalising Trusts programme

Many charities can find themselves in the enviable position of having excessive reserves, but this can be an indication that they are struggling to fully utilise their resources in carrying out their charitable objectives. CCEW has joined forces with the Department for Digital, Culture, Media and Sport and the UK Community Foundations to form the Revitalising Trusts programme that seeks to help charities that find it difficult to spend their income on the public benefit.

Help is available from the programme for charities that find it hard to identify beneficiaries, spend their income, or struggle to recruit new trustees and find the time to run the charity. The solution could be to change to the objectives of the charity to enable it to work more effectively, or ultimately to close down the charity and transfer its assets to an alternative charity.

Guidance: bit.ly/2XZnkVn

Publication of charity trustee names

From 1 April 2020 the names of all charity trustees will be displayed on the CCEW website. As trustees have a responsibility for the management and administration of their charity, this move is seen as a way of ensuring that they remain accountable to the public.

Some trustees may feel that publication of their name may endanger their physical or mental safety, and are able to apply for a dispensation from having the details published. Applications for a dispensation should be made to CCEW setting the reasons why publication of their name could place them in danger. Once granted dispensations will be reviewed every five years.

Guidance: bit.ly/2DkU8gi

Cyber crime

With the growing dominance of the digital economy and an increasing number of charities using online platforms as a means of delivering services, all charities need to treat their exposure to cyber crime as a risk area that needs to be addressed.

To assist charities in remaining vigilant, and to implement appropriate defences, the National Cyber Security Centre has produced a useful guide on how to protect a charity from cyber crime. Also available is a new Board Toolkit that trustees can use to encourage essential cyber security discussions with their technical experts.

Charities are reminded that should they fall victim to cyber crime or other forms of fraud they need to report the incident to their regulator.

Guidance: bit.ly/2L01BpJ bit.ly/2CsYwbO

Charity governance

The latest version of the Charity Governance Code was published by the National Council for Voluntary Organisations (NCVO) two years ago, for charities registered in England and Wales, providing a clear set of principles for trustees to adopt in order to meet the standards that are expected of them. There are two versions of the Code to cater for larger and smaller charities.

Although the Code has been well received, take up by smaller charities has not been as great as hoped. Such charities may have modest budgets or rely entirely on volunteers and have lacked the resources necessary to implement the Code.

In order to encourage higher standards of governance the NCVO has published a new toolkit designed to support micro and small charities adopt the Code's principles, describing the kind of practice a smaller charitable organisation should aspire to implement. Aimed at charities with an income of less than £100,000 a year and no paid staff, it seeks to make it easier for well-meaning trustees to demonstrate a level of good governance appropriate for organisations of this size. Available to download free of charge, the toolkit also contains many free tools and resources which can be used and adapted when implementing the principles of good governance.

In Scotland, the Scottish Council for Voluntary Organisations (SCVO) has created a Good Governance Checkup document to be used in conjunction with the Scottish Governance Code for the third sector, to help trustees regularly review their governance. The board can use the checkup to identify areas for improvement and monitor and record the journey to good governance.

Guidance: bit.ly/2obsr3G bit.ly/2oQNxVn

Gift policy

With many charities under financial pressure it can be tempting to accept funds without sufficient consideration of the source of those funds. Such an approach can backfire when it later comes to light that such funds have been raised in a manner incompatible with charitable giving, with the potential for considerable reputational damage.

For charities that are reliant on donations to support their charitable giving, including legacies, we recommend that they put in place a gift acceptance policy that provides clarity over the circumstances when donations will be refused, rejected or returned to the donor. Such a policy would include:

- the principles that should guide the charity's decision making process when deciding whether to accept a donation or not
- what due diligence steps the charity will take to verify the source of any donation
- the requirement to keep written records of the decisions reached
- the media response to be followed ensuring that the charity's decision making processes are presented positively if called into question.

Brexit related issues

At the time of publication the Brexit situation remains uncertain, and it remains a possibility that the UK could leave the European Union without a deal in place. Whatever Brexit scenario comes to pass it is vital that charities consider the implications and implement plans that are flexible to cope with any of the potential outcomes.

If you have not yet considered what a no-deal Brexit could mean for your charity the NCVO has recently published guidance that may assist you develop your plans for such an eventuality.

Guidance: bit.ly/2kEI6s7

Legacy notifications

Many charities derive a significant proportion of their income from legacies, and receiving timely information on the amounts being left to them in wills provides charities with opportunities to increase and accelerate the amount they receive.

Earlier this year HM Courts and Tribunals Service (HMCTS) announced they were ending arrangements with legacy solution specialists Smee & Ford that enabled charities to subscribe to a notification service advising them of amounts being left to them. With no alternative solution in place, interim arrangements were adopted in August (expected to last for about a year) whereby Smee & Ford continue to notify charities when they have been left a legacy, and which now also includes the provision of a copy of the will.

Guidance: bit.ly/2oVdhA8

Accountancy and tax update

Charities SORP (FRS102) Update Bulletin 2

The Statement of Recommended Practice for Charity Accounting ('the SORP') sets out the reporting framework that charities preparing accounts on the accruals basis are required to follow. Issued in 2014, it is subject to frequent updates to ensure that it remains up to date.

The most recent update to the SORP, Update Bulletin 2, was issued over a year ago. Its impact is only now being felt as charities start to prepare their 2019 accounts.

The Bulletin contains a number of 'clarifying amendments' that take effect for accounting periods commencing on or after 5 October 2018. These provide guidance on how the existing requirements of the SORP should be interpreted in the areas of comparative information, the depreciation of fixed assets and the payment of Gift Aid by a subsidiary trading company to its charitable parent. On this last issue a separate Information Sheet has also been published providing guidance on the accounting by subsidiary companies in respect of Gift Aid payments.

There are also a number of changes introduced that take effect for accounting periods commencing on or after 1 January 2019 that are designed to ensure that the SORP remains consistent with the requirements of FRS102, the Financial Reporting Standard on which the SORP is based. The most significant of these relate to investment property, charitable mergers and the statement of cash flows. Although these are the most significant, other less significant changes are likely to impact a limited number of charities.

Guidance: bit.ly/2oO29ov

Charity SORP reform

New plans have been announced that will change the way the SORP will be developed from 2020 so that it better meets the needs of the users of charity reports and accounts. This follows a comprehensive governance review of the SORP development process in recent months.

These changes include:

- reform of the SORP Committee to ensure a stronger culture of constructive challenge, better stability and better representation by small charities and funders with an interest in the impact charities have
- the creation of seven stakeholder groups that will work in partnership with the SORP committee to ensure that the needs of the users of charity accounts are understood and reflected when writing future versions of the SORP.

If you are interested in joining a stakeholder group or applying for membership of the SORP Committee, details are included on the dedicated SORP website: **www.charitysorp.org**. The intention is to have representation from across the UK and Ireland to reflect the coverage of UK-Irish Generally Accepted Accounting Practice.

External scrutiny benchmark

CCEW has published details of the 'External scrutiny benchmark' that it uses to assess filed charity accounts to determine whether they meet the minimum expected standard. Although some may find the criteria included as part of the benchmark quite basic, CCEW's own research shows that only 76% of the accounts filed by larger charities with income greater than £1 million meet all of the criteria. For smaller charities the failure rate is much higher.

By publishing the benchmark CCEW hopes that charities will be better placed to ensure that the accounts they prepare meet all of the minimum standards. This is true not just for charities that prepare their accounts themselves, but also where they employ a professional accountant to do so, enabling them to assess whether the adviser has the necessary skills and expertise to prepare charity accounts.

Guidance: bit.ly/2ZoVRgD

Charity Tax Commission report

In July the Charity Tax Commission published a report setting out areas where reform of the tax system could be made for the benefit of the charity sector. Established by the NCVO and led by a former chairman of the Inland Revenue, the Commission's proposals aim to boost charities and unlock a wave of giving.

Short-term proposals made by the Commission that could be introduced include:

- The reform of Gift Aid, with the value of additional and higher rate tax reliefs directed to charities in addition to the current 20% basic rate tax relief. This reform alone could be worth as much as £250 million to the charity sector.
- The launch of a Universal Gift Aid Declaration Database, a single, enduring declaration that individuals can make covering all future charitable gifts, that would reduce the administrative burden on charities when operating the Gift Aid Scheme.
- Making it mandatory for employers to offer Payroll Giving, to encourage greater uptake of this form of charitable giving.
- Simplification of VAT rules affecting charities, including ways to reduce the amount of VAT levied on the goods and services provided to charities that they are unable to recover, and the disparity in VAT treatment between grants and contracts.
- The removal of VAT from wills that include a charitable donation in order to encourage the potential of legacy giving.
- The extension of business rates relief to wholly-owned trading subsidiaries of charities.
- Greater transparency in the annual reports of charities about the money they receive from tax reliefs.

The Charity Tax Commission is also advocating longer-term proposals for a comprehensive review of Gift Aid, VAT and business rates relief to ensure that they adapt to the changing ways that charities deliver their services in the 21st century.

Of course there is no guarantee that these proposals will ever make it into law, but with a potential change in government in the next few months it is hoped that the time is right for reform of charity tax.

VAT: Making Tax Digital

Over the last few months its been difficult to avoid the introduction of Making Tax Digital ('MTD'), a new approach to VAT reporting that affects all VAT registered businesses from 1 April 2019 with taxable turnover over the VAT threshold, currently £85,000. There is no exemption from the MTD requirements for VAT registered charities, although many that are not limited companies will have had their start date deferred to their first VAT return period starting on or after 1 October 2019. For those making quarterly returns this means that the quarter ended 31 December 2019 will be the first that needs to be filed with HMRC in accordance with MTD principles.

To comply with MTD charities will need to keep digital records and submit their VAT returns using MTD compatible software. If you have not already done so, you should review your systems to determine whether you are ready for MTD or need to implement changes to be able to continue to meet your VAT reporting obligations.

Gift Aid and donor benefits

Tax legislation limits the amounts of benefits that can be given to donors in relation to gifts made by individuals to charities, so that those gifts remain eligible for Gift Aid.

Earlier this year the Finance Act 2019 simplified these rules, which in certain cases also increased the value of benefits that can be given to donors.

Under the new simplified rules which apply for gifts made to charities on or after 6 April 2019:

- the benefit threshold for the first £100 of the donation remains at 25% of the amount of the donation, and
- for larger donations, charities can offer an additional benefit to donors up to 5% of the amount of the donation that exceeds £100.

There is an overriding limit on the value of benefits received by a donor in a tax year as a consequence of donations to a charity, which is £2,500.

Consultations

Sexual harassment

The Government Equalities Office has undertaken a consultation about whether the current laws on protecting people from sexual harassment in the workplace are effective. This is an issue of particular relevance for many charities as the nature of their often challenging work can expose their employees and volunteers to the potential for sexual harassment to take place.

The consultation sought to gain an understanding of people's experiences, focussing on some particular issues that it might be possible to address through changes to the law, namely:

- how to make sure employers take all the steps they can to prevent harassment from happening
- strengthening and clarifying the law so it is clear employers should protect their staff from being harassed by clients, customers, or other people from outside their organisation
- whether interns and volunteers are adequately protected by current laws, and
- whether people should be given longer to take a harassment, discrimination or victimisation claim to an Employment Tribunal.

The consultation process has now ended. Responses will be analysed and used to inform any future changes to the law.

Register of charitable trusts

Earlier in the year HM Treasury consulted on its proposals on how to implement the EU's Fifth Money Laundering Directive into UK law. One of the proposals is to extend the existing registration requirement for UK tax-paying trusts to all UK trusts whether they pay tax or not, including charitable trusts which have not generally been required to register under the current system. There would be no exceptions and no minimum registration threshold.

As part of the proposals it has been suggested that existing registration services could be used for particular trust types to avoid duplication, so those charities already required to register with one of the charity regulators should not need to register again. However, charitable trusts which currently have no obligation to register with a regulator, generally because of their small size, would now need to register.

The consultation ended in June and the outcome is awaited.

Northern Ireland charity registration and annual return

CCNI is consulting on proposed changes to the charity registration process and annual return including a series of new and updated questions that are intended to gather a range of information on the charity sector. The questions cover topics such as safeguarding, data protection and fundraising that are seen as being of significance to both the regulator and the wider public. Consultation end date: 22 October 2019. Any resulting changes to take effect in 2020.

Guidance: bit.ly/1OhhUUL

Hall Morrice

6&7 Queens Terrace Aberdeen AB10 1XL
Tel 01224 647394 Fax 01224 639541
E-mail accounts@hall-morrice.co.uk Web www.hall-morrice.co.uk