Charity News
Spring 2021

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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 including Northern Ireland

England

Wales

Scotland

Our Charity News includes the latest guidance on the continuing impact of the COVID-19 pandemic and the support available to the not-for-profit sector, including a summary of main announcements made in the recent Budget speech. 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.

Hot topics

The end is in sight!

For over a year now we have been working under exceptional circumstances as the country battles with the COVID-19 pandemic. The success of the UK's vaccination programme though has contributed to the government's roadmap for coming out of lockdown and returning to a more normal state, although it must be stressed that the situation is a fluid one and these plans are subject to change, and it looks increasingly likely that whatever the 'new normal' is, it won't be the same as it was before the pandemic first took hold.

The process of coming out of lockdown presents its own challenges. The NCVO has recently updated its own guidance on planning for the easing of national lockdown which raises a number of questions for charities to consider before resuming activities that could influence how charities offer their services going forward. The NCVO has also recently updated their guidance on cyber security and data protection, coronavirus testing and volunteers, and self-isolating due to international travel, which may be of use.

Last summer as we emerged from the first lockdown the Fundraising Regulator issued guidance on supporting a safe return to fundraising, which will be equally relevant now. Many charities will be keen to recommence fundraising activities that have been put on hold as soon as possible to help restore their financial position, but they need to ensure that they do so mindful of the need to do so responsibly.

Guidance:

NCVO bit.ly/3bEG7cN

Fundraising Regulator bit.ly/3r1SN3Y

Budget 2021

The Chancellor delivered his Budget speech on 3 March, with an attempt to balance the need to continue providing support to those affected by the COVID-19 pandemic, whilst raising taxes to meet the substantial costs that have been incurred in doing so. There were a number of measures announced that will be of interest to charities, including confirmation that the Coronavirus Job Retention Scheme was to be extended for a further five months to the end of September, although employer contributions will be required from July.

Also announced was an extension of 100% business rates relief for eligible retail, hospitality and leisure properties in England through to 30 June 2021, followed by 66% relief for the period to 31 March 2022. There was no confirmation that business rates relief would be protected for charities though, and it is now hoped this will be announced as part of the government's response to the Fundamental Review of Business Rates later in the year. The 5% rate of VAT for goods and services supplied by the tourism and hospitality sector is also extended to 30 September 2021 and a rate of 12.5% will apply for the subsequent six months to 31 March 2022.

A package of restart grants will be made available in England, of up to £6,000 per premises for non-essential retail businesses and of up to £18,000 per premises for hospitality, accommodation, leisure, personal care and gyms. In addition, local authorities are being provided with an additional £245 million of discretionary business grant funding which charities affected by the lockdown will have access to.

Some additional funding for charities was also announced. The Armed Forces Covenant Fund Trust will be provided with an additional £10 million this year to help deliver projects to support veterans with mental health needs. A further £475,000 is to be provided to Armed Forces charities to support the development of a digital and data strategy for the sector, better enabling them to work with government. An extra £19 million is also being made available to help tackle domestic abuse, focusing on offender rehabilitation schemes and a network of respite rooms to provide support for homeless women facing severe disadvantage. Other additional recovery funding announced will support cultural organisations, museums and zoos.

The government is also launching a UK Community Renewal Fund as part of the move away from the EU Structural Funds model and towards the UK Shared Prosperity Fund with an additional £220 million of investment for 2021/22. Funding will be allocated competitively, with a focus on those areas with the highest levels of economic hardship. A separate Community Ownership Fund is also set to be created with £150 million of funding, designed to ensure that communities across the UK can continue to benefit from the local facilities and amenities that are important to them. Community groups will be able to bid for matched funding so that they can buy local assets such as pubs, sports clubs and theatres and run them as community-owned businesses.

VAT registered charities that have taken advantage of the deferred payment arrangements that were available last year will no longer have to settle their obligations by 31 March 2021. Instead they can now opt to use the VAT Deferral New Payment Scheme and pay that deferred VAT in up to 11 equal payments. Payments can start from March 2021 and the earlier you opt-in the more instalments are available to help spread the cost. The registration threshold for VAT is to remain fixed at £85,000 until 2024.

Lastly the government is to continue to support social enterprises that are seeking growth investment by extending Social Investment Tax Relief (SITR) to April 2023, providing income tax and capital gains tax reliefs to investors. Unlike other venture capital schemes SITR can apply to loans as well as equity funding, making this accessible to charities.

Details: bit.ly/3v7dVbw

Wellbeing

For many reasons the last year has been unique, and the impact on people's mental health and wellbeing has been considerable. This is especially so for those working in the charity sector, where the focus will often be on trying to help others that are reliant on the charity for the help and support they need. This can often lead to very stressful situations, to the detriment of the charity worker's own mental and physical wellbeing.

It is not just frontline staff that can be affected by mental health issues. The Chartered Institute of Fundraising (CIF) has also reported that the current situation has presented numerous issues that can impact those working in other areas. The need to meet financial targets, and difficult conversations with supporters, are amongst the issues having an impact, in addition to what's happening in the private lives of employees of course. The CIF have produced a range of tips for managers, fundraisers and organisations to consider to help address the issues being faced, many of which will be equally applicable to other areas of a charity's activities.

At a time when charity finances are being stretched it might be felt that the cost of implementing wellbeing programmes is one that cannot be afforded at present. This is not necessarily so. The charity Mind curates the Mental Health at Work website, where it includes a toolkit specifically designed for supporting staff mental health in the voluntary sector, which provides a range of free resources that can help charities develop their own programme of support.

For many years now it has been acknowledged that employers have an obligation towards their employees and volunteers to provide a safe working environment, but the focus has usually been on minimising the risk of physical injury. One of the positive aspects of the COVID-19 pandemic appears to be increasing recognition and acceptance that employers' responsibilities extend beyond that, and that supporting the mental health of employees and volunteers is equally of importance. Indeed, having an effective wellbeing programme is often now being seen as a prerequisite for many when seeking employment, so for charities looking to recruit and retain the best employees this may be an area they need to develop.

Guidance:

CIOF bit.ly/2ZPtQN0

Mental Health at Work bit.ly/3qXOg2o

Trustee guidance

CCEW has published a series of simple, easy to understand '5-minute' guides designed to help trustees understand their responsibilities for the management of the charities they are involved with. Five guides have been published, which cover the basic requirements of:

- Financial oversight
- Achieving a charity's purposes
- Good decision making
- Addressing conflicts of interest
- What to file with CCEW and what support is available.

This 'core syllabus' covers the fundamental issues that CCEW expects all trustees to be aware of, and provides links to the more detailed guidance that

is available. It is hoped that by publishing these guides trustees will find it easier to access the information they need, especially those that may be inexperienced and unfamiliar with their obligations.

Guidance: bit.ly/3sx8zEm

Fraud and the pandemic

A new helpsheet has been published by CCEW, the Fraud Advisory Panel and others that aims to highlight some of the key areas where charities may be vulnerable to fraud as a consequence of the COVID-19 pandemic. It identifies the following headline risks for 2021 to be aware of:

- Cybercrime
- Insider (or Staff/Volunteer) fraud
- Procurement fraud
- Financial statement fraud.

The helpsheet also provides a checklist to help charities build a defence to counter these fraud risk areas, and provides links to other resources that charities may find of use.

Guidance: https://bit.ly/3uwg9Rg

Charity governance

Late last year the NCVO published an updated version of the Charity Governance Code as part of its commitment to review the Code every three years to ensure that it reflects any changes in society. Following consultation, two key areas of the Code have been updated.

Firstly, the focus of Principle 3: Integrity has been broadened. Previously it was primarily concerned with protecting the charity's assets and reputation, but the updated Code places increased emphasis on values, culture and the right of everyone to be safe, which reflects developments in the sector and the NCVO's own Charity Ethical Principles. As a consequence of these changes trustees are now expected to assess and address power imbalances where they exist, understand their safeguarding responsibilities, establish appropriate procedures that are integrated with the charity's risk management approach and make sure that everyone in contact with the charity knows how to speak up and raise concerns.

The second area that has been updated Principle 6 which has been renamed Equality, Diversity and Inclusion. It was clear that the previous guidance could go much further to support charities work towards board diversity and creating an inclusive culture. As a result, the principle includes a recommended four-stage process for charities to follow as they embark on this journey. It is the aim of the Code to help charities and their trustees develop high standards of governance. It is not a legal or regulatory requirement but is to be used as a practical tool. The Code sets the principles and recommended practice for good governance and is deliberately aspirational. It is intentional that the Code will be a stretch for many charities to achieve but should be used as a tool for continuous improvement.

Guidance: bit.ly/3svkVMW

AGM guidance

Although we now have a roadmap out of lockdown, it looks likely that charities will need to hold AGMs on a closed basis until at least 17 May and possibly until at least 21 June.

Affected charities may find it helpful to refer to latest guidance published by The Chartered Governance Institute (ICSA) on the holding of remote meetings, which although primarily aimed at business should also provide a practical resource for other bodies, such as charities. The key message that the guidance offers is a reminder that stakeholder engagement is important and can be undertaken in a variety of different ways.

Guidance: bit.ly/3aVLx3S

Revitalising trusts

In 2018 CCEW launched the 'Revitalising Trusts' programme in conjunction with the UK Community Foundations Network, designed to help a surprisingly large number of charities that were struggling to spend their income on meeting their charitable objectives for the public benefit. The programme seeks to assist inactive or ineffective charities by helping them to identify beneficiaries and spend their income, changing the charity's purpose and governance if necessary to enable it to work more effectively. This programme has revitalised £32 million.

A similar scheme is set to be launched in Scotland by OSCR and Foundation Scotland, where initial findings have revealed that there around 400 charities that may not be using their funds to full effect. From April 2021 a process of identifying charities that have had either no income or expenditure over the last five years, or have donated less than 30% of their income over the same period will begin. Support will be provided to these charities on how best to reactivate or reorganise so that they can deliver public benefit once again. Charities that have failed to submit their accounts will also be included in the scheme.

Guidance http://bit.ly/2ZZ8wod

Disclosure Act

Last year the Disclosure (Scotland) Act 2020 became law, designed to modernise and improve the proportionality of the disclosure check system for volunteers in Scotland. The new legislation focuses on the safeguarding of children and vulnerable adults, whilst balancing the need for people with past convictions to move on and contribute to society.

New guidance has been produced by Disclosure Scotland in conjunction with Volunteer Scotland on how the Protecting Vulnerable Groups (PVG) Scheme is changing. OSCR has also published an informative video on the changes that is recommended viewing for those concerned about the changes to the law around disclosure checks for volunteers.

Guidance: bit.ly/3dQ2FKm

Accountancy and tax update

Charity model accounts

There are no changes to the Charity SORP to report on in this edition of Charity News, but those preparing charity accounts might be interested to know that the model accounts published by the SORP Committee have been updated. These provide examples of how charity accounts should be presented in order to comply with the latest reporting requirements for charities, including the latest version of the SORP that was published in October 2019.

Two versions of the model accounts are available, the Arts Theatre Trust which is an incorporated charitable company and the Rosanna Grant Trust, which is an unincorporated trust. These examples are developed for charities in England and Wales. The England and Wales examples are being reworked by OSCR for reporting in Scotland.

The SORP website notes that additional model accounts are being prepared that provide further disclosure guidance on how charities should report on the implications of the COVID-19 pandemic.

Guidance: bit.ly/36A3AtR

Filing the annual report

In response to the COVID-19 pandemic the UK's regulators all announced measures designed to ease the administrative burden on charities and provided extra time to file their annual reports.

As we slowly return to a more normal way of operating, these measures are being withdrawn and charities will need to ensure that wherever possible they report in accordance within the usual timeframes. The Scottish regulator, OSCR, has already reminded charities that its grace period comes to an end on 31 March 2021, so any charity with a deadline for filing their annual reports after 1 April 2021 will not receive any additional time to file, and the usual nine month filing deadline should be complied with.

For charitable companies, legislation was introduced that gave an additional three months for filing accounts with Companies House. This only applied to charitable companies with a normal filing deadline up to and including 5 April 2021, so effectively charities with a year end falling after 5 July 2020 will need to ensure that they file their accounts within the usual nine month deadline to avoid a late filing penalty. The deadlines for filing other information at Companies House are also set to return to their normal levels in April.

Charities that continue to have difficulty in meeting their filing obligations should contact their regulators at the earliest opportunity if additional time is needed. Although penalties are not issued by the regulators, late filings do appear permanently on public record for those regulated by CCEW and OSCR.

Guidance: Companies House bit.ly/3uz6Eka

Fundraising disclosures

It is a legal requirement for charities in England and Wales with gross income of over £1 million to include disclosure of their fundraising activity as part of their trustees' report. Charities based elsewhere in the UK may like to include equivalent disclosure on a voluntary basis to provide transparency over their fundraising activities.

A recent review undertaken by the Fundraising Regulator has found that only 21% of charities were fully compliant with these requirements. Although over 80% of annual reports reviewed contained a statement on the charity's fundraising approach there were much lower rates of compliance on the need to include a statement of third-party monitoring and on protecting vulnerable people.

To help improve rates of compliance the Fundraising Regulator has updated its guidance on the disclosure requirements, and has also set out the following four overarching points to consider when drafting the annual report:

1. Know the requirements
2. Explain how your fundraising is fair
3. Include clear and relevant detail
4. Use your charity's unique voice.

Guidance: bit.ly/3uxpwjD

Going concern reporting

It is of little surprise that there will be renewed focus on going concern at present, given the continued impact the COVID-19 pandemic is having on charity finances. In a recent report undertaken by Pro Bono Economics in conjunction with Charity Finance Group and the Chartered Institute of Fundraising, the loss of income was made clear, with one in five charities reporting that their income in November and December 2020 was less than half of normal levels. The inability to hold fundraising events and keep their retail shops open due to lockdown measures in places are seen as being two of the principal reasons for this decrease.

Trustees have a responsibility to manage their charity's finances responsibly, and this will include ensuring that their reporting of going concern issues in the annual report is an accurate representation of the position faced by the charity. As a reminder trustees need to consider whether it is appropriate to prepare the financial statements on the basis that the charity will remain a going concern for a minimum period of 12 months from the date that they approve those financial statements, include disclosure of those factors that support the conclusion that the charity is a going concern along with a balanced, proportionate and clear disclosure of any uncertainties that make the going concern assumption doubtful (or a statement that there are no such uncertainties). Where uncertainties exist additional disclosure is also required in the trustees' report.

Trustees should document their assessment of going concern, which is likely to involve the preparation of cash flow forecasts to ensure that the charity will continue to be able to operate with the resources it is likely to have available. This is no mean feat for charities dependent on voluntary income in the form of donations and fundraising, and the high levels of unpredictability in their income levels as a result. Trustees may find the topical guidance published by the accountancy bodies ICAS and ICAEW in their publication 'COVID-19 and going concern' helpful in this regard, as although aimed at small and medium businesses, many of the issues that need to be considered are similar. Specific going concern guidance for charity trustees is also available from ICAS.

Charities should expect increased scrutiny of their going concern assessment, with auditors now subject to toughened requirements in this area following recent revisions to the auditing standards. The charity's advisers will be able to advise you on matters to consider and reporting obligations, although it should be remembered that the conclusion on whether a charity is a going concern or not is one for the trustees to make. Auditors and Independent Examiners will form a view on whether that conclusion has been properly made and adequately disclosed.

Trustees are reminded that where their charities are experiencing severe financial difficulty and are at risk of failure that they will have a responsibility to report this to their regulator.

Guidance: bit.ly/37Sxday, bit.ly/2OgdMC0

Off-payroll working

The government has confirmed that changes to off-payroll working rules will apply to the private sector from 6 April 2021, including charities and other not-for-profit organisations.

Small entities will be exempt from these rules, commonly referred to as IR35. For charitable companies in order to qualify for this exemption two of the following three thresholds must be met; annual turnover of £10.2 million or less, gross assets of £5.1 million or less and average employee numbers of not more than 50. Unincorporated charities or those incorporated under charity legislation will only need to meet the turnover limit. For charities note that donations and grant income can be excluded from the definition of turnover.

Those charities that are caught by the rules will need to reconsider any arrangements where workers are remunerated through the use of a personal service company rather than being paid directly, as it will now be the charity's responsibility to determine the employment status of the worker, with implications for the operation of PAYE and National Insurance. Even where payment arrangements are unchanged there are administration and record keeping requirements to be aware of, with a need to undertake a status determination for every worker affected and provide them with a Status Determination Statement detailing your conclusion.

Details: bit.ly/2OuHNO0

Consultations

Responsible investment

Last year CCEW undertook a 'listening exercise' seeking views on the adequacy of its guidance for trustees on responsible investment, the alignment of a charity's investment policy with its mission and purpose. This exercise highlighted a number of technical and practical barriers to responsible investment, such as the apparent need for trustees to prioritise financial return over any other considerations.

CCEW has now advised that they plan to publish draft guidance on investing responsibly later this Spring that will help enable trustees to feel more confident when choosing to invest in line with their charity's purpose and remain accountable to their funders and the public at large. Following public consultation they hope to be able to finalise the guidance over the course of the summer.

Guidance: bit.ly/3qY5pce

Corporate transparency and register reform

Three major consultations took place over the winter that contained proposals that could significantly impact charitable companies.

These included proposals for requiring all companies to file their accounts digitally with Companies House and a shortening of the filing deadline for doing so, the powers of the Registrar to query filed information and implementing the ban on corporate directors. These consultations ended in February and details of the outcomes are awaited.

Details: bit.ly/2Mv0kcs

Scottish charity law survey

The Scottish Government has recently undertaken a survey seeking views on potential improvements to the regulation of charities in Scotland.

This builds on a previous consultation undertaken in 2019 that examined proposals put forward by OSCR to improve transparency and accountability in the charity sector. The survey has now ended, but its findings will help to form future developments in Scottish charity law.

Details: bit.ly/3kynoDO

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