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Chartered Accountants • Business Advisors

Charity Newsletter

JANUARY 2019

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Introduction

Happy New Year to you and welcome to the January 2019 edition of Mitchell Charlesworth's charity newsletter. Our publication is compiled by our specialist team of charity advisors based across our offices in the North West, who provide practical, reliable support to the local charity community.

At the time of going to print, there's still a tinge of uncertainty in the air with regards to Brexit and its implications for the sector, and so for this edition, we've focused on what we do know, including the fact that Making Tax Digital is still very much on the agenda for 1st April 2019! If you're unsure as to whether your charity complies with the requirements, you can contact our Making Tax Digital team who are very happy to conduct a readiness review of your VAT processes.

As it's the New Year it's always a great time to take stock of things. For example, are you confident that you're minimizing the impact of VAT on your charity's expenditure? Our VAT Partner Alison Birch has set out some housekeeping points of note.

Are you thinking of recruitment for the year ahead? We've set out some hits and tips and signposted some helpful resources to help you with Trustee recruitment. There's also a word of caution if you're considering using temporary staff, given the recent ruling in Adecco's action at the Court of Appeal concerning VAT on the supply of temporary staff.

A reminder that we are always looking at ways by which to promote our charity clients' aims and services, and if you would like us to shine the spotlight on your particular charity in the next edition, please get in touch with Cara Bartlett (cara.bartlett@mitchellcharlesworth.co.uk).

Finally, we hope you find this newsletter useful. If there are any particular areas that you would like to dicuss with the team further, please do not hesitate to contact our specialist partners.

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VAT and the supply of temporary staff: implications for charities

The Court of Appeal has dismissed Adecco's appeal that its supply in relation to the provision of 'non-employed' temps is no more than an introductory service. As a result, VAT is due on the full payment received from Adecco's client (wages plus commission).

Background

Following the decision in Reed (LON/2004/0130), where it was decided that their supply was solely the introduction of the temporary worker, Adecco submitted a claim for overpaid VAT (approximately £11m). HMRC rejected the claim and Adecco appealed. Their appeal was dismissed at the First Tier and Upper Tier Tribunal.

It was accepted by Adecco that its supply of employed temporary workers was subject to VAT on the full payment received from the client. It was also accepted that where Adecco introduces a contract worker to a client for a one off fee, it is only the introduction fee that is subject to VAT. The appeal relates solely to non-employed temps. They are not 'on the books' of Adecco and they have no obligation to find them an assignment. However, where they do find them an assignment they are, for regulatory reasons relating to e.g. PAYE/NIC, considered an employee.

Adecco's arguments

Adecco argued that the previous decisions did not look beyond the contractual provisions at the 'economic and commercial reality' of the transactions. It was merely the regulatory framework that prevented Adecco from paying the temps as agent. They also pointed out certain clauses in the contract which they believed supported their case. For example, the contract stated 'the services to be provided by the temp to the client' and that the temp would be under the client's 'direction, supervision, management and control.'

The Decision

The Court of Appeal disagreed with the arguments put forward by Adecco on the following basis:

- The temps could not provide services under contracts with the clients as no such contract existed
- The contract between Adecco and the client referred to the temp being supplied through Adecco
- Adecco paid the temps on its own behalf, as dictated by the regulatory framework. There is no reason the VAT position should not follow the legal arrangements in place
- Adecco charged a single sum per hour work, the remuneration was not split between commission and pay
- The same contract was used for employed and non-employed temps
- There is no suggestion that the contractual provisions were artificial or a sham.

The Upper Tier stated that determining the nature of a supply is a two stage process. Firstly, the contractual position should be analysed and secondly, it should be considered whether the contractual position reflects the economic reality. It is normal for the contractual position to reflect the economic reality but this will not be the case if the arrangement is artificial. This is something that has been analysed at length in a number of significant cases such as Secret Hotels2 Ltd, WHA Ltd and Airtours.

The decision in the Adecco case stated that both contractually and as a matter of economic and commercial reality, the temps' services were supplied to clients via Adecco. The Court of Appeal went on to say that although the contracts in Reed differed from those in Adecco, the distinctions were not enough to justify the earlier decision and that it was felt it was wrongly decided.

Conclusion

This additional VAT charge will be extremely bad news to charities, not for profits and other entities that use temporary workers and are unable to reclaim all of their VAT. Due to significant impact the decision may well be appealed for a final comment on this matter.

Changes to the Charity SORP (FRS102)

As widely reported, in February 2018 the joint SORP-making body issued an Exposure Draft of Update Bulletin 2 to the Charities SORP (FRS102) as a result of the triennial review of FRS 102 by the Financial Reporting Council (FRC).

A number of changes to the existing SORP have now been made and are to be found in the addendum to the existing SORP (Bulletin 2). The main changes are:

Clarification of the existing comparative information requirements:

The FRC has stated that "comparative information must be provided for all amounts presented in the current period's financial statements, which include the notes". Charities must now provide comparative information for all amounts in the accounts, and the notes to the accounts, unless otherwise directed in FRS102. In practice this now means that the movement of funds and analysis of net assets between funds' notes must now be provided for the current year and the comparative year in full. Critics argue this will make the financial statements more cluttered and confusing however the requirement was confirmed in the release of the final version of the Bulletin.

Amendments to the way that Gift Aid is accounted for

Gift aid to a charity by a subsidiary company is now considered to be a distribution by the subsidiary rather than a cost. In doing so, the concept of a "constructive obligation" was removed meaning gift aid cannot be included in liabilities at the year-end unless a legal obligation exists (e.g. such as through a Deed of Covenant). There is further guidance in the FRS for trading subsidiaries, in that the subsidiary will only need to account for the tax it expects to pay. So if all the profit is gift aided to the parent charity within nine months of the year end, no tax liability will be expected and therefore won't need to be provided in the subsidiary accounts.

The removal of "Undue Cost or Effort"

Previously this could be called upon to excuse non-compliance, with 5 exemptions having been removed from the original SORP for example reporting on depreciating major components of an asset, where property is owned by a charity in a group and rented to another group entity, and where charities hold mixed use property.

The addition of net debt reconciliation to a cash flow statement

Reconciliation of net debt must now be included as a note to the statement of cash flows. The FRC have included an example reconciliation as a guide, contained within Bulletin 2, with the objective being that sufficient detail is provided to allow users to clearly identify the balances.

Investment Properties:

The standards for accounting for investment properties in a charities individual financial statements have also been changed. It is now a matter of choice for charities to measure the property value at cost (less depreciation and impairments) or at fair value.

Other changes include rules surrounding charity mergers, the removal of the requirement to disclose stock recognised as a debt, and risks arising from financial instruments. Charities are advised to fully familiarise themselves with Bulletin 2.

Changes to the Charity SORP (FRS102)' *continued...*

Who does this affect?

The amendments apply to all charities in the United Kingdom and Republic of Ireland that adopt FRS102.

When do the changes take effect?

Previously, it was anticipated that the changes would take effect immediately on the date of the publication of the bulletin, i.e. 5th October 2018, however this has been extended to reporting periods beginning on or after 1 January 2019. Charities may choose to adopt the amendments early (unless precluded from doing so by regulations or law) providing all amendments are adhered to at the same time.

What else do I need to consider?

The changes above will mean that that when preparing the accounts, Charities will now need to consult with three separate guides; the original SORP, Update Bulletin 1, and now Update Bulletin 2, the latter of which can be found here: www.charitiessorp.org/media/646440/update-bulletin-2.pdf

If you require any further clarification surrounding the addendum to Charities SORP, please contact our Charities team below.

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Charity Fraud most often committed from within

It is often reported that fraud within charities is more likely to take place by an insider than from external sources and this is borne out by recent research from the National Fraud Intelligence Bureau (NFIB).

The principal reasons given for this are poor oversight, a lack of internal control, internal controls not being consistently applied in practice, and too much trust and responsibility being placed in one individual. "Fundamentally there are cultural issues which require a change in mind and behaviour within charities, and this may take time" the report says.

Charities can do more to protect themselves which starts by understanding where they are vulnerable to fraud and putting procedures and processes in place to manage those risks. Charities should have "clear policies and procedures in place for dealing with fraud and should ensure that all staff are familiar with them". It should also be made clear that "any criminal breaches of policies will be reported to the police and other relevant authorities".

Key to managing the risk of fraud is to make sure that proper financial controls are in place. Particular areas where focus should be given include segregation of duties, controls over cash including banking arrangements and payments whether in the form of cheque, internet or online and use of credit or debit cards. The Charity Commission has published detailed guidance on this (Publication CC8) including a separate self assessment checklist which is a useful starting point for any charity looking to develop its systems.

"Although the vast majority of trustees, employees and volunteers are honest and act with integrity, research and case studies reveal that without a strong counter-fraud culture and consistently applied controls any charity can fall victim to insider fraud".

Remember this doesn't always happen to someone else; it could be your charity.

Construction - Relevant Charitable Purpose

The construction of a property can be expensive... even more so if VAT is added to the price. However in certain situations, the construction of a building can be zero-rated. In this article we look at buildings that are to be used for a relevant charitable purpose and what that means when it comes to obtaining zero rating on the construction of a new building.

A building is used for a relevant charitable purpose if it is used:

- Otherwise than in the course or furtherance of business, or
- As a village hall or similar in providing social or recreational facilities for a local community

Zero-rating can also apply to an annexe to be used for a relevant charitable purpose as long as:

- It is capable of functioning independently from the existing building; and
- The annexe and the existing building each has its own independent main access.

Before we expand on what this all means, it makes sense to outline the extent to which the zero-rate applies. It can apply to services supplied in the course of construction of the building prior to completion and any goods that are incorporated into the building that are not specifically excluded from the zero rating (e.g. carpet, white goods etc.). The supply of architectural, surveying, consultancy and supervisory services is always standard rated, regardless of the VAT liability of the building work. Certain services closely connected with construction can also qualify for zero-rating, for example demolition, site security.

In order for the contractor to zero-rate their supplies they must hold a valid certificate that confirms the building is intended to be used solely for a relevant charitable purpose. This certificate is issued by the customer of the zero-rated works. This certificate does not extend to supplies made by subcontractors and therefore their supplies to the contractor are standard rated.

It is important to note that this relief extends to entities recognised by HMRC as a charity for tax purposes in addition to registered charities.

Otherwise than in the course of furtherance of business

A building is used otherwise than in the course of furtherance of business if the building is not used to generate 'business' income. For VAT purpose income is considered to be 'business' if payment is made for a service provided and there is a direct and immediate link between the payment received and the supply made. For many charities, the majority of income received will be considered 'non-business' because the service offered is made for no payment, they are instead funded by grants, donations or fundraising proceeds. There is no direct and immediate link between the payment received and the service provided.

HMRC considers that a building is used otherwise in the course or furtherance of business if at least 95% of its use is for charitable purposes. HMRC typically exercise their discretion to allow a small, incidental amount of business usage. Examples of buildings used for non-business purposes given by HMRC include places of worship, school buildings and scout huts. However it can also apply to schools or nurseries that either do not charge a fee or charge a nominal fee and rely on donations.

As a village hall or similar

For a building to be classed as a village hall or similar there must be a high degree of local community involvement in the operation of the building and a wide variety of activities for recreational, social and sporting purposes carried out in the building. However, this is quite subjective and there is a significant amount of case law in this area which has looked at whether sports clubs, pavilions and theatres can qualify. If a proposed project has a significant amount of community use and involvement it is worth exploring whether zero-rating could apply.

‘Construction - Relevant Charitable Purpose’ *continued...*

Charitable Annexe

An annexe is considered to be a structure that is attached to an existing building but in a way that is not considered an extension. Typically any additional building would be considered an extension if it made the existing space bigger to provide more space for the same use. An annexe would provide more space for a different use. HMRC use the term ‘distinct from but associated with the activities carried out in the existing building.’ The key point is to ensure that the are independent both in terms of access and operation. This could be a nursery attached to a school or church.

An unexpected VAT bill could be a significant financial burden as many charitable entities cannot claim this VAT back. It is always advisable to take VAT advice before construction work commences to see whether it is possible to obtain zero-rating for the project.

We have a wealth of experience with dealing with construction projects and would be happy to discuss your development with you to see whether you would qualify for VAT relief. If you would like more information or you would like to discuss how we can help you please call our VAT partner, Alison Birch.

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Final Reminder: Making Tax Digital for VAT

As this will be our final newsletter prior to the new tax regime that comes into force on 1 April 2019, Alison Birch, VAT partner at Mitchell Charlesworth, reminds businesses about the Government’s new rules around Making Tax Digital and how charities should prepare for these rules, which require businesses and certain charities to keep their VAT records digitally and submit their VAT return to HMRC through Making Tax Digital compatible software.

HMRC have introduced a deferral until October 2019 for certain VAT registered traders, this includes not for profit organisations that are not setup as a company, trusts, VAT groups, annual accounting scheme users and those required to make payments on account. Unless included in the deferral group, charities must comply from April 2019 and they will need to maintain their records digitally and submit their VAT returns via API to HMRC. This can either be by using compatible software, or API enabled spreadsheets.

Whilst HMRC have stated that there will be a ‘soft landing’ period for the first year following the introduction of the new regime, and that they will not penalise charities for non-compliance, this concession only applies to the digital link between packages or interfaces. The required records must be stored digitally and the VAT return must be submitted via API enabled software from April 2019. As a result, if the software being used by the charity is not compatible, consideration needs to be given as to whether an additional piece of software is required to facilitate compliance. HMRC have confirmed multiple systems can be used to comply with the MTD requirements but that there must be a digital link between these systems and it is this digital link only that the soft landing applies to.

Continued on page 9

Civil Society Strategy - what charities need to know

The government recently published its Civil Society Strategy which sets out the long-term vision of government policy towards civil society and will shape the future relationship between charities and the government.

It contains several announcements designed to bring together businesses, charities and the public sector, including a revival of grants, renewed commitment to the principles of the Compact and improved commissioning.

Here are the most relevant and interesting parts of the strategy for charities.

Giving the social sector a voice

The strategy's focus is to ensure charities and social enterprises are confident about their right to speak up and have a strong role in shaping policy. It aims to give the social sector a clearer route to talk to Government. The document says, "government should improve its engagement with civil society, consult charities, and community groups," and that it is "determined that charities and social enterprises should be fully confident in their right to speak in public debates, and to have a strong campaigning and advocacy role."

The government will work with the Electoral Commission and the Charity Commission to send a strong message about charities' right to campaign, and the strategy reiterates that the government will work with the Electoral Commission on fresh guidance for charities.

The strategy says that government is "determined" that charities should have the right to speak in public debates and help shape policy. It says charities that receive taxpayers' money should not be inhibited from expressing their opinions on policy and practice matters.

It intends to set up a cross-government group to work with civil society to establish the principles of effective involvement in policy-making.

A revival of grant making

Also referred to as 'Grants 2.0', the government said its wants to "broaden the range of funding options for community initiatives" and acknowledges that grants can "combine flexibility with the accountability and performance rigour of a contract".
It "recommends that all public bodies, including local government, follow the Grants Functional Standard".

The government will also support open data initiatives and hold a "ministerial event" to "collectively improve data infrastructure and open data publication to support civil society".

There will be new guidance for commissioners on grant-making to small and local charities.

Recommitment to the Compact

The government will "renew its commitment to the principles of the Compact", which was last published in 2010 and sets out a series of commitments to set the foundation for a productive relationship between the social sector and the government.

Collaborative commissioning

The government will review and encourage increased uptake of its "innovative partnership" model to "explore whether more can be done to encourage contracting authorities to work directly with partner".

‘Civil Society Strategy - what charities need to know’ *continued...*

Tax and regulation

The government has said it will conduct a review of Social Investment Tax Relief in 2019. It will set up a regular forum for social enterprises to coordinate relations with the government and will “develop and implement measures to strengthen safeguarding”.

It will also examine the “operation and impact” of the Fundraising Regulator, and work with the Charity Commission to “to explore options for placing it on a secure and sustainable financial footing and ensuring it is adequately resourced to meet future challenges”.

Digital

The government plans to use digital technology to improve the work of charities, saying “to ensure our communities are connected, the government will implement measures from the Digital Economy Act. This will support civil society organisations and their beneficiaries in accessing high quality, fast, digital services.”

It will also form a Digital Skills Partnership to help civil society organisations to build their skills, boosting collaboration between the government, civil society, and business to tackle the digital skills gap. Commenting on the strategy, Philip Griffiths, charity partner at Mitchell Charlesworth said: Whilst the strategy provides a framework for charities moving forward, the proof is in the eating as to whether this provides any benefits to charities, particularly small local charities on a practical level.

To read the Civil Society Strategy in full please use the following link: https://www.gov.uk/government/publications/civil-society-strategy-building-a-future-that-works-for-everyone

If you have any questions about the Civil Society Strategy, please contact our charities team.

*Source: Civilsociety.co.uk

‘Final Reminder: Making Tax Digital for VAT’ *continued...*

Watch our webinar

You may be interested in watching our short webinar produced by our Making Tax Digital team which provides an overview of the new legislation, and addresses the main queries and concerns that businesses have about the new way in which to administer their VAT from 1 April 2019: www.mitchellcharlesworth.co.uk/services/making-tax-digital/watch-our-making-tax-digital-for-vat-webinar

Readiness Review

We understand that this may be a considerable change for businesses and, as a result, we have developed a Making Tax Digital readiness review which will help businesses understand what will be required to remain compliant and avoid penalties.

Please contact Alison if you would like further information about this.

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Tips on Trustee Recruitment

It has been widely reported over recent years that small charities are facing increased financial pressures at a time when demand for support from those charities is on the rise. So now more than ever it is essential that charities are recruiting the right talent to sit on their boards in order to navigate these key challenges.

Over the summer, the Charity Commission issued guidance ***'Finding new trustees: what charities need to know'*** with a view to assisting charities recruit the right people with the right skills, to positively influence a charity's effectiveness.

So, what is a charity trustee? Trustees are the people responsible for the general control and management of the administration of the charity as determined by their governing document. Naturally this can include a wide range of responsibilities, including accounting, audit requirements, fundraising and marketing. Trustees are generally unpaid, except for reasonable out of pocket expenses incurred whilst carrying out their duties, unless explicitly provided for within the Charity's governing document.

We have compiled 5 areas of consideration to assist charities in their recruitment, selection and induction processes:

Know what you want:

Existing trustees may have identified a skills gap within the current board, or you may be recruiting to replace a trustee who is stepping down. Either way, know from the outset the desired skills required and document this in a role specification, taking care that you also satisfy your charity's diversity objectives in both your promotion of the role and recruitment of the trustee. During the recruitment process, the trustees should have established vetting criteria to establish not only the necessary soft and technical skills, but also the right character fit, and should not stray from this.

Identifying a good trustee:

As well as identifying the required technical skills, those charged with the recruitment process should also look for individuals who reflect and have previous knowledge of the communities and sectors that the charity exists to serve. On a practical note, trustees should be transparent about exactly what will be required of the trustee in terms of time required from the trustee and the voluntary activities they will be expected to perform and align the trustee's suitability accordingly.

Advertising the role:

Internally:

Advertising internally is always a good idea as existing volunteers will have good knowledge of the charity's beliefs, objectives and some knowledge as to the Charity's operations. Care should be taken when considering an employee of a charity (as opposed to a volunteer) for a trustee role as this may pose a conflict of interests as the law prevents unauthorised payments to trustees.

Externally:

There are a number of sources available to charities in order to promote trustee vacancies, including NCVO Trustee Bank (subject to membership), as well as the charity's local Council for Voluntary Services. When recruiting for specialist skills, sector press is a good option, and not to forget via a Charity's social media accounts.

Don't overlook promoting the position to the charity's users or beneficiaries, as user trustees bring a different perspective to a charity and help develop the charity's services from a beneficiary's perspective, although care should be taken here to avoid a conflict of interests and ensure that the trustee acts with the Charity's best interest rather than their own.

Vetting & Confirmation:

As well as the appointment satisfying the requirement of the charity's governing document, all usual best practice recruitment checks still apply (i.e. taking up references), Charities should also ensure that any potential trustee is not prohibited by statutory or legal regulations from taking up the appointment. As we reported in summer, from 1st August 2018 new automatic disqualification criteria came into force and charities should build these new restrictions into their recruitment and post appointment declarations. As a bare minimum, charities should ask new trustees to sign a trustee declaration form to confirm they can legally take up the appointment, but there are a number

'Tips on Trustee Recruitment' *continued...*

of additional ways that charities are recommended to vet trustees, including:

a) via the Individual Insolvency Register
b) the Register of Disqualified Directors available from Companies House; and
c) the Charity Commission search of previously disqualified charity trustees.

Further, appropriate checks may also be needed with the Disclosure and Barring Service, for example, when the charity is concerned with working with young people and/or vulnerable adults. The Charity Commission adopt a variety of methods to ensure that charities are checking the eligibility of their trustees so it is highly recommended that charities always vet potential trustees.

Induction & training:

Once written confirmation of the appointment has been issued to the trustee, a process of induction and training is beneficial, not only for the trustee to become acquainted with the role, but to reassure the charity that the benefits of the new appointment are realised as soon as possible. Steps should be taken to ensure the trustee is fully aware of the charity's key policies and procedures including Equality & Diversity, Health & Safety and Data Protection soon after appointment. NCVO's "Know How Non Profit" produce a wide range of resources and templates for charities, as well as a Trustee Induction Schedule & Pack which recommends including the following as a minimum:

- Charity documents, including the charity's Mission & Vision statements, most recent annual report and accounts, strategic plans and key policies
- Legal and regulatory guidance, including the governing document and the charity governance code
- Governance documents, including the trustee's role description, code of conduct for trustees, list of important dates, and contact details for current trustees.

As part of the induction process, the Charity should take steps to ensure that any training requirements for trustees is identified and offered as soon as possible, that the trustee is introduced to key figures within the charity including the Chair, CEO or vice CEO, and visits to key charity sites take place to further understand the charity and meet with other key staff.

If you have any questions concerning this article or would like to discuss any aspect in further detail, please contact our charities team. This guidance should be treated as a general overview and Charities are advised to seek further advice where their particular charity is governed by a differing set of laws and regulations.

Useful links:

- https://www.gov.uk/government/publications/finding-new-trustees-cc30/finding-new-trustees
- https://knowhownonprofit.org/tools-resources
- https://www.ncvo.org.uk/practical-support/information/governance/trustee-bank
- www.gov.uk/search-bankruptcy-insolvency-register
- www.gov.uk/government/organisations/companies-house
- apps.charitycommission.gov.uk/trusteeregister/

Charity branding tips

As Cancer Research UK tops a new league table ranking 100 large charities by the value of their brand*, we identify what makes a strong charity brand and how to protect it.

Why charities need branding

Brand identity is more than a logo, it's the impression a charity makes, and what people think of you. Charities need the impact of a brand to help them connect with their audience on a deeper level. CharityComms' report, "Branding Inside Out", found that charity branding actively improves the number of donations a charitable organisation can get for their campaign.

A strong brand identity is important for success, enabling you to build a good reputation and stand out from your competitors. Building a reputable brand increases opportunities for funding, spreads awareness of your cause and increases trust.

Creating a strong brand

To create a strong brand you need a thorough understanding of your target audience and to help them relate to you so they are most likely to support you over others. It is important that your mission, vision and values are communicated clearly along with what sets you apart from your competitors. Authenticity and consistency are both crucial as your donors and volunteers must be sure your charity keeps its promises and stays true to its core values.

Management and compliance

Strong management, comprehensive administrative and financial procedures and compliance with all regulations are a key part of protecting a charity's brand. An organisation wide approach to risk management should ensure that unnecessary or damaging risks are avoided.

Protect your brand and reputation

Recent research from the Charity Commission indicates the level of trust in charities has declined in recent years. This is significant as a charity's success is closely linked to the public's trust and confidence in them. Ultimately, a good reputation makes the difference between success and failure and its importance should not be underestimated. Charities should be mindful of whether their fund-raising activities and commercial partnerships are consistent with their core values and image otherwise they risk causing damage to their reputation.

Get buy-in

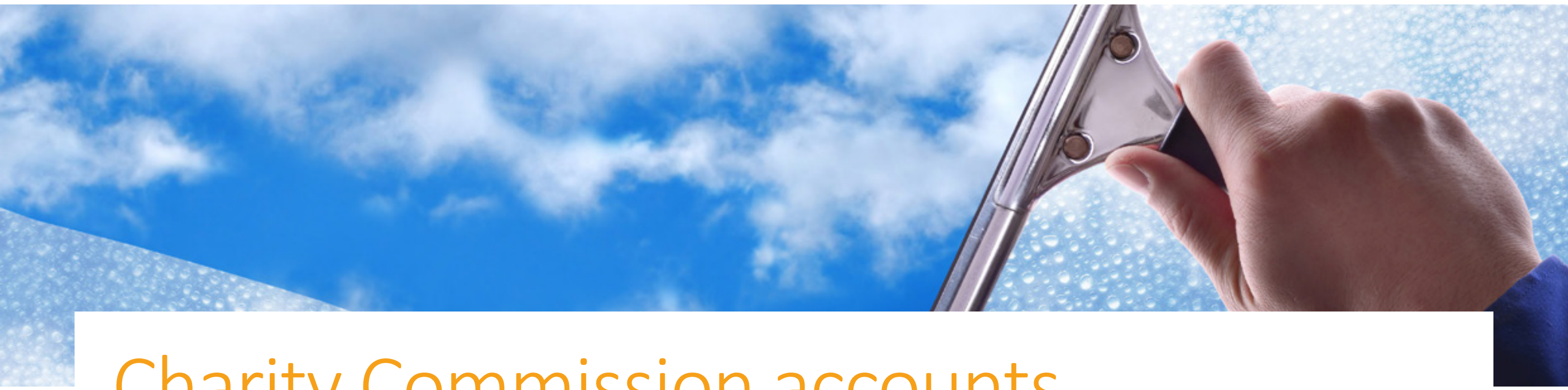
Branding must be led by the CEO and senior management to be successful. Involve senior management, trustees, staff and volunteers in the process. Encourage a shared sense of purpose, commitment and pride by taking your employees on the brand development journey with you.

Be prepared for viral fundraising opportunities

Viral fundraising can reward both financially and in terms of brand strength. For smaller charities you can launch a fundraising campaign that goes viral in your own community Create and promote stories with great visuals that your engaged market wants to share. Keep the focus on the people involved, not just your charity. Post interesting and sharable social media content that volunteers can share. And be prepared to react in the right way at the right time.

Do not leave your charity's brand and reputation to chance. Make sure that whenever someone sees your name or logo, it reminds them of what you stand for, and why they need to support you.

*Source: Morar HPI



Charity Commission accounts monitoring review

The Charity Commission for England and Wales has warned charities they must use their annual reports to communicate with the public better and gain public trust through transparency.*

The Commission recently published three monitoring reviews of charity's annual reports and accounts. As part of the Commission's ongoing monitoring work, a random sample of 106 charity trustees' annual reports and accounts were scrutinised to assess how charities are meeting the public benefit reporting standards, and whether the accounts meet readers' needs. It also inspected a separate sample of small charities.

Overall, the Commission's review found that 51 per cent of the charities reviewed demonstrated a clear understanding of the public benefit reporting requirement - a 5 per cent improvement from last year's result. However, almost half (49 per cent) of charities failed to demonstrate a clear understanding of the public benefit reporting requirement.

The most common reason for inadequate reporting was that the trustees' annual report did not explain the charitable activities the charity had carried out.

The Commission found that the majority of annual reports included key aspects of public benefit reporting, with 71 per cent clearly explaining who benefited from the charity's activities and 62 per cent including a public benefit statement.

Charities have a legal obligation to follow the commission's guidance on public benefit reporting in their annual accounts and reports.
The Commission found that 74 per cent of annual reports and accounts for charities with incomes exceeding £25,000 a year were of an "acceptable quality", but this figure fell to 64 per cent among smaller charities.

The Commission said it has provided regulatory guidance to 89 charities included in the reviews in order to help the trustees improve the quality of future trustees' annual reports and accounts.
Some trustees had expanded their statement to explain why they believed their charity's activities provided public benefit, whilst others discussed the difference that they had made, particularly to beneficiaries.

Commenting on the report, Charity Commission head of accountancy services, Nigel Davies said: "Our research into trust and confidence in charities shows that the public no longer give charities the benefit of the doubt; they want evidence that charities make a difference when using their money. Public reporting is an opportunity for charities to tell their story and explain to the public what they do and how they use charitable funds.

"Producing a trustees' annual report and accounts is not an administrative box-ticking exercise. It is a chance to show how your charity is making an impact and how you are delivering on your core purpose.

"Today's results show that too many charities are still not meeting very basic standards when it comes to making key information available to the public. I am encouraged to see that an increasing number of trustees recognise the value of public benefit reporting, but there is clearly more work to be done across the sector."

*Source: Charity Times

ICO reveals 'areas for improvement' following risk reviews of eight charities

In early Autumn the Information Commissioner's Office (ICO) revealed 'areas for improvement' in incident reporting, consent and data sharing and monitoring and reporting risk following data protection audits it conducted with eight charities.

Eight unnamed charities took part in voluntary information risk reviews between December 2017 and February 2018. The ICO has also incorporated the findings from 25 'advisory visits' to smaller charities in its review.

The eight charities agreed to let the ICO audit their practices around data protection and direct marketing, to show the ICO's engagement with charities "is not just about fines and enforcement, but to encourage genuine, ongoing improvements in the wider sector"

The review was completed under the previous Data Protection Act 2018 but has been updated to include GDPR recommendations making it a helpful guide to charities still getting to grips with the new regulations.

The report identifies areas of good practice along with areas for improvement at the charities reviewed.

Areas of good practice

The review highlighted areas of good practice, which included that "all charities had clear governance structures in place with delegated responsibility from the board down". It found that most charities had moved to an opt-in approach to consent for marketing. Of these, "most were also using opt-in for postal marketing with the rest relying on legitimate interests for postal marketing. Consent was granular, providing separate check-boxes for each type of communication, ie phone, email, SMS".

Areas for improvement

The report also outlined several areas for improvement. It said that the majority of charities visited "did not undertake any routine data protection or direct marketing policy compliance checks" and "compliance checks on data processors were also inconsistent with only three carrying out routine checks".

The research also revealed only two of the charities had a "consistent and co-ordinated approach to fair processing notices" and most did not have any form of sign-off process, meaning they varied in both content and quality.

It said that although there was mostly good awareness among staff of how to report an incident, "most charities visited did not have documented reporting procedures in place".

It also found that the majority of charities visited were retaining personal data for far longer than was necessary, in some cases indefinitely, and that some charities' IT systems did not allow for permanent deletion of records.

Training was also an area of concern with the majority of charities failing to provide any annual refresher training. Additionally, the ICO found staff and volunteers at the charities audited did not receive any data protection training before being allowed to access or process personal data.

What charities can learn from the report

It is important for charities to look at the findings of the ICO's report below and consider whether they adhere to the 'areas of good practice' as well as take on board the 'areas for improvement' which the report identified and whether any could apply to their own organisation's current data protection policies and procedures.

To read the full ICO report please use the following link: https://ico.org.uk/media/action-weve-taken/audits-and-advisory-visits/2259675/charities-audit-201808.pdf

VAT housekeeping for charities

VAT can be a complex area for charities from determining how to treat your income to minimising the impact of VAT on purchases. We thought we would take this opportunity to cover some VAT housekeeping for charities.

Reliefs and reductions

There are certain VAT reliefs and reductions available to charities to ease their financial burden, and we encourage charities to ensure they are taking advantage of these.

- **Fuel & Power** - Charities can claim the reduced rate of VAT where fuel and power for use in charitable non-business activities. Where a charity has both business and non business income, the relief can be applied in part.
- **Advertising** - The supply of advertising to a charity is zero-rated. The relief also extends to pre-printed collecting boxes, envelopes and appeal letters and low cost lapel stickers, emblems and badges.
- **Disabilities** - Goods and services made available to disabled people for their personal or domestic use are zero-rated. In certain circumstances a charity can also benefit from zero-rating for the construction of a ramp, widening a doorway or passage, or providing, extending or adapting a washroom or lavatory.
- **Construction** - Construction of buildings intended to be used solely for non-business purposes or to be used in a similar way to a village hall (e.g. social and recreational use for the local community) can be zero-rated subject to certain criteria being met.
- **Rent** - If a charity incurs VAT on rent from its landlord it is because the landlord has opted to tax its interest in the property. This option to tax can be disapplied where the premises are used for non business purposes or in a similar way to village hall. If it is used partly in this way, the option to tax can be disapplied in part.
- **Medical or veterinary research** - Substances directly used for testing, or for mixing with other substances in the course of that research can be purchased at the zero rate.
- **Talking books or newspapers for the blind and severely visually impaired** - Purchases of sound recording and reproduction equipment (or parts and accessories for such equipment) that has been designed or specially adapted for recording or reproducing speech on magnetic tapes for the benefit of such persons can be zero rated.
- **Rescue services** - Many goods and services purchased in relation to the vessels can be purchased at the zero rate. Specialist communication, light enhancing and heat detecting equipment can also be purchased at the zero-rate.
- **Treatment or care of people or animals** - A charity that is involved in the above, or in medical or veterinary research, can purchase medicinal products at the zero rate.
- **Resuscitation training models** - The supply of a resuscitation training model that is to be used in first-aid training in cardiopulmonary resuscitation or defibrillation techniques is zero-rated.
- **Goods to be donated to an eligible body** - Purchases by a charity that will be donated to an eligible body can be zero-rated.

In addition to the above reliefs and reductions, charities that have taxable income will also be able to claim VAT incurred that directly relates to that income but also a portion of its overheads as these will, in part, be used in the making of those taxable supplies. We advise that charities review their income to ensure it is categorised correctly and review their VAT return calculations to ensure that they are claiming as much VAT as they are entitled to. For more information please contact Alison Birch.

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