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# April 2019.

Charities & Not for Profit newsletter

# Small charity registrations

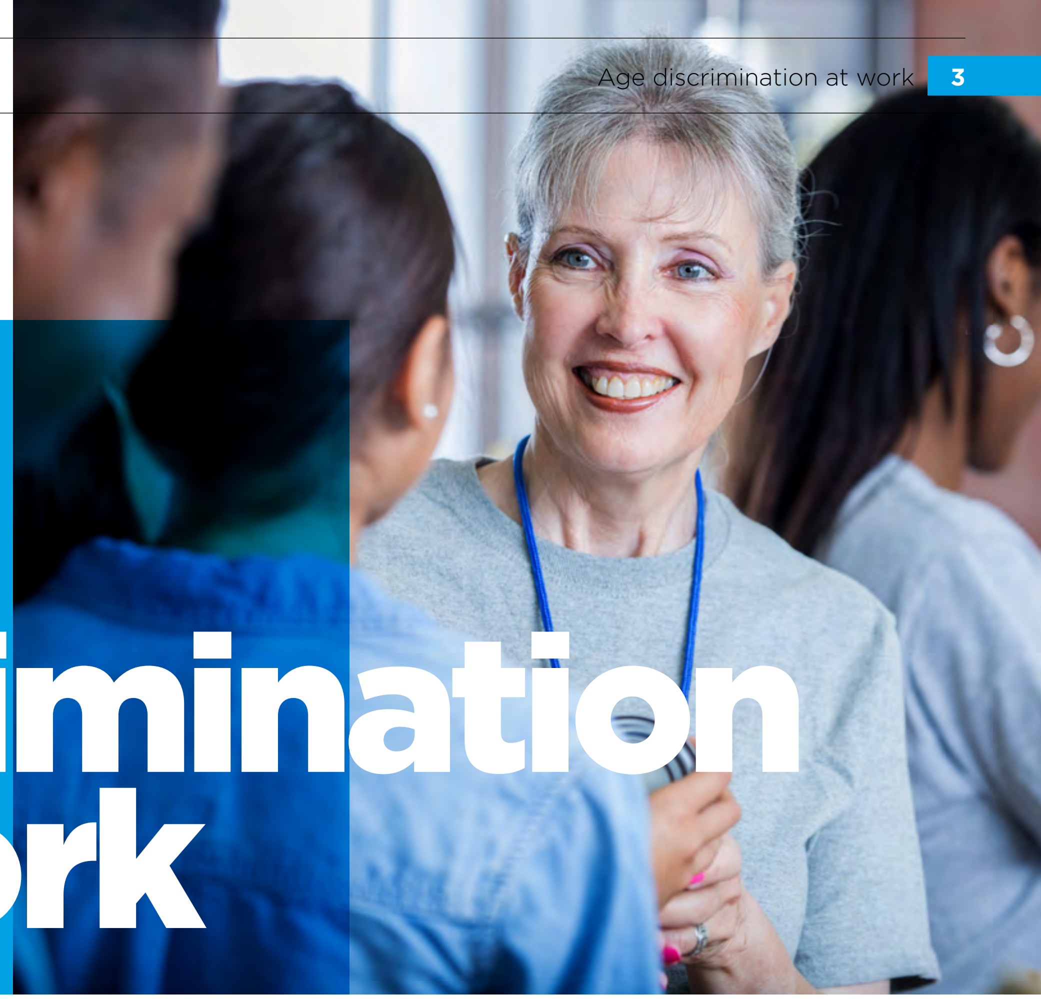
**A new website has been set up by the Small Charities Coalition and can be accessed here. This website has a checklist to steer people through the logistics of setting up a charity and obtaining registration with the Charity Commission.**

All charities with income over £5,000 must register with the Charity Commission. If you want to register your organisation as a CIO (charitable incorporated organisation) there is no lower limit of income, so you would have to register.

The checklist has the following headings and you can click into each checklist heading to access more tips and information:

- Write your charitable purposes
- Decide your charity structure
- Choose the governing documents that's right for you
- Recruit your trustees
- Money matters
- Apply for registration
- Keeping minutes of meetings





# Age discrimination at work

**ACAS (The Advisory, Conciliation and Arbitration Service) has released new guidance on age discrimination at work. Age discrimination is one of the most common forms of unfair treatment at work.**

The overview covers the following points:

- **Key areas where age discrimination may happen**

  These are:

  **Recruitment** – from drafting the advert to offering the job to an applicant.

  **Training and promotion** – all staff are entitled to training regardless of their age and no one with the requisite skills and experience should be discouraged from applying for a promotion due to their age.

  **Performance management** – appraisals should be conducted in a consistent manner irrespective of the person's age.

  **Managing under-performance** - a manager should not ignore performance deficiencies because the employee is older or younger than other staff.

  **Retirement** – An employer must not assume a set retirement date for a person, or suggest or force them to retire. It is unusual for an employment contract to stipulate a retirement date.

- **Risks of stereotyping people because of age**

  Making assumptions about a person's capabilities because of their age is one of the most likely causes of age discrimination. People must be judged on their performance regardless of age.

- **Risks of using ageist language**

  In discrimination, how the recipient perceives the words matters more than the intention of the person paying them.

- **When different treatment because of age may be allowed**

  There are a few circumstances when different treatment because of age is lawful.

- **Making a claim for age discrimination.**

  It is recommended that a grievance is first discussed with the employer in the hope it can be resolved without needing to go to a tribunal.

The guidance can be accessed on the ACAS website, here.

# The future of contactless donations and Gift Aid

**Gift Aid has been an invaluable source of income for charities since its introduction in 1990. However, latest figures show that there is £560 million of unclaimed Gift Aid each year. Research shows that only 19% of donations under £10 have Gift Aid attached.**

In the autumn budget the Chancellor introduced some small but welcome changes to Gift Aid including the increase in the individual donation limit for gifts under the Gift Aid Small Donations from £20 to £30. This came into effect on 6 April 2019 and one of the reasons the amount was chosen was that it is in line with the current contactless payment limit.

This then raises the question as to how charities can ensure that those making contactless payments have made gift aid declarations.

At the recent Charities Tax Group Annual Conference, the director of Streeva Limited gave a very interesting presentation on Swiftaid, a solution to the difficulty of capturing the information necessary to complete a Gift Aid claim when people make a digital donation.

Charities set up an account with Swiftaid and assign it as a Gift Aid nominee with HMRC. Swiftaid then takes on all the administration and compliance. It doesn't provide donors' details to charities but does send out thank you notes and updates to anonymous donors. Swiftaid charges charities a service fee of 15% of the Gift Aid it processes for them. Donors need to register their card with Swiftaid in order to give consent that contactless payments can be subject to Gift Aid. For more details, please go to: www.swiftaid.co.uk

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# JustGiving - update

As an update to our article in our February newsletter about BT "MyDonate", JustGiving have announced that they will drop their 5% flat fee on donations. Instead, donors will be offered the opportunity to make a voluntary contribution to support the platform's ongoing costs. In addition they have also given charities the choice of whether or not to use the JustGiving gift aid reclaim service, although they expect the vast majority of charities will retain this service.





# Making Tax Digital ('MTD') - points to note

**MTD became live on 1 April 2019 and we have set out some important points to note below:**

- MTD is only currently relevant for charities or trading subsidiaries with UK taxable turnover in the 12 months to 1 April 2019 of >£85,000
- Unincorporated charitable trusts and charities within a VAT group are deferred from MTD until 1 October 2019
- Single registration, incorporated charities with annual turnover above £85k must use the MTD service to keep records digitally and use software to submit their VAT returns for VAT periods that started on or after 1 April 2019.
- Charities with a taxable turnover below the VAT threshold can still sign up for MTD voluntarily.
- Once within MTD, a charity will need to keep business records digitally using MTD-compatible software.
- A spreadsheet can be used to calculate or summarise VAT transactions to arrive at the return information needed to send to HMRC. However, there must be a digital link between the spreadsheet and HMRC. Please contact us if you would like to know more about bridging software.
- MTD does not involve additional record-keeping but does require records to be kept digitally.
- Digital records should include the name, address and VAT registration number of the charity and any accounting scheme used. It should also include for each supply, the time of supply (tax point), the value of the supply (net excluding VAT) and the rate of VAT charged.

We are here to help. Please contact us with any queries about MTD and how it might affect you.

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# Charity Comission - casework lessons for trustees

**The Commission have published information for trustees arising from its casework and the latest publication relates to situations dealing with wrongdoing and harm, in the following circumstances:**

## Insider fraud

Of the cases investigated in 2017/18, the Commission found that almost 75% were due to either too much trust in a single individual or group of individuals or because of a lack of change in some parts of the charity.
*Lesson - Charities are reminded that they must ensure proper use of charity funds to fulfil the charity purposes, have strong internal and financial controls and robust financial management.*

## Safeguarding

1,580 reports were received in 2017/2018, which was more than in the previous year. The Commission wrote to 1,700 charities who stated on their annual return that they work with children or vulnerable adults but did not have a safeguarding policy, to emphasise the importance of addressing this issue.
*Lesson – Trustees of all charities have a duty to protect people that come into contact with their charity and must review their safeguarding policies and procedures.*



## Reporting serious incidents

2,819 serious incidents were reported in 2017/2018.
*Lessons – A charity has to protect itself and its reputation by acting early and reporting matters where necessary.*

## Counter-terrorism

The relative number of proven cases involving abuse of charities for terrorist purposes is low, however any instance can reduce public confidence and trust in charities.
*Lessons – Charities need proper procedures in place to manage the risk of coming into contact with designated entities, groups or persons and to take action quickly if required.*

## Data protection

The Commission expects the impact of GDPR to become more high profile in 2019.
*Lessons - Trustees need to review their data protection procedures, put appropriate processes in place and follow ICO guidance. They also need to make sure they have an appropriate social media policy in place.*

## Military charities

A lack of safeguarding policies and practices to deal with mental health issues were noted and insufficient responsibility had been taken for fundraising.
*Lessons – You must make sure that everyone who comes into contact with your charity is safe. In order to effectively control fundraising done on behalf of your charity, trustees need to following 6 principles:*

1. *Plan effectively*
2. *Supervise fundraisers*
3. *Protect your charity's reputation, money and assets*
4. *Follow laws or regulations that apply to your fundraising*
5. *Follow any recognised standards that apply to the fundraising your charity is doing*
6. *Be open and accountable*

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# Making good is harder to do

**Many employers provide benefits in kind to staff, the cost of which is wholly or partly "made good" by the employee.**

For example, a family private medical premium may be taken out where the employee pays the additional cost of family members being included to the employer. These contributions are usually deducted from the benefit in kind disclosed on the form P11D such that only the net amount borne by the employer is actually taxable.

Changes to the 'making good' rules were introduced on 6 April 2018 that may affect an employer's preparation of their forms P11D for the year which ended on 5 April 2019. Where an employee/director makes good to their employer the value of a benefit in kind provided to them this will reduce the taxable benefit assessable to both income tax and Class 1A NIC. Previously, the date by which the employee could make good varied depending on the type of benefit. For example, making good in respect of a benefit such as private medical insurance had no specific date and discretion could be used.

Under the new rules, if the benefit in kind is made good in full before 6 July following the end of the tax year no taxable benefit arises. However, amounts made good after 6 July will no longer be able to be offset against the benefit in kind and the full amount will remain assessable and reportable on forms P11D. So to reduce 2018/19 benefits in kind on a form P11D, amounts must be made good by 6 July 2019. An audit trial should be retained in case of HMRC enquiry.

**Kate Millard**
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# Guidance for recruiting trustees

**Free guidance "How to recruit trustees for your charity – A practical guide" has just been launched by a charity called Getting on Board, who promote board-level volunteering.**

This guide includes information on the various stages in recruiting trustees, a checklist of things to consider for your trustee recruitment campaign, how to identify skills lacking in your current trustee board, what to include in your recruitment advert, what to include in the recruitment pack, interview techniques and how to induct new trustees.

You can access the guidance, here.

# Steps for safer charitable giving

**If you want to give to charity rather than buying Easter chocolate this year, the Charity Commission have published their latest safer giving campaign. Their advice is to:**

- Check the charity's name and registration number on the Charity Commission database to make sure that the charity is genuine.
- Be careful when responding to emails or clicking on links.
- Check that street collectors are wearing a proper ID badge and that any collection tin is sealed and undamaged.
- Contact the charity directly if you want to know more about their work or if you are seeking to donate to them.
- Check charity collection bags to make sure they are genuine.
- Never feel under pressure from a fundraiser to make a donation immediately.

# Research project on the value of VAT relief

**The impact of Brexit, assuming it does go ahead, on charity VAT reliefs is as yet unclear. However, there are clear risks that the government may feel compelled to reconsider some of the current reliefs when faced with economic uncertainty. The upcoming VAT research project being undertaken by the Charity Tax Group ('CTG') in conjunction with London Economics is thus very well-timed.**

Back in 1995, London Economics, a specialist economics and policy consultancy, worked with the CTG on a study producing the first detailed analysis of how VAT affects the charity sector. More than 20 years on they are working together again to quantify the value of existing and proposed EC reforms to VAT reliefs for charities in the UK.

London Economics plans to collect detailed VAT information by means of a survey on supplies sought by charities, VAT reliefs/exemptions, the amount of irrecoverable VAT that charities face etc. This will enable them to quantify the value of reliefs and exemptions and the level of VAT recovery. The research outcomes will provide the CTG with a clear set of pragmatic and costed reform proposals for Budget submissions to HM Treasury. The aim is to protect if not enhance the current VAT reliefs in the post Brexit world.

A pilot survey will be launched in May 2019 with a full survey following in June 2019. It is hoped that the report should be made available to CTG by late August to enable them to make reform proposals to the Treasury in time for the autumn budget. We will let you know if we receive any more details of how to take part in the survey.

# An Inspector calls

**The arrival of a "Check of Employer Records" letter on an employer's desk is an increasing and real risk for any employer.**

HMRC have modernised their approach to undertaking HMRC inspections resulting in £819m of revenue being raised from PAYE reviews during 2016/17 (an increase of 16% from 2015/16). Under their new system, HMRC Inspectors will no longer necessarily visit an employer in person to undertake a full PAYE review, but will often instead undertake their review remotely. This allows HMRC to undertake more PAYE reviews (with minimal effort), and to request information digitally, which can then be interrogated in more detail than over the course of a meeting at an employer's premises. As a result we have seen a marked increase in the number of PAYE reviews over the last 18 months.

This style of enquiry will usually follow the below pattern:

- Very detailed pre-meeting questionnaire is sent to the employer to complete. This requests a large amount of information on many areas, from checking National Minimum Wage/National Living Wage to expenses and benefits procedures and how the business treats self-employed individuals.
- Follow-up telephone Interview
- Request for further information and records from the employer
- Summary of findings sent to employer

Each step is daunting and extremely time consuming for the employer, particularly regarding the collation of information required. In addition, employers sometimes make the mistake of treating the reviews less seriously.as the process seems less formal than the old-style PAYE review. Whereas an old style check involved a visit to the employer's premises, under the new method it is likely to take the form of email correspondence with the Inspector.

If HMRC discover an issue that they contend gives rise to additional tax or NIC liabilities, an open discussion can be entered into between the employer and HMRC. The scope of the settlement is based on the deemed behaviour of the employer with an ordinary time limit of four years, potentially extended to six or twenty years if HMRC deem the businesses behaviour careless or deliberate. This behaviour will also determine the level of possible penalties imposed by HMRC which may be high, ranging from 0-100% of the tax underpaid.

For employers to achieve the best outcome from a PAYE review, preparation and co-operation with HMRC is essential to minimise the enquiry time, which takes employers away from running their business, and reduce any tax liabilities and penalties are far as possible. If a PAYE review is handled well, any associated penalties arising from a careless error can often be reduced or even suspended.

Although this modernised HMRC approach seems less formal and more straightforward, care must be taken and we would recommend that advice is sought as soon as possible before the start of an enquiry. PEM's employment taxes team help employers through each stage of the process minimising management time and achieving good outcomes. In addition, some employers obtain fee protection insurance to cover fees required to help with HMRC reviews, whatever the tax.

If you would like further advice please get in touch with your usual PEM contact or Kate Millard from our Employment Taxes Team kmillard@pem.co.uk



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