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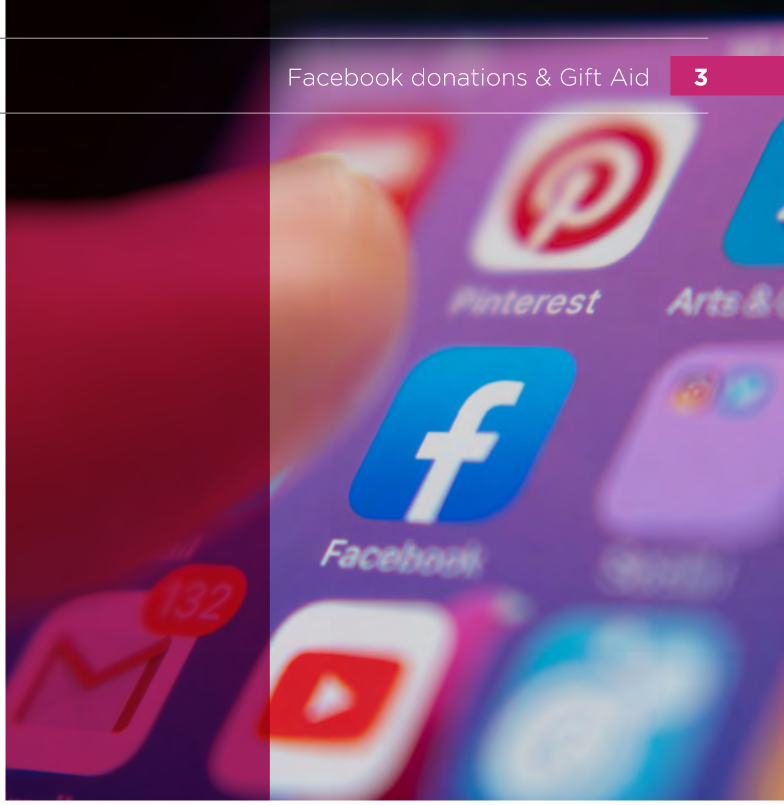
Charities & Not for Profit newsletter

COVID-19 charity tracker

Pro Bono Economics in association with Charity Finance Group and the Chartered Institute of Fundraising have published the results of their latest Charity Tracker.

The survey was undertaken in April/May 2021 and there were 260 respondents.

- 70% of charities expect COVID to have a negative impact on the ability to deliver their charitable objectives over the next 12 months.
- Almost half of charities surveyed reported a decrease in income over the past 12 months, with smaller charities being more adversely affected than their larger counterparts.
- Less than half of charities expect fundraising events to be back to "normal" pre-pandemic levels by the end of 2021, with 70% expecting events to return during 2022.
- Charities have been making significant cost-saving measures, with 58% furloughing staff, 42% reducing spending on services and 33% reducing office costs.
- 58% of larger charities (income > £500,000) reported an increase in demand for their services over the previous 12 months, with smaller charities experiencing a 43% increase.
- Smaller charities are more pessimistic about the next 12 months with 65% anticipating a negative impact, whilst 44% of larger charities remain pessimistic.
- However, 70% of all charities said that they had generally performed better than they had expected at the start of the pandemic.



Facebook donations & Gift Aid

Facebook first launched charitable giving through its social media platform in the UK in November 2017.

It has become a powerful tool for both raising donations and community engagement as it allows individual Facebook users to set up fundraising pages on behalf of registered charities, which can in turn be shared widely throughout their social media networks.

Since its inception, however, charities have faced difficulty extracting good quality data from Facebook to support claims for Gift Aid.

In order to claim Gift Aid, charities must be satisfied that a number of conditions have been met by the donor:

- the donor must have paid sufficient income tax or capital gains tax in the year in which the donation is made to cover the tax treated as deducted from the donation;
- the charity must have a Gift Aid declaration made by the donor which covers the donation;
- the charity must have evidence that they've explained to the donor the personal tax implications of making a Gift Aid donation;
- there must be an audit trail linking the donation to the donor and their Gift Aid declaration.

Further to the above conditions, a Gift Aid declaration must also:

- state the donor's full name and home address;
- name the charity;
- identify the gift or gifts to which the declaration relates;
- confirm that the identified gift or gifts are to be treated as Gift Aid donations.

Facebook charitable giving forms now include the standard worded Gift Aid declaration on the donation form, allowing the donor to opt-in to Gift Aid and confirm that they meet the required conditions. However, when charities come to export the transaction data required to calculate their claim, there are a number of similarly named fields which are populated in the report. Some of these fields relate to the fundraiser's Facebook profile, some are from the donor's Facebook profile, and other fields are pulled in from the donor's donation form and Gift Aid declaration. Often a donor's main profile details will be different to those submitted on the donation form and Gift Aid declaration. It is therefore important that charities use the fields relating to the information given by the donor in the form and declaration at the time of making the donation, and that they do not mistakenly claim Gift Aid in the name of a different individual. Charities must also be confident that they can trace their donation back to an eligible donor before they make a Gift Aid claim.

HMRC does recognise that donations made via Facebook can be eligible for Gift Aid and if a charity is satisfied that it has met all of the requirements, it may proceed with a claim. HMRC have cautioned though that claims should not be made where the charity cannot be confident they have the correct donor information. Facebook is working with HMRC to improve the quality of data that is collected via the charitable giving pages so that charities will have robust donor information to support Gift Aid claims in the future.

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Trust in Charities post COVID-19

The Charity Commission's annual research into public trust in the charity sector has been published. Yonder carried out the survey in January 2021 with a sample of 4,037 respondents.

In comparison to last year, there has been a small increase in public trust in charities from 62% to 64%. This is the second year there has been an improvement. The most trusted sector/group is Doctors (77%), Police (65%) then charities. The "man/woman in the street" scored 56%, Government Ministers and MPs scored 41% and 40% respectively.

For the first time since 2012 there has been an increase in the perceived importance (deemed essential or very important) of charities.

77% of people see that a high proportion of the money a charity raises going to those it is trying to help is a key attribute of a charity. However, of the general public 42% think that is the case "to some extent" and only 17% think that is "very much the case".

When deciding whether to support a charity, the general public relies heavily on the opinion of family and friends (69%), the website of the charity (63%) and information about the charity seen on social media, television or in newspapers (60%).

What to submit to the Charity Commission & when?

The filing deadline for the Charity Commission is 10 months after the end of the financial year for both the annual return and the financial statements.

So, for example, any registered charity with a financial year end of 31 October 2020 needs to submit the annual return before the end of August 2021.

The Commission have said that for any filing between 1 July 2021 and 30 September 2021 if an imminent deadline is about to be missed for a COVID-19 related reason you can request a 3-month extension.

What you need to submit depends on the type of charity you are (charitable company, unincorporated charity or CIO (charitable incorporated organisation) and your size, as follows:

The larger the charity the more in-depth the questions become, so for charities with income over £500,000 there are more questions than for smaller entities.

Only charitable companies and unincorporated charities with income over £25,000 are required to submit their accounts to the Charity Commission and those accounts will need to have been subject to external scrutiny (either an Independent Examination or an Audit).

A CIO (charitable incorporated organisation) must submit accounts to the Charity Commission irrelevant of the level of income. As for other charities, where income is greater than £25,000 an external scrutiny report must also be present. The documents and filing deadlines for Companies House (for charitable companies) are different.

Charity type	Charity income £	Annual return	Comments
Charitable company	Under £10,000	Yes	Income and expenditure only
Charitable company	£10,000 - £25,000	Yes	Various questions
Charitable company	Over £25,000	Yes	Various questions
Unincorporated charity	Under £10,000	Yes	Income and expenditure only
Unincorporated charity	£10,000 - £25,000	Yes	Various questions
Unincorporated charity	Over £25,000	Yes	Various questions
CIO	Any size	Yes	Various questions

Advice for safe & responsible fundraising

The Fundraising Regulator and the Chartered Institute of Fundraising have issued joint guidance to support charities and their fundraisers carry out their activities in a safe and responsible way.

Even though formal coronavirus restrictions such as social distancing and mandatory face coverings have been eased, public health bodies are still urging caution and charities and their fundraisers need to be mindful of the different attitudes of the general public.

The advice is:

1. To keep up to date with Government guidance and any regional or local restrictions in place.
2. To carry out a thorough risk assessment to identify any risks associated with your fundraising activity. For example, the type of activity, the possibility that somebody could become exposed to coronavirus because of that activity, and the actions you can take to remove or minimise that risk.
3. To identify the steps to take in order to protect the public, fundraisers and volunteers. For example, you may limit numbers attending an event, continue with social distancing, improve indoor ventilation etc. Make sure you comply with any workplace testing regime and make it clear that any fundraiser, staff or volunteer who shows any coronavirus symptoms must self-isolate in line with Government guidelines.
4. To consider the public mood and preference of supporters. Supporters may not be ready to return to pre-pandemic activities and charities need to be mindful and understanding of this.
5. Make sure all fundraising decisions are thoroughly considered, carefully evaluation and regularly review. For example, indoor versus outdoor settings, and listen to feedback from the public, fundraisers, staff and volunteers.

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VAT challenges of selling to EU post Brexit

In previous editions of this newsletter, we have considered the impact of Brexit on supplies of goods and services to EU business customers. In this article we will focus on the changes to the VAT treatment of the online supply of goods to consumers in the EU. These rules have been impacted not only by Brexit but also by significant changes to the VAT treatment of such supplies introduced by the EU Commission on 1 July 2021.

Pre Brexit supplies of goods from the UK to consumers in another EU country were subject to the distance selling rules. This meant that such goods were subject to UK VAT until distance sales to the other country exceeded the relevant threshold (either 35k Euros or 100k Euros) requiring the UK company to register for VAT in the other country and charge VAT at the rate prevalent there.

On 1 January 2021, the UK became ineligible for the distance selling rules with immediate effect. The sale of goods to consumers in the EU now qualifies for zero-rating as exports. However, EU import VAT and potentially customs duty, depending on the origin of the goods, is now payable in the EU country of arrival. UK online retailers now face the dilemma of burdening their customers with the payment of import VAT and possibly duty before they can receive the goods or put in place alternative arrangements to avoid the risk of upsetting customers. Websites have needed to be updated and contracts changed to reflect the changing landscape.

On 1 July 2021, the rules changed again with the introduction of the One Stop Shop (OSS). The UK had been on notice regarding the forthcoming changes at the time of leaving the EU and it had been hoped that the one stop shop would serve to reduce the administrative burden of supplying goods from the UK to consumers in the EU.

The seed for the OSS can be traced back many years. In December 2017, the European Council adopted a VAT e-commerce package including major change to the VAT reporting of online sales of goods to consumers in other EU countries.

The Mini One Stop Shop (‘MOSS’) which was introduced in January 2015 in relation to the supply of electronically supplied services to consumers had been a success and the decision was made to extend it to the online supply of goods to consumers. Thus, the old distance selling regime was replaced by a new one offering online retailers the possibility of being able to report all eligible EU sales through a single EU OSS registration.

So far so straightforward. However, as the UK is no longer in the EU, UK businesses not having an EU establishment can only use the new EU OSS for intra-Community sales. There is a non-Union OSS for non-EU established businesses but that is only available for services.

Non-EU established suppliers who sell goods from outside the EU to consumers within the EU can, however, register for the Import One Stop Shop (‘IOSS’) in one EU country of their choice. As with an EU OSS registration, a registration under the Import OSS means the submission of one return each reporting period. One major limitation of the scheme is that it is limited to supplies of goods with an intrinsic value of no more than €150.

At first glance this seemed like an attractive solution for charities who make small numbers of sales of journals or other items to consumers in multiple EU countries. However, we now know it may not be quite so straightforward.

If a non-EU established supplier wishes to register for the IOSS, they can only do so directly if they are established in a third country with which the EU has a VAT mutual assistance agreement in place and the goods are supplied from that third country to the EU. It transpires that the EU Commission is currently of the view that the EU-UK Trade and Cooperation Agreement is not sufficient to enable favourable treatment for UK businesses.

This means that UK businesses must use an EU established intermediary to register for IOSS and to submit their IOSS returns.

Such intermediaries will be jointly and severally liable for the business’s VAT liabilities under IOSS, which makes it considerably less attractive for firms to register as intermediaries.

We are aware that the Irish tax authorities will only invoke this condition in exceptional circumstances where compliance issues have been identified. We have also become aware that the Italian tax authorities are saying it is permissible for UK established entities to register directly for IOSS in Italy.

The lack of clarity in this area has led to confusion and we can only hope that in time the IOSS scheme will become more workable for UK businesses.

However, as the IOSS is only relevant for supplies with a maximum consignment value of €150, it may ultimately be more beneficial to continue to sell the goods Delivered Duty Unpaid and to ask the customer to pay any import VAT or duty due.

If they demur, the UK business could refund the VAT element and can ensure this is reflected in the pricing strategy.

The new EU e-commerce simplifications are a salutary reminder that we are now outside the club and that the IOSS feels more like receiving scraps from the table.

It is of course still possible to sell goods to consumers in the EU. Clear communication on the ‘shop’ page of an entity’s website is key so that there are no unpleasant surprises when the goods arrive.

As always, please contact us if you would like further information on e-commerce post Brexit or on any other VAT related issue.

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The new world of electronic signatures!

The pandemic has brought electronic signatures to the forefront like never before. The Charity Commission has updated its guidance (CC31) on the Independent Examination of Charity Accounts and CC15d on "Charity Reporting and Accounting: the essentials".

Where a charity's governing document is silent on whether handwritten or electronic signatures should be used it can now be assumed that the signature does not have to be handwritten.

Electronic signatures, such as typed signatures or electronic versions of a handwritten signature (such as a scanned version of a handwritten signature) are now acceptable for use by the trustees and also by the Independent Examiner.

Odds & ends

- The Charity Commission have published a "Charities Bill Factsheet" which sets out the basic measures included in the Charities Bill. The factsheet can be accessed here: **Charities Bill Factsheet - GOV.UK (www.gov.uk)**
- The Charity Commission have published the results of their 2020 customer survey and it can be accessed here: **Charity Commission customer survey 2020 - GOV.UK (www.gov.uk)**
- The Charity Commission annual return for 2021 has now been released and can be accessed and submitted online. The following page gives more information: **Prepare a charity annual return - GOV.UK (www.gov.uk)**.
- The Government is likely to review the financial thresholds set out in the 2011 Charities Act next year and will then review them once a decade.
- The Charity Commission has updated its guidance: "Coronavirus (COVID 19) guidance for the charity sector".

  The guidance will next be reviewed on 30 September 2021 but in the meantime, it has been updated to take into account changes to restrictions in Wales.

  It also covers the situation where a charity may need to cancel or postpone a meeting or AGM. You can access the guidance **here**.

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