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Charities & Not for Profit newsletter

Cyber Crime and how to report to the Charity Commission

On 2 May 2019 the Charity Commission issued information and advice to charity trustees about cyber crime and how to report it. Cyber crime usually involves attacks in, or through, computer systems and networks, and often includes the theft of data or disruption of systems to enable further crime.

Dependent on the nature of these crimes, trustees, staff, volunteers and beneficiaries of charities may be adversely affected. Negative publicity could also have an impact on public trust and confidence of donors.

The government Cyber Security Breaches survey 2019 revealed that over two thirds of high income charities had recorded a cyber breach or attack in 2018. Of those affected over 80% had experienced a phishing attack.

The National Cyber Security Centre (NCSC) has produced a useful guide on how you can protect against cyber crimes. It also explains how charities can become accredited under the government Cyber Essentials Scheme. A link to the guide may be found [here](#).

The Charity Commission have stated that charities who experience cyber crime should report to the incident to the Charity Commission using their serious reporting guidance. They require prompt, full and frank disclosures of incidents.

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New guidance for Charities with close links to non-charitable organisations

In March 2019 the Charity Commission issued new guidance amid concerns that some relationships between charities and non-charities have damaged public confidence in the charity sector.

The guidance applies to a wide range of connections between charities and non-charities, including where a charity has set up and owns a trading subsidiary.

The Charity Commission identified examples where charities have not managed their links to non-charitable organisations with care, in some cases allowing charities to be misused to further non-charitable interests, including commercial and private interests.

The Charity Commission recognises that many charities work successfully in close partnership with a wide variety of non-charitable organisations, such as trading subsidiaries. These relationships can be crucial in helping a charity to deliver its charitable purpose.

The new guidance aims to help charities reap the benefits of such relationships whilst managing the risks carefully. The new guidance does not set out new rules or regulations, but draws together relevant law and practice in setting out six principles to help

trustees ensure their arrangements for working with a linked body secure the charity's interests and independence.

Where the Charity Commission reviews a charity's connection with a non-charity they will expect the trustees to have applied the guidance with the charity exhibiting the following features. It:

- is always working on achieving its charitable purpose for the public benefit;
- does not support or fund non-charitable purpose;
- controls how it spends funds and uses resources;
- understands the purpose of the connection with the non-charity;
- ensures that the connection is always in the charity's best interests;
- understands the responsibility it has to uphold the reputation of the charity as a whole; and
- ensures that the connection does not result in any non-incidental private benefit to the non-charity or people connected with it.

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The benefits of funding core costs

In March 2019, Esmée Fairbairn Foundation issued an Insight Report on Core funding. The Foundation has always been willing to fund core costs and sees a real benefit to the recipient organisation leading to an improvement in outcomes. However the overall amount of core funding has remained fairly static

despite falling incomes and rising needs in the charity sector.

The report is directed to funders who care about the impact of how they fund as well as what they fund. A copy of the full report can be found [here](#).



HMRC challenge charity VAT relief in respect of targeted advertising campaigns

Advertising services are normally subject to VAT at the standard rate. However, there is relief which enables charities to purchase advertising in someone else's time and space at the zero rate of VAT. However, the relief is not available if the advertising is targeted to a specific section of the general public, although advertisements in trade magazines or religious magazines do qualify for zero rating.

In recent years there has been an explosion of social media advertising campaigns and there have been constant murmurings that HMRC is disinclined to accept that charity advertising via social media should qualify for VAT relief. We are now aware that HMRC is beginning to write to charities to set out their view that as advertising through social media is often targeted at selected individuals or groups, it is not made to the general public and cannot qualify for VAT relief.

HMRC is of the view that advertising from businesses such as Facebook or Google should be subject to VAT at the standard rate. Facebook and Google both belong in Ireland for VAT purposes and therefore their supplies to business customers in the UK are subject to the reverse charge. This means that it is the charity customer who must account for any UK VAT due on the supply. That VAT can be recovered subject to the normal partial exemption and business/non-business apportionment rules. If such services should be standard rated rather than zero rated, charities who have bought in digital advertising services from overseas could owe HMRC a substantial amount of VAT depending on their VAT

recovery position. We have seen a letter received by a charity from HMRC which says that errors within the last four years should be calculated and any outstanding VAT should be declared to HMRC.

Is this the end of the story?

Although HMRC seems determined to exclude social media advertising from VAT relief, this is not yet game set and match to HMRC. The Charity Tax Group continues to work closely with HMRC on this issue and remains hopeful that HMRC can be persuaded to change their mind. The main area of contention is whether it is artificial to make a distinction between non-digital targeted campaigns through a trade journal or religious magazine which qualify for the VAT relief and digital targeted campaigns which currently do not meet the conditions for VAT relief.

What should you do now?

If in the last four years you have purchased social media advertising through Google or Facebook or similar businesses, please contact Leila Ong at long@pem.co.uk. In addition if you receive a letter from HMRC on this subject, please let us know as soon as possible. Although, there is hope that HMRC may yet change their approach, it is important to address any potential VAT liability now. We will of course keep you updated of any developments in the discussions between the Charity Tax Group and HMRC.



Report serious wrongdoing at a charity as a worker or volunteer

Information that workers or volunteers provide to the Charity Commission can help determine if a charity is at risk. The Charity Commission will investigate concerns posing the highest risk and work with trustees and the charity to resolve the issue. It is worth noting that the Charity Commission do not investigate any crimes, only how the charities are run. Crimes should still be reported to the police.

The Charity Commission welcomes reports that have happened or are likely to happen which result in serious harm to the charity's beneficiaries, staff, volunteers, services, assets and reputation.

Such examples include if an individual's health or safety is in danger, loss of charity funds (loss of more than 20% of income) or if the charity does not meet its legal obligations (ie using a charity for significant personal advantage).

If a charity worker reports wrongdoing to a

charity this is known as 'whistleblowing' and if the information reported and how it is reported meets specific requirements the law will protect you. The Charity Commission cannot inform you if a whistleblowing disclosure is protected under the law or give specific legal advice. To be protected you must be a worker, reveal the information in the public interest, reveal certain types of wrongdoing and tell the relevant person or organisation.

When reporting to the Charity Commission it is best to have evidence to support the concern and to provide specific details. Reports can be made anonymously but contact details are helpful and all reports are confidential with identity not being disclosed without prior consent.

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Helpful guidance on Gift Aid claims

HMRC and Charity Tax Group meeting

Recently, the Charity Tax Group co-ordinated a meeting between HMRC officials and charities to discuss issues relating to Gift Aid claims. Charities explained that the existing HMRC Gift Aid guidance was not always sufficiently detailed to deal with all scenarios that they see. The meeting notes provided some helpful clarifications on various issues, some of which are summarised below.

- **When can you repair data collected on a Gift Aid Declaration?** Original declarations should be maintained but records can be updated so long as there is a clear audit trail and the changes can be demonstrated.
- **What is an acceptable home address?** If a home address has been requested it should in most cases be fine to accept this where this could reasonably be the case – the onus is on the donor to provide the correct information and notify the charity if this changes. In some cases further investigation may be needed, but this should be proportionate. Types of addresses that could be residential addresses included pubs, care homes, houseboats, caravan parks, B&Bs (and other temporary accommodation), other tied accommodation etc. Charities should consider scrutinising higher value claims and where possible ask specifically for a “home address” on a Declaration.
- **What about foreign addresses?** Foreign addresses are permissible for Gift Aid claims so long as the donor has paid sufficient UK tax to cover the claim. British Forces Postal Office are also acceptable.
- **What if there are multiple people at the same address with different surnames?** Declarations from donors with a different surname at the

same address does not stop a valid Gift Aid claim.

- **How should we treat donations from joint accounts?** HMRC would accept a cheque from a joint account even if the non-donor has signed the cheque providing there is a GAD in place for the donor.
- **What if the lead participant for a sponsorship event is a child?** Where it would not be appropriate to name the child, the charity could include the headteacher’s name.
- **Can we accept different Gift Aid Declarations with the same handwriting (e.g. the same person completing a sponsorship form on behalf of a group)?** Yes as long as the individual donors have understood the requirements of Gift Aid and confirmed that they are eligible.
- **Can we claim Gift Aid on sponsorship forms with ditto marks?** Yes
- **What if a donor has used a cross instead of a tick on a Gift Aid form?** HMRC has agreed that a cross to indicate Gift Aid can be claimed even where the statement says a tick.

In many cases charities may have been acting too cautiously and missing out on valid Gift Aid claims.

Charities should review the meeting notes and their processes to see if additional amounts can be claimed, both for past and future donations.

Common errors

HMRC officials have also provided details of





Frequent questions to the Charities Helpline

What are the time limits for claiming Gift Aid & GASDS?

Your deadline to claim Gift Aid depends on how your charity is set up. You need to claim for a donation within 4 years of the end of the financial period you received it in. This is:

- the tax year (6 April to 5 April) if you're a trust
- your accounting period if your charity is a community amateur sports club (CASC), a charitable incorporated organisation (CIO) or a limited company

You must claim cash donations under the Gift Aid Small Donations Scheme within 2 years of the end of the tax year that the donations were collected in.

How does my charity register online to claim Gift Aid via the Government Gateway/CharitiesOnline?

Full details are available [here](#).

Can Gift Aid be claimed on the likes of raffle tickets (or similar events)?

Payments to a charity in return for services, rights or goods are not gifts to a charity and so are not eligible for the Gift Aid Scheme. For example, the following cannot come within the Gift Aid Scheme: payment for admission to events (jumble sales, concerts); payment for raffle or lottery tickets (including 100 clubs) – the payment to purchase a raffle ticket from a charity is not a gift but a payment for the right to enter the raffle.

In respect of auctions, HMRC's Gift Aid guidance is clear that a payment for an item at a charity auction is not a gift to charity, it's a purchase. However, when a person purchases a lot at a charity auction, they may intentionally pay more than it is worth in order to support the charity. So, on that basis and depending upon the circumstances, part or all of a successful auction bid may qualify as a Gift Aid donation to the charity. The payment will only qualify as a Gift Aid payment if the normal requirements of the Gift Aid Scheme are met, and that includes satisfying the Gift Aid benefit rules.

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Common Errors on Gift Aid claims:

- Using donation amounts and Gift Aid received on adjustments to claims - If the charity has had an overpayment and is making a tax adjustment – only the tax amount should be included and not the full donation.
- Missing off donation dates, or making typos on date of donation.
- Not including a regulator number (e.g. the Charity Commission for England and Wales) even when one is ticked or inputting HMRC reference as regulator number
- Claiming for both "Main" and Community Buildings on GASDS
- Submitting a claim before making changes to the records – the person who submits the claim must be one of up to two "authorised officials" as registered with HMRC.
- Entering GASDS on the Gift Aid schedule - There are different spreadsheets for each scheme
- Misunderstanding of what an aggregated donation is - Donations of up to £30 can be aggregated on the spreadsheet submitted to HMRC, so long as the line does not exceed £1,000 and does not include donations associated with admissions – only a simple description, the total amount and the date of the last donation are required.
- Confusing GASDS with aggregated donations and vice-versa
- Updating Charity Commission records but not updating HMRC records



Management accounts - best practice

An article was published by the government in the spring providing guidance on academy trust management accounting. The guidance provided is not only applicable to academies but any organisation preparing management accounts.

Importance of management accounts

Firstly a reminder of why management accounts should be prepared:

- Accurate management accounts enables good management – it allows trustees to scrutinise the financial position which aids good governance.
- They are a powerful source of information, actual results can be compared to budgets to establish over / under spends, allowing for an effective review of the forecast for the year.
- Help understand why variances have arisen and if action can be taken to reduce variances
- Provides details as to whether the level of costs is reasonable and sustainable in relation to income levels.

Steps to producing management accounts

The actions in the checklist at the end of this article should be completed prior to producing a set of management accounts.

This is not exhaustive but does cover the main points.

Format of management accounts

Many finance packages have inbuilt features for preparing monthly management accounts and this should be utilised to make the process as automated as possible. As a minimum, management accounts should include an income and expenditure account, balance sheet and cash flow and commentary explaining significant variances.

It is important to note there is no prescribed format of management accounts. Data should be presented in a way that works for the entity and users of the management accounts. Information should be presented in such a way that it enables effective oversight.

An Income and expenditure account should include:

- budget for the month just ended against actual results for the month, and variance (value and percentage)
- budget for the year to date against actual results to date, and variance (value and percentage)
- budget for the full year against latest forecast outturn for full year, and variance (value and percentage)
- a supporting narrative is produced which adequately explains the reasons for any significant variances from the budget

Balance sheet – Areas to review:

- debtors – this figure should represent monies due to the charity but not yet received. Ensure that a separate “aged debtor” analysis of this figure is provided and that appropriate action is being taken to pursue significant overdue amounts
- cash at bank – check that the actual cash at bank physical balance is not overdrawn*
- creditors and accruals – these should include invoices received and payable plus commitments made where the invoice has not yet been received.
- net current assets (current assets minus current liabilities) – check that these are positive. A negative balance is indicative of potential cash flow problems
- pension scheme liabilities – if you have a defined pension scheme, the pension scheme actuary should be asked for a statement of liabilities each year when the annual accounts are being produced. Ensure that the impact of any change (for example, a revised monthly pension contribution rate) is reflected in the income and expenditure budget. Since pension costs are outside the control of the entity, it may be better to consider excluding the overall liability from management accounts.

A cashflow statement can be the most difficult part of producing management accounts, but it is an

important tool in understanding where cash is being spent, whether the trust has the potential to run out of cash during the year and identifying any months in which the cash balance could be low.

Action required	Completed
Reconciliation of the bank accounts (including credit cards)	Yes/No
Reconciliation of the VAT account	Yes/No
Reconciliation of payroll. If payroll is calculated by an external provider, have the journals for the month being reviewed and signed as authorised?	Yes/No
Calculation of necessary prepayments/accruals. Have the relevant journals been entered onto the finance systems?	Yes/No
Reconciliation of debtors and creditors account. Print aged debtors/aged creditors report	Yes/No
Is the fixed asset register up to date? Has depreciation been calculated for the month and a relevant journal been entered onto the system?	Yes/No
Run a trial balance	Yes/No
Run an income and expenditure report	Yes/No

*Academies only

Charity Commission trials new call centre opening hours

The regulator has recently extended their call centre opening hours by 2 hours each day. The new hours are Monday – Friday 9am-midday and then 1pm-4pm. The trial will last for 3 months and is part of the 5 year statement of strategic intent published last October. It is hoped the extended hours will enhance customer service and better accommodate customer needs.



Charity events

Charity lunch - Tax Talk

Wednesday 10 July 2019 - 12:30pm - 2pm | PEM, Cambridge, CB1 2LA

Tax is increasingly under public scrutiny and it is important for charities to show they have their tax affairs under control and are not at risk of abuse from other parties. Charities need to ensure they are clear on their tax responsibilities and their attitude to tax planning and risk. Getting things wrong or being viewed negatively by HMRC or the public can be costly, as well potentially damaging a charity's reputation.

At our lunch we will discuss areas of tax risk for charities.

Charity conference

Friday 20 September 2019 - 8:30am - 12pm | Duxford Imperial War Museum, Cambridge, CB22 4QR

A morning of presentations delivered by experts in the charity sector including Rothschild and Eversheds Sutherland.

To book a place at either of these events, please contact the events team (events@pem.co.uk)



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