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December 2020.



Charities & Not for Profit newsletter

Introduction

As 2020 draws to a close, it's usual to look back at the year and reflect on the impact of major events or decisions. Usually there are plenty of positives to draw on; 2020 is not one of those years. Living with the effects of COVID-19, has been really challenging for everyone and of course, we have some way to go before we can return to normality.

The Charities team are only too aware of the impact on our charity clients and have worked hard to provide timely advice on Covid related matters. It is good to see so many clients benefitting from the grants, loans and other government schemes available to support charities during this period.

Many of you will have also experienced your first remote audit. This has not been without its difficulties for example, documentation still at the office and inaccessible when so many are home working. Its success is in no small measure thanks to you for responding promptly to our requests. Thank goodness too for the technology to facilitate home

working which has in most cases worked very well. I think it's fair to say that we have all learned a lot from the experience, much of it positive.

Even with the limitations of meeting up with friends and family at Christmas, the Christmas break will be welcome; a chance for all of us to recharge our batteries in readiness to take on the challenges of 2021.

As many of you know, I have recently stepped down from leading the charities team at PEM, handing over the reins to Jayne Rowe, so this will be my last Christmas message in our Charities Newsletter. So, from all the Charities Team, may I wish you all the very best wishes for Christmas and the New Year.

Judith Coplowe
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Trustees "Take Five"

Trustees' Week was held at the beginning of November and the Charity Commission used that as an opportunity to launch 5 new 5-minute guides, covering the following topics:

- **Financial oversight** – protect your charity's money; know your charity's financial position; keep accurate financial records; manage expenses and payments to trustees; and deal with financial problems quickly.
- **Achieving a charity's purposes** – use the charity's governing document; focus on your charity's purposes and be aware of public benefit/other provisions in your governing documents/the law.
- **Good decision making** – follow the guiding principles to make an informed decision; keep records of all discussions and decisions; follow the governing document and law; ask for external advice if necessary; manage conflicts of interest; work together to make decisions; and involve others at your charity.
- **Addressing conflicts of interest** – identify conflicts of interest (usually financial conflicts or loyalty conflicts). Steps to follow are:
 1. Declare conflicts of interest
 2. Consider removing conflicts of interest
 3. Manage conflicts of interest
 4. Keep a record of conflicts of interest

The Commission offers support in the following ways:

Online advice and guidance
Telephone assistance
0300 066 9197
(Monday – Friday 9am – 5pm)

VAT - Getting ready for 2021

Given all the surprises 2020 had up its sleeve, it is with trepidation that we make any predictions about what lies in store in 2021. However, with the end of the Brexit transition period looming and the Covid crisis set to continue, it is a good time to set out a VAT checklist for the new year:

Brexit headlines

The Brexit transition period ends on 31 December 2020. Brexit will have enormous ramifications for every aspect of our lives, but we have flagged some VAT issues which may be of particular relevance to charities.

EU VAT refunds

Any EU VAT which has been incurred in 2020 can be claimed via the EU VAT refund scheme up until 31 March 2021.

UK businesses will not be able to use the EU VAT refund scheme in relation to expenses incurred in an EU member state on or after 1 January 2021. Each EU member state has its own process for refunding VAT to businesses based outside the EU. This process is much more administratively laborious than the EU VAT refund scheme.

We are here to help if you need assistance with either EU or non-EU VAT refunds.

Supplies of goods and services to EU customers from 1 January 2021

In most cases, charities who make supplies of services and/or goods to EC business customers, where the onus is on the customer to account for any VAT due, will have one last EC Sales List

to complete for the quarter ending 31 December 2020. From then onwards, EC Sales lists will no longer be required. There will be no need to include the customer's VAT registration number or a reference to the reverse charge (for services where the onus is on the customer to account for any VAT due) on invoices issued. In the main, cross border services will remain outside the scope of UK VAT. Supplies of goods to customers in the EU involving the removal of goods from the UK will be treated as zero rated exports.

Purchases of goods and services from EU suppliers from 1 January 2021

Purchases of most types of standard and reduced rated services from EU suppliers will continue to be subject to the reverse charge. Purchases of goods from EU businesses, where the goods come into the UK, will be treated as imports.

Charities which import or export goods from the UK will need a GB EORI number.

The new rules around importations are particularly challenging and please do get in touch with any questions on this or any other Brexit related issue.

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Charity Commission whistleblowing disclosures

Whistleblowing disclosures made to the Charity Commission (CC) help them to detect serious problems, such as fraud, safeguarding concerns and the mismanagement of charities. In 2019/2020 they received 247 disclosures and they have just published a summary of their findings.

The CC has 5 statutory objectives, which are to:

- Promote compliance by charity trustees with their legal obligations in exercising control and management of their charities;
- Enhance the accountability of charities to donors, beneficiaries and the general public;
- Increase public trust and confidence in charities;
- Promote awareness and understanding of the operation of the public benefit requirement;
- Promote effective use of charitable resources.

Most disclosures were made by employees (63.2% of the total including current and ex-employees) with the rest coming from trustees and volunteers and mainly concerned governance, safeguarding or financial harm concerns. The highest incidence of reporting was in relation to charities in the education/training sector.

In many cases, additional advice was given to the charity and trustees and in 90 cases there were no issues to take forward. Only 3 charities were removed from the register as a result of CC investigation. Usually, actions taken have led to improvements in one or more areas of the charity's work.

service allows for up to four different email addresses (including an agent) to receive a reminder. It will be possible to file a document immediately from a link within the email. Stopping the paper reminder letters is estimated to save £1.2 million annually.

Companies House reminders

For incorporated charities, it is important to be aware that Companies House have now stopped sending paper filing reminder letters.

Instead, people are being encouraged to sign up to the email reminder service. This free reminder

Volunteering & helping others

At the start of the second national lockdown in England, the Department for Culture, Media and Sport (DCMS) issued guidance for people wishing to volunteer during the pandemic and how to do so safely.

The full guidance is available [here](#). Although the second lockdown has now ended, the guidance issued is still useful as a guide to safe volunteering practices during the pandemic.

It is suggested that volunteering may be carried out in three different ways:

1. From home. This is the safest way to volunteer during the pandemic. E.g. working on a telephone support helpline. This method of volunteering is the only one open to those who are deemed to be clinically extremely vulnerable.
2. Outside. Volunteering outside should only happen if the work cannot be carried out from home e.g. delivering food and medicine. You must follow the social distancing guidelines and face coverings should be worn in certain settings and circumstances. You cannot volunteer in this way if anyone in your household has symptoms of coronavirus or has tested positive for coronavirus.

3. In a workplace. E.g. helping in an office. The office must meet all coronavirus safety standards and be COVID-secure in line with HSE guidance.

When volunteering, you can meet in groups of any size from different households and can meet indoors or outdoors as long as "Hands, Face, Space" and all social distancing measures are strictly adhered to. Travel for volunteering purposes is allowed.

Separate guidance aimed at organisations in England giving advice on how they can safely and effectively involve volunteers during the pandemic, has also been issued by the DCMS and is available [here](#). This guidance echoes the three points set out above, but also makes it clear that it should always be the personal choice of a volunteer whether they are happy to volunteer outside their home.

Organisations must be clear on the rules surrounding their volunteers meeting in groups, travel, face coverings and making sure workplaces meet relevant COVID-secure guidance.

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Covid related VAT issues



Repayment of deferred VAT

In response to the COVID-19 crisis, HMRC confirmed that all payments of VAT to HMRC due between 20 March 2020 and 30 June 2020 could be deferred until 31 March 2021. Originally any deferred VAT needed to be paid back in full by 31 March 2021. As part of the Winter Economy Plan, the Chancellor announced that affected businesses could opt in to make up to 11 smaller monthly instalments, interest free. All instalments must be paid by 31 March 2022. The online opt in process will be available from early 2021. Businesses need to opt in themselves and cannot use an agent to do so.

Temporary reduced rate of VAT

A temporary reduced VAT rate of 5% for supplies of hospitality, holiday accommodation and admission to certain attractions was introduced last summer. The reduction took effect from 15 July 2020 and was due to end on 12 January 2021. The end date has now been extended to 31 March 2021.

The VAT landscape is constantly changing. We are here to help you navigate your way.

Charity Fraud Awareness

During October, "Charity Fraud Awareness Week" was held. The Charity Commission reported that there had been 645 reports of charities being the victims of fraud since the start of the pandemic, amounting to monetary losses of £3.6 million. Those are just the known and reported crimes.

The Commission is concerned that remote working and virtual activities, coupled with the innate tendency for charities to place trust in individuals, might make them especially vulnerable. The 3 top tips in the fight against fraud are:

1. Be fraud aware
2. Take time to check
3. Keep your charity safe

The Charity Fraud Awareness Hub can be accessed [here](#).

This has been set up by UK Finance, the Charity Commission and the Fraud Advisory Panel. There are 8 factsheets available which are new for 2020.

The 2-page documents have been prepared by different contributors and cover general information/guidance and a checklist for charities to use.

7 help sheets from 2018 are also available too.

Other information also available includes case studies, webinars, practical tutorials and other resources.

Fundraising regulator reports on quality of reporting



In June 2020 the fundraising regulator undertook its second review of annual reports to see whether they adequately addressed all the aspects of fundraising set out in the Charities (Protection and Social Investment) Act 2016. The review was limited to those charities required to pay an annual levy to the Fundraising Regulator.

As a reminder, charities with a gross income of over £1m have a legal duty to comply with the Act; for other charities compliance is considered to be best practice.

The Act requires charities to include a statement in their Trustees' Report covering six aspects of fundraising.

The Regulator looked at the annual reports of 10% (187/1756) of charities registered with it and within the scope of the levy.

Although there were many instances of good practice, only 21% of reports included a statement covering all the requirements and 15% reported on none of them.

The Regulator was particularly concerned that many charities did not report on what they were doing to protect vulnerable individuals and the public when fundraising. It also found that very few charities reported on how they monitored their fundraising activities.

Last year, the Regulator produced a rather prescriptive example of a compliant statement. This year it has taken a different approach, by visiting each section and suggesting ways in which the charity might respond.

The legal requirements and some of the Fundraising Regulator's suggestions are set out below:

Disclosure requirement

- a. The approach taken by the charity or by any person on behalf of the charity to its fundraising activities; in particular whether a professional fundraiser or commercial participator carried out any of those activities.
- b. Whether the charity or any person acting on behalf of the charity was bound by any voluntary scheme for regulating fundraising, or any voluntary standard of fundraising in respect of activities on behalf of the charity, and if so, what scheme or standard.

Suggestions

Consider mentioning whether you have involved supporters in fundraising. A reminder that you must include details of professional fundraisers and commercial participators, indicating what they did for example, telephone, face-to-face and door-to-door fundraising.

Mention the Fundraising Regulator, where registered, or include reference to the Code of Fundraising Practice. Compliance with the standards in the Code means that charities do not have to create their own ethical fundraising standards. Including these references in the statement assures supporters that you are committed to following best practice.

c. Any failure to comply with the scheme or standard in b. above.

If you did not comply with the standard, you should set out clearly what happened and if the Fundraising Regulator was involved; set out timescales and outcomes. If the non-compliance was by a 3rd party fundraiser you should include details of what the compliance issue was, and the actions taken post investigation. If there were no issues, then you should include a simple statement to explain this.

d. Whether the charity monitored the fundraising activities carried on by any person on behalf of the charity.

The Fundraising Regulator has reminded us that this can include fundraisers, commercial participators and volunteers, so charities need to ensure they report on how they worked with and monitored the fundraising undertaken by them. It should also include assurances that non-professional fundraisers have had the right training and knowledge of fundraising standards.

e. The number of complaints received by the charity or a person either acting on its behalf about the charity's fundraising activities or acting on behalf of the charity for the purposes of fundraising.

Where complaints have been received, you need to state the number. It also suggests that you report on the actions taken in response to those complaints.

f. What the charity has done to protect vulnerable people and other members of the public from unreasonably intrusive, persistent behaviour or persistent pressure to give money or donate in relation to its fundraising activities.

Good procedures and approaches to fundraising for vulnerable people are considered to be crucial for safe and effective fundraising so disclosing what these are is important and should include:

- Details of the training provided to staff and volunteers so that they can understand what vulnerability means and how to recognise and protect vulnerable people
- How this translates into fundraising;
- How these policies and procedures are monitored; and
- How risks of fundraising with vulnerable people might be mitigated

When writing the report, the Regulator recommends having just one section on fundraising in the report; this is much easier for readers to understand. Clarity of reporting and meeting all the requirements of the Act should assure readers that your charity follows best practice and showcases the charity in a positive manner.

The Regulator reminds charities that, ultimately, responsibility for compliance with the Act rests with their trustees. Trustees should be aware that the Charity Commission guidance CC20 – Charity

Fundraising: a guidance to trustee duties states that the Commission expects charities to fully comply with accounting and reporting regulations.

Failure to do so might result in regulatory action being taken by the Commission against the charity. The full document can be found [here](#).

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