



October 2023.

Charities & Non-profit newsletter

pem.



Contents.

Investing charity money: a guide for trustees (CC14)	4-5
Facebook donations & gift aid	6
New CPD requirements for accountants in business and industry	7
Social media policy	8-9
Check if an email you have received from HMRC is genuine	10
Fundraising Regulator consultation now open	11
My Charity Commission Account is live	12
Gift Aid and the benefit rules - provision of newsletters	13
Charity Treasurer's Handbook	14
New charities' return now available	14

Investing charity money: a guide for trustees (CC14).



The Charity Commission updated their guidance on investment in August.

The release of the updated guidance had been delayed while the case of [Butler-Sloss & Others vs Charity Commission \[2022\]](#) was heard in the High Court.

The new guidance is set out in a more accessible format and seeks to provide clarity around investment decisions including the extent to which charity trustees can permit their objects and wider moral considerations to influence their investment policy.

The guidance is roughly a quarter the length of the previous guidance and is also accompanied by a separate updated legal underpinning document.

The guidance starts with a refresher of trustees' duties, including reminders over:

- the importance of understanding the individual charity's and investment powers
- the need to consider private benefit
- specific trustee duties with regard to investment.

The previous guidance used a number of terms including ethical, mixed motive, programme related, and although these terms are still being used in the FRS 102 SORP (2019), the new investment guidance has simplified these to just two: financial investment and social investment.

Financial investment

Financial investment is investing with the ultimate objective of making money by one or both of the following:

- Generating income from an investment.
- Increasing the value of an investment (capital growth).

Any money you make from the investment is called a financial return.

Trustees are expected to take advice over their investment's strategy, either from experienced members of the trustee body or by engaging experts. Financial investments should:

- meet charitable objectives
- reflect the charity's attitude to risk
- be reviewed at appropriate intervals.

Where the charity trustees identify an investment that could conflict with the charity's purposes or harm its reputation, this is a relevant factor in deciding whether or not to make the investment. The guidance gives some examples of investment approaches trustees may consider and sets out how trustees can exercise judgment in their investment strategy so long as it is clear how the actions are in the best interest of the charity.



Social investment

You can also invest with a view to both achieving your charity's purposes directly through the investment, and making a financial return. Charity law calls this social investment.

When making a social investment, trustees need to firstly decide what they are aiming for in terms of financial return and purposes. This does not need to be an exact return but the guidance states explicitly

“You should have some record of your aims and expected returns so that they can be reviewed if necessary. You must be satisfied that, taken together, the expected return is in your charity's best interests.”

There are more considerations around social investments to comply with decision making principles, these include:

- how the social investment fits with your charity's overall financial position
- clarity over what you expect the investment to achieve, financially and in achieving your objectives
- the risks that the social investment will not deliver, will underperform, or both
- the cost of making the investment

- the length of the investment and the exit plan
- how you will measure and monitor performance
- the tax treatment of the investment.

As always trustees should take advice before making an investment if they consider it necessary.

Policy and objectives

The new guidance gives more detail on the thought process expected behind an investment, and indeed on what trustees may be expected to have documented. It also includes advice for those charities that mainly invest cash, and although simplified there is an expectation that these charities will also have an investment policy.

An investment policy should cover:

- The investment objects and how the investments contribute to the charity's financial position and delivery of its purposes
- The amount
- The timeframe (short, medium, long term)
- Access
- Attitude to risk
- Approach to ESG factors
- Key benchmarks
- Investment advisers

The guidance states clearly that in all cases the Commission expects trustees to consider:

- how suitable any investment is for your charity - this will be influenced by the charity's attitude to risk across your investment portfolio
- the need to have a mix of assets in your portfolios - this can protect the charity's investments from sudden variations in the market and reduce the risk of loss.

The guidance also covers advice on high risk assets, such as cryptocurrency, and about the use and management of companies connected to trustees and subsidiary companies.

It is important to note however that charity trustees' decisions will always be bound by their governing documents which may place conditions or limitations on the use of any power of investment.

Nikki Loan

Partner, Charities & Non-profit

[e. nloan@pem.co.uk](mailto:nloan@pem.co.uk)

Facebook donations & Gift Aid.

Back in August 2021 [we examined the potential issues with claiming Gift Aid for donations being collected through Facebook via fundraising pages set up by individuals.](#)

As a reminder, 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 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 there have been some issues surrounding charities extracting incorrect or insufficient transaction data required to support their claim.



HMRC does recognise donations made via Facebook can be eligible for Gift Aid if a charity is satisfied that it has met all of the requirements. HMRC have cautioned that claims should not be made where the charity cannot be confident they have the correct donor information.

Facebook owner Meta has recently announced that, from 1 November 2023, it is partnering exclusively with PayPal Giving Fund UK (PPGF) and Facebook itself will no longer support directly through Facebook Payments.

Charities enrolled with Facebook Payments must accept updated Charitable Donation Terms by 1 November 2023 and switch to PPGF to receive donation pay-outs. PPGF is itself a UK-registered charity that will receive the donations and then grant the funds to the recipient charity. There will be processing fees which donors can cover by increasing their donations.

This change may well remove the Gift Aid issues outlined above, as it would be PPGF would claim the Gift Aid, not the individual charities. The Charity Tax Group are keeping a close eye on developments in this area through its Gift Aid Working Group. Facebook have issued [a document](#) which explains the changes.

Luke Turner
Trainee, Business Tax

[e. lturner@pem.co.uk](mailto:eturner@pem.co.uk)

New CPD requirements for accountants in business and industry.

On 1 November 2023, ICAEW's revised Continuing Professional Development (CPD) regulations bring in new CPD requirements, including a minimum number of hours. There is a [self-assessment tool](#) on the ICAEW website to help you identify what the changes mean and the number of hours, including the number of verifiable hours you need to record. In addition, there is a requirement for at least one hour verifiable ethics training.

For the purposes of the regulations large charities are those with gross incoming resources of more than £100m and gross assets for more than £1bn. Members who are chief executives, chief financial offers, finance directors or have other head or chief roles at these large charities will be in category 1.

Members with roles at large charities outside those roles will be in category 2 as will accountants who are chief executives, chief financial offers, finance directors or have other head or chief roles at charities which are not large charities.

Members who fall outside categories 1 and 2 will fall into category 3. The CPD regulations refer to an individual being employed in a role, this should be interpreted widely to include any contracting relationship, including in an interim capacity.

There is a special category for individuals who are trustees of charities on a voluntary basis (or who volunteer in another senior financial or executive role for a charity). This category has no minimum however, volunteers are required to complete:

- an hour of verifiable ethics training, such as [ICAEW's free annual ethics CPD training course](#) (or ethics training with similar outcomes)
- verifiable charity-specific training, such as [ICAEW's CPD course for charity trustees](#) (or other training with similar learning outcomes).

ICAEW members who hold other paid role(s) but also volunteer as a charity trustee (or in another senior financial or executive role) for a charity, will need to complete the requirements of the highest category into which they fall.

However, such individuals are strongly encouraged by ICAEW to undertake some charity-related CPD as necessary for the charity role.

Evidence must be maintained of the training undertaken, attendance records, course certificates or other evidence. The requirements are not prorated for part time workers, however where a member is not working they may be exempt from the regulations.

We recommend that all ICAEW members review how the regulations apply to them using the [ICAEW guidance](#).

Nikki Loan

Partner, Charities & Non-profit

e. nloan@pem.co.uk

Working outside practice

Category 1	40	15
Category 2	30	10
Category 3	20	5
Executives/trustees of charities working pro bono.	ICAEW's CPD video for charity trustees (coming November 2023) or training with similar learning outcomes.	

Social media policy.

In March 2023 we reported on the consultation on social media guidance. We recommended that trustees started to consider their existing social media policies or set aside time to start to develop a policy. Whilst social media offers a quick way to raise awareness, engage with beneficiaries and communicate a message to a wider audience, it also introduces risks, the content may be inappropriate or harmful, it can be hard to undo, and personal and professional lines can become blurred.

“If your charity uses social media, you should have a social media policy.” - The Charity Commission

To manage potential risks, charities should have a policy tailored to the activities of the charity, and the use that employees and volunteers make of social media. The new guidance contains links to [a checklist](#) to support trustees in identifying topics to include, as well as a link to a [policy template](#) provided by CharityComms.

The policy should cover:

- Your guidelines around the conduct of trustees, staff and volunteers when using social media on behalf of the charity.
- Rules on moderating comments on the charity’s accounts.
- Who is responsible and who should be involved if things go wrong, including when to involve trustees.
- How social media helps deliver your charity’s purpose, for example engaging directly with the charity’s beneficiaries or highlighting the charity’s policy positions for and to the wider public.
- Any differences between use of the charity’s accounts and the guidelines on the use of personal social media accounts.

The policy should be framed by the risks the charity has identified in using social media and its plans to manage those risks.



Risks

Risks identified may be around compliance with laws and regulations. There are a number of laws that charities need to be aware of including:

- GDPR (General Data Protection Regulations that protect personal information)
- Privacy laws
- Copyright laws
- Defamation laws
- Whistleblower protection
- Equality and human rights including discrimination, victimisation, harassment and freedom of expression.

Risks may arise from potential reputational damage arising from the views expressed, including political views. For example, over the summer the RSPB made an apology stating on social media that “frustration [with government policies] led us to attack the people not the policy.”

Response

It is important for the policy to be clear about what happens if there is a breach of the policy or if the charity posts or shares something which apparently



breaches the law, or risks significant damage to the charity's reputation. This will include the charity's response to the individual through its HR or social media policy, and its response to the wider public through corrective statements.

Where there is potential significant harm or loss the charity trustees should report [a serious incident](#).

There is no expectation that a charity will monitor personal social media accounts, however if they become aware of content which may have a negative effect, charities should take action to protect the charity.

Charities should also consider training needs, content moderation and whether staff are getting support, for example because of comments or critical responses. The risks will be increased where topics are emotive or where charities are engaged in campaigning or political activity. There is additional guidance available in the [Charity Commission campaigning and political activity guidance](#).

Fundraising

The [Code of Fundraising Practice](#) applies to all fundraising on social media platforms and further

fundraising guidance can be found in [Charity fundraising: a guide to trustee duties \(CC20\)](#).

Using social media safely

The National Cyber Security Centre has [guidance on protecting your social media](#) accounts and how to [use privacy settings](#) to protect the charity's message and ensure that the charity remains in control. Charities should have internal controls that are appropriate and proportionate and which are clear to everyone at the charity using social media.

Your charity should not post or share content which is:

- harmful (anything online which causes a person distress or harm)
- inconsistent with your charity's purpose
- not in your charity's best interests
- in breach of the law.

Nikki Loan

Partner, Charities & Non-profit

e.nloan@pem.co.uk



Check if an email you have received from HMRC is genuine.

HMRC are aware that there are a number of scams and phishing emails that use the name of HMRC to provoke a quick and potentially unthinking response.

The phone message that HMRC is filing a lawsuit against you is one of the more common scams that may have been encountered by individuals. The [HMRC examples page](#) gives a number of others, including:

- Use of QR codes to redirect
- Offers of a tax refund
- Tax rebate emails
- Requests for customs duty payments to release a parcel.

HMRC therefore maintains a number of webpages, which are regularly updated, listing topics that may be the subject of genuine emails, texts, letters or phone calls.

Links to all these sites are set out here:



[Check if an email you've received from HMRC is genuine](#)



[Check if a phone call you've received from HMRC is genuine](#)



[Check if a text message you've received from HMRC is genuine](#)



[Check if a letter you've received from HMRC is genuine](#)

There are also reminders that a genuine email, text or call will never ask for personal or financial information.

Charity managers and staff may find these useful in determining whether a contact is genuine.

Rob Plumbly

Director, VAT

e. rplumbly@pem.co.uk



Fundraising Regulator consultation now open.

A consultation on the fundraising code is open until the 1 December 2023. Those interested can reply online through a series of guided responses saving comments as they go.

Some of the key proposals include reviewing the relationships with third party fundraisers employed by charities, clarifying arrangements for paid fundraisers, greater consistency in requirements for face-to-face street collections and those on private sites.

There is also a section around extending the guidance to include digital giving and 'round-up' donations and other digital fundraising methods such as online platforms, social media and cryptocurrencies not included in the first Code.

The consultation also includes a proposal to revise the requirements for accepting legacies to reflect current Charity Commission guidance which allows trustees to decline a gift or legacy, if that is clearly in the best interest of the charity.

Following the consultation questions a revised draft code will be published in 2024 with the Code 'live' from 2025.

Nikki Loan

Partner, Charities & Non-profit

e.nloan@pem.co.uk



My Charity Commission Account is live.

We reported in May 2023 that the Charity Commission has developed a new process for accessing and updating charity information ' My Charity Commission Account'.

Charities who have not yet set up accounts **should do so now** as they will not be able to access their accounts with their old details. The methods of applying for accounts are different depending on the individual requesting the account.

Charities should check with their advisers and trustees that the right access is in place for all those involved with maintaining the charity's records.

The Charity Commission guidance sets out the different methods to apply for an account for:

- Charity contacts
- Trustees
- Third party advisers

The key role is the charity contact who will be the 'primary administrator'. The charity contact can request access by emailing myaccount@charitycommission.co.uk or by calling the Charity Commission.

Once the charity contact account has been set up with administrator permissions the charity contact will be able to send a link to enable trustees and third parties to set up their accounts. They will be able to manage users, trustees and third party and grant permissions.

Trustees will be able to block access to their personal data by the administrator on setting up their account.

Nikki Loan

Partner, Charities & Non-profit

e.nloan@pem.co.uk

Gift Aid and the benefit rules – provision of newsletters.

Many charities provide members with regular newsletters or magazines to keep them updated as to what the charity is doing to meet its charitable objectives. In many circumstances the value of such newsletters can be ignored when considering whether the Gift Aid benefit rules are breached in respect of membership fees.

This can be true even where there is commercial advertising within the magazine. Of course any other benefits provided to members must also be considered under the benefit rules. HMRC provide some guidance on charity literature, as shown below:

Where a charity sends literature to its donors, either in a physical or electronic format, the value of the literature is nil provided the:

- material is produced solely for the purpose of describing the work of the charity whether produced by the charity, or a third party
- material is relevant to and distributed exclusively in furtherance of the objects of the charity.

For gifts made on or after 6 April 2019, a benefit associated with a gift is ignored if the benefit consists of promotional literature. Literature is promotional if it consists wholly or mainly of either or both:

- information about the activities or proposed activities of the charity to which the gift is made

- material encouraging further gifts to that charity or otherwise promoting the objects of that charity.

The fact that the literature has a cover price and is also on sale to members of the public is not relevant. This means that literature like newsletters, bulletins, annual reports, journals, magazines, members' handbooks and programmes of events will generally carry no value for the purposes of the donor benefit rules. The position is different if the literature is not about the charity work or not produced by the charity. HMRC gives the example of a conservation charity providing its members with a free copy of the BBC's nature magazine. The magazine costs £4.50 but is supplied to the charity at a cost of £3 per copy. The value of the benefit is £4.50. The magazine may be connected to the purposes of the charity but it's neither about the specific work of the charity or produced by the charity.

We have seen the "nil benefit" treatment of literature challenged by HMRC, although the charity involved was able to successfully defend this. If you experience a challenge on Gift Aid claims by HMRC please do get in touch with your usual PEM contact.

Judith Pederzoli
Director, Business Tax

e. jpederzoli@pem.co.uk

Charity Treasurer's Handbook.

Published in September 2023 by the Directory of Social Change, the revised edition of the Charity Treasurer's Handbook brings updated guidance for charity treasurers looking to navigate through an uncertain financial landscape.

The guidance covers in detail accounting and legal obligations on trustees but also emphasises that it is not the role of the charity treasurer to make all financial decisions; the treasurer's role is to help guide the trustee board to understand the financial impact of their choices. The new guidance also includes more information on the controls needed to ensure that charities remain protected as technology advances, particularly online banking and fundraising.

For new trustees, there are free training modules available through the [ICAEW website](#).

Nikki Loan

Partner, Charities & Non-profit

e. nloan@pem.co.uk



New charities' return now available.

AR23 – Annual Return for 2023 is now available to charities via the My Charity Commission Account service (see our earlier article).

The Annual Return is the [online form](#) that all charities with yearly incomes of £10,000 or more complete within 10 months of the end of their financial reporting period.

It must also be completed by all those registered as charitable incorporated organisations (CIOs).

The return introduces a revised set of questions for financial years end in 2023 and in subsequent years. The language of the return has been simplified and the regulator considers that few questions should require information in excess of that included in the annual financial statements.

Nikki Loan

Partner, Charities & Non-profit

e. nloan@pem.co.uk



Kelly Bretherick
kbretherick@pem.co.uk



Nikki Loan
nloan@pem.co.uk



Michael Hewett
mhewett@pem.co.uk



Kathryn Hebden
khebden@pem.co.uk



Gemma Baratte
gbaratte@pem.co.uk



Judith Pederzoli
jpederzoli@pem.co.uk



Kate Millard
cmillard@pem.co.uk



Robert Plumbly
rplumbly@pem.co.uk

PEM
Salisbury House
Station Road
Cambridge CB1 2LA

t. 01223 728222
e. pem@pem.co.uk

pem.co.uk



For General Information Purposes only
Please note that this brochure is not intended to give specific technical advice and it should not be construed as doing so. It is designed merely to alert clients to some issues. It is not intended to give exhaustive coverage of the topics. Professional advice should always be sought before action is either taken or refrained from as a result of information contained herein. The firm's full name and a full list of Partners is available on our website.