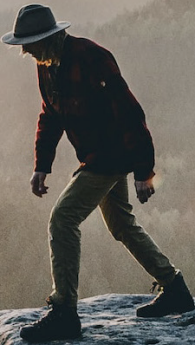


Not for Profit eNews

January 2024



Now, for tomorrow



January 2024 eNews

May we take this opportunity to wish you all a Happy New Year from MHA – we hope you had an enjoyable break over Christmas and New Year. 2024 is already looking to be a year of interest as it has been confirmed as a general election year.

The Prime Minister has hinted at an Autumn election, although May is still a viable option. So we are likely to see some further guidance from the Charity Commission once the date has been confirmed. Given the continued emphasis from the Commission around the ways in which charities campaign and 'speak out' this might become a hot topic for the year! All eyes will also be on the Spring Budget which has been set for 6th March 2024 which will undoubtedly contain a number of pre-election treats.

Meanwhile to kick the year off, in this edition of eNews, we focus on Gift Aid: the impact that the 'Digital markets, competition and consumers bill' could have if enacted on charities which claim Gift Aid on membership subscriptions, and the practical implications of Gift Aid responsibilities now resting with PayPal for donations made through Facebook and Instagram.

We also highlight the Charity Finance Group's new Charity Investment Governance Principles project ahead of its open consultation in the Spring, and we set out some of the VAT considerations associated with the lease-based model of supported housing, which featured in last month's edition of eNews.

As ever, if there are any points you wish to discuss further in this issue please do get in touch.

**Best Regards,
MHA Not for Profit team**

Charities' ability to claim Gift Aid on membership subscriptions at risk

On 25 April 2023, the House of Commons introduced the [digital markets, competition and consumers bill](#), which, [Civil Society reports](#), seeks to “regulate and increase competition in digital markets”.

The bill aims to tackle ‘subscription traps’ by imposing new duties on traders, and give protection to consumers who make advance payments. If enacted, the bill would enable consumers to cancel subscription contracts within a 14-day ‘cooling-off’ period if they changed their minds or did not like the product.

However, there is an unfortunate possible side effect of this bill. Charity professionals have expressed concerns as there is

ambiguity over whether a consumer’s right to cancel a subscription represents a ‘condition of repayment’; there is a statutory requirement under Gift Aid for payments to be ‘gifts’, meaning that Gift Aid cannot be claimed on any amount which is subject to a condition of repayment.

Charities which claim Gift Aid on members’ subscriptions under specific HMRC provisions are being encouraged by the Charity Tax Group to calculate the financial impact the enactment of the bill would have to support its efforts in lobbying Government to amend the bill.

The bill continues its journey towards becoming and act and is not expected to receive ascent and be effective until 2025, so whilst there is no immediate concern this is certainly something to keep your eye on.

Facebook and Instagram fundraising: transfer of Gift Aid compliance risk

Since November 2023, when an individual donates to a charity through Facebook or Instagram, the donation is legally made to PayPal Giving Fund (PPGF).

Gift Aid claims are then made by PPGF in its own right and, subject to due diligence tests, the gross donation is then passed on to recipient charities as a grant.

As a result, the Gift Aid compliance risk now lies with PPGF instead of the recipient charity.

Following this transition, and in light of the number of questions for charity fundraising and finance teams around how the new arrangements work in practice, the Charity Tax Group organised a meeting in December 2023 between members of its Gift Aid Practical Issues Working Group and representatives from PayPal. A recording of the meeting can be found [here](#).



Charity investment Governance Principles

Before the end of 2023, the Charity Finance Group launched its new [Charity Investment Governance Principles project](#), which aims to develop a set of principles for trustees to use when making decisions about their charity investments.

The CFG are aiming to ensure that the principles reflect the outcomes of the high-profile Butler-Sloss case of 2022 and complement the Charity Commission's recently updated 'Investing charity money: guidance for trustees (CC14)' [guidance](#), and the Charity Governance Code. Whilst it is the CFG who will be hosting the project, the project's steering group will include representatives from the Association of Charitable Foundations (ACF), National Council for Voluntary Organisations (NCVO), Wales Council for Voluntary Action (WCVA), and the Secretariat of the Charities Responsible Investment Network (CRIN).

Furthermore, the project's expert advisors include legal representatives from Bates Wells and the ICAEW.

Richard Sagar, Head of Policy at CFG noted that:

"The steering group is delighted to launch the [Charity Investment Governance Principles project](#). By convening investment and legal experts, charity sector bodies and leaders, we are working together to develop a set of universal principles that will increase confidence in the governance of charity investments."

Trustees and leaders of charities with an interest in investment governance are encouraged to register their interest to engage with the project, and can do so by completing this [form](#). An open consultation will be held in Spring 2024, before expected publication in Summer 2024.



Lease-based model of supported housing: VAT considerations

In our December 2023 edition of eNews, we highlighted the risks and applicable guidance relevant to charities operating a **lease-based model of supported housing**.

As a follow-up to that article, we have asked MHA VAT specialist, Robin Prince, to comment on the relevant VAT considerations:

“The construction of a building that is intended to be used as a care home, student halls of residence, village hall or other similar building is subject to VAT at 0%, provided the operator certifies that they will continue to use the building for the same relevant purpose. If, however, the operator changes their use or disposes of their entire interest in the building within the first 10 years, they

may be liable to a self-supply charge for VAT at 20%. This self-supply charge will apply even if the new owner intends to use the building for the same relevant purpose.

Following the Supreme Court Decision in Balhousie, it is HMRC’s published policy to not treat the sale and leaseback of a relevant building as being a disposal of interest in the property. Therefore, a sale and immediate leaseback should not trigger a VAT charge. Operators should, however, be careful and seek specialist advice when undertaking such an arrangement, as any break in trade or non-seamless transaction can still give rise to a significant VAT cost.”



Should you require such specialist advice, do **contact Robin** directly.

UK Community Foundation annual report shows the power of local communities during tough times



Finally, we wanted to highlight that just before Christmas, UK Community Foundations (UKCF), one of the UK's largest funding networks, has published its annual report, "Philanthropy 2023".

UKCF members have distributed over £170.6 million – 40,804 grants – to charities and voluntary organisations in the financial year 2022-2023. In its annual report UKCF highlights the determination of UK communities to overcome the financial crisis and address the root causes of social inequity through local philanthropic action. The report highlights that continual financial inequalities and affected

mental health from the Covid pandemic are some of the contributing factors that have led to the increase in demand of local charitable services in 2023. It also notes that, according to a survey conducted by the National Council for Voluntary Organisations (NCVO), one in five charities are having to reconsider keeping their vital services open due to their own financial difficulties. With 2024 set to be a year of political uncertainty, both within the UK and internationally, financial sustainability will be a top priority for many. UK Community Foundations manage over £811 million in community-focused endowments and are there to support the vital work that is performed by charities and should be considered a key partner when considering the provision of local services.

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