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Not for Profit eNews

April 2023

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Welcome to the latest edition of MHA Not for Profit eNews.

In this edition of eNews we highlight the changes detailed in the Charities Act 2022 which are due to come into force in Spring 2023 – the selling, leasing and disposing of charity land, use of permanent endowments, and principals by which charities are named are all subject to change.

We also reflect on the Spring Budget, in which additional funding for the Not for Profit sector was announced. We also review the Charity Tax Group's and Charity Finance Group's detailed assessments of the relevant budgetary announcements.

The Fundraising Regulator's chair, Lord Harris, has raised concerns that some charities are not signing up to the levy, as news of increases in the Regulator's levy are announced, and we also reflect on the ongoing pressures the Cost of Living Crisis are causing the sector.

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 Act 2022: changes due to be introduced in Spring 2023

In previous editions of eNews we have detailed the changes to the Charities Act 2022, which received its Royal Assent on 24 February 2022, and their planned implementation. The Charity Commission has recently updated its guidance regarding those changes which are due to come into effect in Spring 2023.

1 Selling, leasing or otherwise disposing of charity land

Charities must comply with certain legal requirements before they dispose of charity land. Disposal can include selling, transferring or leasing charity land. The Act will simplify some of these legal requirements. The changes will include:

- widening the category of designated advisers who can provide charities with advice on certain disposals
- confirming that a trustee, officer or employee can provide advice on a disposal if they meet the relevant requirements
- giving trustees discretion to decide how to advertise a proposed disposal of charity land
- removing the requirement for charities to get Commission authority to grant a residential lease to a charity employee for a short periodic or fixed term tenancy
- clarifying the legal requirements that apply when a charity is selling, leasing or otherwise disposing of land to another charity
- updating the statements and certificates that must be included in disposal or mortgage documents for charity land.

2 Using permanent endowment

Put simply, permanent endowment is property that a charity must keep rather than spend. The Act will introduce new statutory powers to enable:

- charities to spend the capital, in certain circumstances, from a 'smaller value' permanent endowment fund of £25,000 or less without Commission authority
- certain charities to borrow up to 25% of the value of their permanent endowment fund without Commission authority

Do note however, If a charities constitution prohibits these new statutory powers, Charity Commission authority will still be required.

Also a new statutory power will enable charities that have opted into a total return approach to investment, to use the permanent endowment to make social investments with a negative or uncertain financial return, provided any losses are offset by gains from other investments within the endowment.

3 Charity names

The Commission can currently direct a charity to change its name if it is too similar that of another charity or if the name is offensive or misleading. The Act now goes further and will enable the Commission to:

- direct a charity to stop using a working name if it is too similar to another charity's name or is offensive or misleading. A working name is any name used to identify a charity and under which the activities of the charity are carried out. For example, 'Comic Relief' is the working name of the charity 'Charity Projects'
- delay registration of a charity with an unsuitable name or delay entry of a new unsuitable name onto the Register of Charities
- use its powers in relation to exempt charities in consultation with the principal regulator

4 Other providers

The definition of a connected person will be updated to remove outdated language. This may require charities to review the terminology used in their conflicts of interest policy.

The final set of changes outlined in the revised Act are due to come into effect in Autumn 2023

Spring 2023 budget

The Spring budget, announced by The Chancellor of the Exchequer, Jeremy Hunt MP, on 15 March 2023 brought with it £100m of additional support to charities and community organisations, and £10m of grant funding specifically for addressing mental health and suicide prevention.

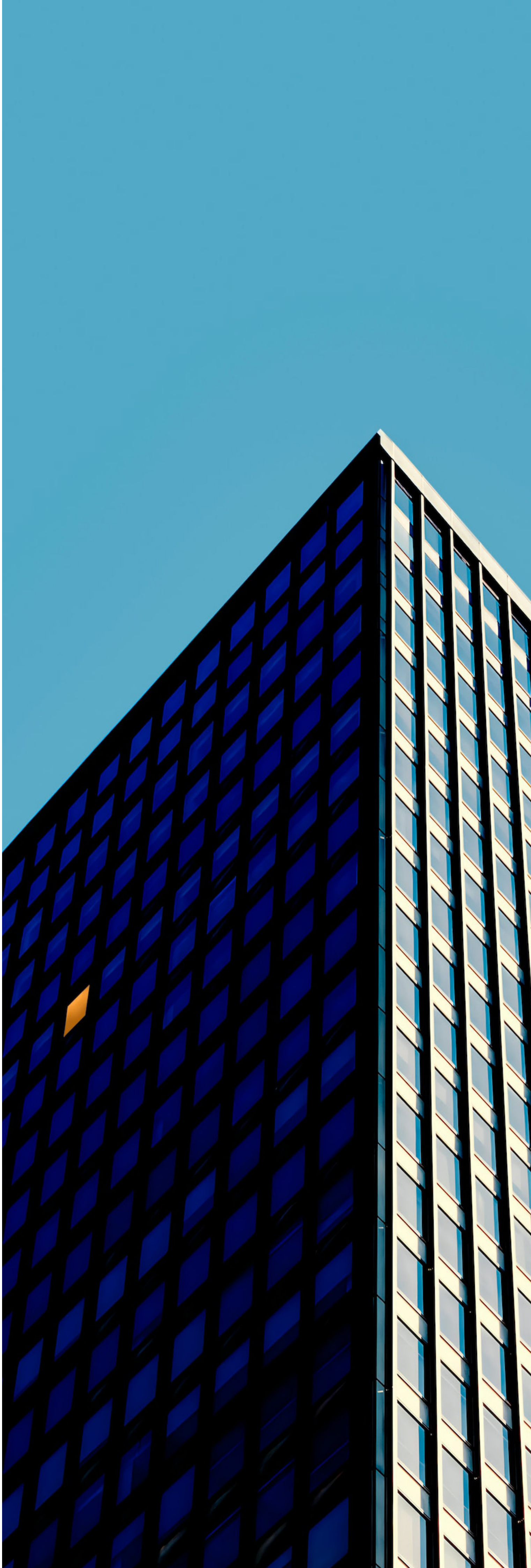
The Charity Tax Group's Chair, Richard Bray, welcomed the news of the additional support but commented that:

> "charities throughout the UK are facing a perfect storm of diminishing donations, increasing operating costs and – as the Chancellor recognised – rising demand for their services. Wider support is urgently needed to sustain charities in this challenging environment. It is disappointing that more direct support was not included in the Budget. This was a lost opportunity."

Following the Budget announcement, a CTG article **summarised** the Tax and other measures which are of particular relevance to the Not for Profit sector, a selection of which are detailed below:

- Extension of the temporary higher rates of theatre, orchestra, and museums and galleries tax reliefs for two further years from April 2023.
- **Ending of Social investment tax relief (SITR):** The government has confirmed that it will not renew the SITR, following the end of the previous two-year extension. The SITR was closed to any new investments from 6 April 2023.
- **Business rates:** The government has published its response to its business rates review. The government intends to expand the local retention of business rates to more areas in the next Parliament and will work closely with interested councils to achieve this. We will continue to campaign for the preservation of charities rates reliefs.
- **VAT:** fund management reform: Following the consultation on proposed reform of the VAT rules on fund management to improve legal clarity and certainty, which closed in February, the government is considering the responses and continuing to discuss the proposals with interested stakeholders. The government will publish its response to the consultation in the coming months.
- £100 million of support for charities and community organisations in England. Support is targeted at organisations most at risk, due to increased demand from vulnerable groups and higher delivery costs, as well as providing investment in energy efficiency measures to reduce future operating costs.
- **Community facilities:** £63m fund to be established for public leisure centres and swimming pools.
- A new apprenticeship scheme ("returnerships") targeted at over 50s for those who want to return to work – will focus on flexibility and previous experience to reduce training length.
- **Nurseries:** Increased direct funding (from this September) to nurseries.

Whilst the detail of the funding and how it will be made available to organisations has not yet been revealed, the news will be welcomed to all Not for Profit sector services. The Charity Finance Group (CFG) have performed **analysis** on the announcement which indicates that the funding comes at a critical time of rising costs and inflationary pressures, as well as a continued strain on public services.



Top charities need to contribute to the Fundraising Regulator

The voluntary levy payable by charities towards the Fundraising Regulator needs to be adhered to by all eligible organisations in order for the benefits to be shared evenly, the Chair of the Fundraising Regulator, Lord Harris, recently claimed, in light of a handful of larger charities who consistently refuse to pay.

The announcement comes at a time when the Regulator is planning to increase the levy in order to combat rising costs. Lord Harris was quick to reassure the public that the planned increase does not represent the Regulator struggling to continue to offer all of its current services, but was necessary to ensure an equitable relationship for all charities.

The current levy is applied to charities in England, Wales and Northern Ireland that spend more than £100,000 on fundraising and are part of the group of levy-paying organisations. Charities with a lower level of spend can apply for a lower fee than their higher spending counterparts. The Regulator derives almost all its income from this levy and uses it to carry out its important work in keeping check on charitable organisations.

Arguments of the levy being too much at a time of increased costs and other budgetary pressures have been met with disagreement from the Regulator, who cite it as a comparatively small and essential fund in order for all charities to be held to the highest of account.

‘Charities must remain true to aims regardless of leaders' views’

The Chair of the Charity Commission has claimed that charities must keep in mind their aims and objectives even when political tensions rise. Orlando Fraser recognised the need to keep the most talented and committed individuals in the sector working towards common and important goals. However, it is important that these organisations remain separate to political fray and leave the personal views and the sometimes controversial policy of government aside in order to further the stated aims.

He also recognised the impact that doing so can have on leaders of charities themselves, especially at a time of rising costs and inflationary pressures which are resulting in most organisations tightening their budgets and looking to cut costs in order to stay afloat. The origin of donations can often be a controversial topic, and the Commission doesn’t want to deter charities from accepting donations from high profile or controversial individuals in a time where philanthropy can be hard to come by. Indeed, in light of this, the Commission plan on releasing further guidance on procedures to return or refuse donations in an effort to promote lawful philanthropy and empower Trustees to use their discretion for donations to the charity at times of great hardship.

Orlando Fraser’s speech also touched on key updates to social media guidance coming from the Charity Commission later this year and an update on the Butler-Sloss case regarding investments and a potential change to aim for more green investments in a world ever more concerned with climate change and the impact we can all have on it.

Cost of living crisis sees increasing footfall for Charity shops

The Cost of Living Crisis and ongoing inflationary pressures are causing prices to continue to rise and have had a huge impact on society and not for profit organisations.

However, recent statistics published by the **Office for National Statistics** have detailed that sales volumes in second-hand shops have been increasing.

Charities which operate such shops may be encouraged by this news and wish to reflect on their retail operations.

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MHA Not for Profit Team
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