



Not for Profit eNews

May 2022

Now, for tomorrow





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

In this issue, we will look at the Government's proposed implementation plan for the Charities Act 2022 following its Royal Assent in February, taking the opportunity to look at some of the provisions which will come into force this Autumn. We also take a look at updates made by the Fundraising Regulator to their Fundraising Preference Service, as well as new guidance from the Charity Commission on holding online meetings. Finally, we will take a glance at the prospectus for the UK Shared Prosperity Fund which was unveiled by the Government this month.

We also have a link to our upcoming webinar on Legacy disputes – this webinar is set to be one of the highlights of year as the expanding issue of disputed legacies is viewed from a legal, accounting and risk perspective. This is a joint webinar between MHA, legal experts BDB Pitmans and the Charity Finance Group. Make sure you secure your place quick!

Best Regards,
MHA Not for Profit team

Charities Act 2022 Implementation Plan



Further information on the Charities Act 2022: implementation plan [here](#)

As detailed in our previous months' issue, the Charities Act 2022 gained Royal Assent on 24 February 2022. The Government have since set out an implementation plan, indicating a timeline for the activation of new provisions and fulfilments of the other commitments they have made in response to the Law Commission's Charity Law Report.

The implementation will be led by the Department for Digital, Culture, Media and Sport, in conjunction with the Charity Commission for England and Wales and other departments. Provisions are expected to come into force at various points over the next year and a half, divided into three tranches: Autumn 2022, Spring 2023 and Autumn 2023. Whilst there are many provisions to be implemented this Autumn, we have detailed four which we believe to be of particular significance to charities, relating to Cy-près powers, ex-gratia payments, the remuneration of charity Trustees providing goods and services to the charity, and the status of Trust Corporations.

Cy-près Powers

In the context of charities, Cy-près (or "as close") refers to the ability for the wishes of a donor to be carried out, even if the original purpose of the gift has failed. The updated provision will make it easier for charities to use money or property donated to a fundraising appeal which either did not meet or exceeded its target, for similar purposes of the original appeal, rather than returning the funds to donors.

These new rules will apply in several situations: firstly, if a charity considers the cost of returning funds or the expectation of donors to have them returned to be unreasonable, then it can seek permission from the Charity Commission not to do so; secondly, when an individual donor has given £120 or less in a year; finally, where donors cannot be traced or identified after reasonable action undertaken to locate them. The provision applies to both fundraising appeals that do not meet their intended purpose (initial failure) and those that exceed their initial goals and have excess capacity (subsequent failure).

Small Ex-Gratia Payments

This Autumn's provisions will provide greater flexibility in making small ex-gratia payments without requiring Charity Commission consent. The definition of "small" will be linked to a charity's gross income. The test for making ex-gratia payments will also be updated, enabling decision making to be delegated to employees, though the responsibility for the decisions will still ultimately rest with the Trustees.

Remuneration of Trustees for the Provision of Goods and Services

The statutory powers of charities currently extend to the payment to a Trustee for the provision of services and any goods supplied in connection with those services. From this Autumn, this power will include remuneration for goods that are not supplied in connection with particular services, for example office supplies. Charities will still need to check their own constitutions and comply with safeguards, but this provision will build on the abilities of Trustees to provide assets to their charities.

Trustee of a Charitable Trust: Status as Trust Corporation

A charitable corporate body that acts as the sole trustee of a charitable trust currently only has corporation status in select circumstances. This means it is often required to appoint a second trustee. However, following the implementation of updates to section 32 of the Act, **Trustee of Charitable Trust: Status as Trust Corporation**, trust corporation status will be automatically granted to any trustee of a charitable trust if they are "a body corporate" and a charity, thus allowing them to be an effective sole trustee of property held on trust.

The Department for Digital, Culture, Media and Sport will review the Act within three to five years, and the Government has said that it will assess whether thresholds set out in the 2022 Act should increase with inflation during this period of review.

Fundraising Regulator strengthens Fundraising Preference Service following independent review

Updates to the Fundraising Preference Service (FPS) have recently been announced by the Fundraising Regulator. The FPS is a tool that enables people to stop themselves from receiving direct marketing communications from charities. These changes follow an independent review of the service looking to strengthen the platform for both charities and members of the public.

The review found that the FPS provides an important backstop for those who feel overwhelmed by contact from charities, and also helps charities allocate their resources in communications more effectively, building and maintaining public trust in the sector and strengthening fundraising. Recommendations from the report advised on a simpler and more cost-effective process that would make it easier for individuals to cease receiving communications from charities, and increase visibility from the charity's perspective on why communications have been requested to cease.

The public can now request, in a single online communication, that up to 10 charities cease sending them direct marketing, and up to 20 when contacting the FPS via telephone. The review showed that 25% of users of the FPS were acting on behalf of a friend or relative, and so the FPS has made it easier for charities to see whether a request has been made on behalf of another, helping to indicate if there are any vulnerable people involved and allowing charities to respond to these requests effectively.



Further information can be found [here](#)

The Charity Commission Updated Guidance on Meetings

As COVID-19 restrictions have been lifted, the Charity Commission has made updates to its guidance for charities holding online meetings.

Through the pandemic, the Charity Commission had enabled charities to hold meetings and AGMs remotely without having to update their constitution. This meant that organisations were able to meet outside of the terms of their governing documents, which define how and when these meetings should occur.

From 22 April 2022, this flexibility came to an end, and so the Commission has advised Trustees to check whether their governing document permits online, telephone or hybrid meetings, such that changes can be made to allow charities to meet in the way they want moving forward.

The Commission has recommended that charities review and update their governing documents as soon as possible, but they appreciate that some charities will not be able to do so by late April, risking the cancellation or postponing of meetings. As doing so could have wider implications, the Commission has offered advice and even the possibility of authorising remote meetings.



Further information can be found [here](#)



Shared Prosperity Fund

The Government has published the full prospectus for the £2.6bn UK Shared Prosperity Fund, aimed to replace funding from the European Social Fund and European Regional Development Fund.

Local areas across England will receive £1.58 billion, Scotland £212 million, Wales £585 million, and Northern Ireland £127 million under the fund. This allocation is based on local population data, as well as unemployment and income levels. Funding decisions will be made by elected leaders in local Government, with input from members of parliament and local businesses and voluntary and not-for-profit groups.

In addition to these funds, there will be a £559 million adult numeracy programme for the UK called 'Multiply', which will support people with no or low-level maths skills get back into work. The scheme will offer free personal tutoring, digital training, and flexible courses to improve adults' confidence and numeracy skills.

Funding for the UK Shared Prosperity Fund will be £2.6 billion between 2022 and 2025, with this figure reaching £1.5 billion per year by March 2025, delivering on the UK Government's commitment to match the average spending of EU structural funds over the previous programme.



The full Civil Society article can be found [here](#)



The full UK Fundraising article can be found [here](#)



Legacy Disputes Webinar

Total UK legacy income grew from £800m in 1990 to £3bn in 2020 and is set to grow further with some estimating that that charities will receive £5bn in legacy income in 2030 from 146,000 bequests.

In recent years there has been a sharp increase in the number of Legacy Disputes. This increase represents a real challenge for the Charity sector who depend upon this income.

Join us on Wednesday 11 May to find out more about the legal, governance and accounting challenges that disputed legacy cases create. During the webinar, we will explore the roles and responsibilities of the charity and its trustees and examine how to best navigate these complex scenarios.

Our aim is to help those charged with governance ensure they act in the best interests of the charity and to ensure the financial statements are prepared on a true and fair basis.



Wednesday 11 May



12.00 - 1:00pm



Platform: Ring Central

Accessible for free via a PC, Mac, iPad, iPhone or Android device



Register here

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After registering, you will receive a confirmation email and information about joining the webinar.

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