



# Not for Profit eNews

September 2021

Now, for tomorrow





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

In this edition we look at the latest update on the Charities Commission's consultation on Responsible Investment, and the latest news about the IFR4NPO project.

Additionally, insights into recent VAT news on subsidies, the impact of breaches of minimum wage and a useful insurance article.

We also look at updates with apprenticeships with the ESFA and some useful links and guidance from Companies House.

Best Regards,

**MHA Not for Profit team**

# Investment guidance

## The Charity Commission have updated their consultation for “Responsible investment: draft guidance for consultation”, to include responses received from stakeholders

In 2020 over 40 key stakeholders and investor charities responded to queries, that trustees faced when considering a responsible investment approach.

As a result, the Commission has updated the guidance to help charities understand that responsible investment is an option they can choose or continue with. This is not an expectation or rule, and trustees have wide discretion on what investment approach they choose to follow.

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## Latest on the IFR4NPO project

### An initial consultation paper was recently issued on International Financial Reporting for Non-Profit Organisations (IFR4NPO).

This is a major multi-year project being coordinated by CIPFA and Humentum. MHA is one of two UK firms of accountants that are contributing to the overall process as we believe this to be a very important piece of work for charities that work on an international basis. Further details can be found [here](#)

The current consultation is split into two initial stages – the first Part addressed the broad NPO financial reporting landscape, and required responses by the end of July. This initial stage considered fundamental framework areas such as what are NPOs, who are their stakeholders and what are their needs. It also considered the merits of financial and narrative reporting, including consideration of other reporting areas such as achievement of objectives, economy/ efficiency and effectiveness, and long-term financial health. MHA agreed with most of the proposals including the use of the existing international financial reporting regime as an appropriate base point.



Our response to Part 1 of the consultation can be found [here](#)

Part 2 addresses specific financial reporting issues and responses are required by 24 September. As this Part will affect those that prepare and audit NPO financial statements, we would encourage all our clients and contacts to examine the proposals and to respond accordingly. Details of how to respond can be found [here](#). The areas considered include the reporting entity, accounting for incoming resources, accounting for outgoing resources, accounting for financial and non-financial assets, and presentation, scope and content of financial reports. If you do not feel able to respond but have views you would like to express do share those with us and we shall reflect those in the consultation response that we shall be making.



# VAT Treatment of Subsidies

## A recent tribunal decision is a welcome judgment for charities that benefit from government subsidies, argues Julie Green, VAT manager at MHA.

Colin Newell operates a biomass business that dries and sells wood chips and other materials. Trading as Ballyboyland Biomass, he was subsidised by periodic support payments under the government's Renewable Heat Incentive scheme (RHI). HMRC assessed Newell on the basis that the RHI support payments represented a non-business activity, which should have led to a partial restriction of input tax.

Newell's advisers argued the VAT ought to be fully recoverable because VAT is not supposed to add to the costs of a fully taxable business. The First-Tier Tribunal (FTT) allowed Newell's appeal. In its judgment on 1 June 2021, it concluded that the existence of income that was outside the scope of VAT did not always indicate an activity that was outside the scope of VAT. In Newell's case, the court found no restriction of VAT could be justified where a business only makes taxable supplies, regardless of whether it has been supported by subsidy or even if it would not be viable without government support.

### Impact on charities

This case is of importance to charities and not-for-profit organisations in receipt of subsidies. There is a popular misconception that full VAT recovery is only possible if all income received is taxable. While it is right to say that making exempt supplies will usually lead to a restriction of input tax, the same cannot always be said where the non-taxable income received by an organisation is outside the scope of VAT. Organisations that receive outside-the-scope income or subsidies are entitled to recover the VAT charged to them on expenditure relating to business activities that result in taxable supplies being made.

However, it is important to note that had Newell engaged in non-business activities, which were supported by outside the scope grant funding, the recovery of VAT incurred would have been correctly restricted. This is because VAT incurred in relation to non-business activities is not generally recoverable. Charities that have both taxable activities and non-business activities are required to carry out an apportionment, and only the proportion of VAT relating to taxable business activities

can be recovered. There is no set method for apportioning the VAT to business use; but the method used must be fair and reasonable, with the objective being to establish the extent to which the VAT on the costs incurred is used for the purpose of the business activities.

As a result of this case, any VAT registered organisation that is required to carry out a business/non-business apportionment may wish to review its methodology, particularly if it uses an income-based method. The Newell case demonstrates that a method which assumes that grant income is always akin to non-business activity is flawed. While VAT incurred in relation to grant subsidised non-business activities mustn't be recovered, income from grants which subsidise taxable business activities should not be included when using income to estimate the extent of non-business activities which require an input tax restriction.

Newell is also an important reminder that over the last few years, HMRC has sought to restrict VAT recovery in connection with grant income. While the court's decision preserves the neutrality of the VAT system, in trying to claw back VAT HMRC was seeking to undermine the effectiveness of subsidies.

This case is similar to the decision in the 2019 case of Frank A Smart & Son Ltd, where the UK Supreme Court found in favour of the taxpayer. It shows HMRC's continued reluctance to accept that outside-the-scope grant income does not necessarily always lead to a restriction of VAT recovery. Even the European court decision in the case of Sveda (see page 12) in 2015 has not halted HMRC's appetite for litigation in this area. In view of this, charities and not-for-profit organisations should consider taking specialist advice when reviewing business/non-business calculations in order to ensure that VAT recovery calculations are both fair and robust against any HMRC challenge.

*Disclaimer: This article was originally published in the September edition of the Charity Finance magazine.*

# Minimum Wage

In August the Department for Business, Energy and Industrial Strategy published a [list](#) of organisations that owed £2.1m to more than 34,000 workers after HMRC identified the charities had broken minimum wage law.

For many organisations this has accumulated through a legacy issue of breaches taking place between 2011 and 2018, with consequences of paying back arrears of wages as well as facing penalties of up to 200% of arrears capped at £20,000 per worker, which is paid to the government.

The rules around minimum wage are complex and need to be considered carefully by organisations.

For further information, please contact Richard Maitland, Partner at MHA and HCA specialist, who can advise organisations in this area.



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# Insurance Matters

**Considerations of insurance matters is essential to ensure the viability of any charity. Here, MHA MacIntyre Hudson's insurance partner, Insurance Services Surrey, in conjunction with Charity Insurance Specialists, aQmen Underwriting, has compiled key questions and answers on this topic:**

## **What insurances should a new organisation consider?**

Start-ups should consider Public Liability Insurance and, if you have any employees or volunteers, Employers Liability. You might consider adding Trustee Indemnity. Any assets of the charity, such as office or medical equipment and furniture, should also be insured.

## **What insurance do I need to take our service users on trips and excursions?**

A specialist policy should normally allow this activity, assuming that you have made your insurers aware that this is part of your services, but check your policy wording and if in any doubt, ask the organisation that issued your policy and ensure they respond in writing so you have an audit trail. Most insurers will want you to carry out a risk assessment as part of your planning.

## **Do I need trustee indemnity insurance?**

It is not a mandatory requirement, but it is relatively inexpensive and gives trustees reassurance. It can be useful in helping to attract high-calibre trustee applications.

## **How do we insure staff and volunteers working abroad?**

Note that typically there will be restrictions meaning they:

- can engage only in non-manual activities
- can work abroad only 'temporarily' (usually deemed to be no more than three months)
- should not be going to places to which the Foreign and Commonwealth Office advises against all travel
- or advises against all but essential travel.

Make sure you read your policy wording and if in doubt take advice. And always ensure that a suitable Travel policy is in place.

## **Do I need to insure my events separately?**

If you are running an event at a venue, make sure they have public liability insurance in place. Check with your insurance provider that your public liability insurance will cover the event. It may need an endorsement to extend the scope of cover.

If the event is a significant fundraiser and/or there would be a financial impact if it were cancelled, you might also consider Event Cancellation cover.

## How do I insure volunteer drivers?

Volunteer drivers must:

- have their own vehicle insurance
- advise their insurer they are undertaking voluntary
- driving duties
- ensure their car is road legal (taxed and with an MOT)
- meet legal safeguarding standards (DBS checking)
- if they are dealing with the vulnerable.
- The charity should check the situation when recruiting
- volunteers and not recruit a volunteer driver unless they meet all of the requirements. All drivers should be checked once a year to ensure they continue to meet the requirements, and a record of the check should be kept on file. Note that insurers may have different requirements.

## I don't think I need employers liability because I only have volunteers – is this correct?

If you have employees, you must, by law have Employers Liability unless you are exempt under the Employers Liability Act.

Some insurers do not include volunteers within their Employers Liability policy - they adopt the approach that volunteers are 'third parties' and cover them under their Public Liability.

Employers Liability, when it covers volunteers, provides broader, statutory, non-confrontational cover (so it is better for both you and the volunteer). If a volunteer who suffers injury decides to pursue a claim, the court might reasonably decide volunteers working under the organisation's direction are considered employees under the terms of the Employers Liability Act.

## How do I make a claim?

Instructions should be included in your insurance policy. If you are unsure, contact whoever sold you the insurance - your insurance advisor or your insurer.

Make a comprehensive photographic record of any damage and write down a summary of the key circumstances which you feel have or may have led to the claim.

Don't delay any notification to your insurer, and always discuss the matter with them even if you are in doubt about whether insurance may respond. For advice on these matters, your usual MHA MacIntyre Hudson will be able arrange a discussion with Insurance Services Surrey.

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*Disclaimer: this article was originally published by aQmen Insurance*



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# Snippets from the sector

## Vodafone Free Data Scheme for UK Charities

Vodafone has launched a [scheme](#) allowing UK charities to apply for free data to enable charities to improve their digital capacity. All applications will be reviewed and a decision made within 30 days. This scheme is ready for distribution from 1 September 2021 until 1 November 2022 or until the supplies run out.

## Postponement of London Marathon 2022

Once again the London Marathon has been postponed from April to October 2022 and will now take place on 2 October 2022. This is important for charities to consider the impact on fundraising income within the financial projections and cash flow forecasts.

## ESFA update: apprenticeships

The ESFA from the 26 August 2021 have made it compulsory for the employer or training provider to add a unique email address when adding an apprentice record to the apprenticeship service. You will not be able to save or approve the apprenticeship record without one, and therefore funding cannot be allocated.

It was also noted that eligibility employers with apprentices who have an employment start day between 1 April 2020 – 30 September 2021, as well as those who have a practical period between 1 April 2021 – 30 November 2021 are eligible for the incentive payment of £3,000 for new apprentice of any age. The application for this must be completed by the end of November 2021.

### Other areas included in the update are:

- Applications remain open for Education and Training Foundation professional development programmes for mentors
- Register of Apprenticeship Training providers: market entry process for identified gaps in provision
- Traineeship in-year growth for 2021 to 2022
- New data upload facility to the 'Publish to the course directory' platform
- Domestic abuse statutory guidance consultation launched

- Launch of applications for EdTech mentoring and coaching development grants
- Post-16 monitoring plan for the 2021 to 2022 funding year
- Streamlined energy and carbon reporting for college corporations
- new Learning Aim Class Codes for Essential Digital Skills

## Companies House webinars

Companies House have released a series of four free webinars that will be taking place throughout September and October. The goal is to provide guidance for limited companies, partnerships and other company types.

The seminars include:

- 1 Directors' responsibilities** – your accounts and how to avoid late filing penalties
- 2 Directors' responsibilities** – what questions are most frequently asked about starting a company?
- 3 Directors' responsibilities** – data protection – what you need to know and where to start, a webinar by the ICO
- 4 Directors' responsibilities** – everything you've asked about running a limited company.

During the session individuals will be able ask questions and guidance/ advice will be provided. You can register and sign in via the companies house [website](#).

## Companies House Coronavirus Updates

Same day service can be used to electronically file a change of company name, or incorporate a company. The deadline was previously set at 11am, but has now changed to 3pm. If submitted after this, the application will not be processed until the next working day.

Companies house have confirmed that payment breaks for late filing penalties have now ended. If you do not apply for an extension before your filing deadline, and your accounts are filed late then a penalty will be automatically imposed. For a temporary amount of time, Companies House will provide additional support with payment plans for late filing penalties.



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