



Charities Alert

Winter 2019/2020

Audit / Tax / Advisory / Risk

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Governance



Workplace bullying in charities and the implications for leadership

The government, Charity Commission and umbrella organisations have initiated urgent work to address the safeguarding challenges within the charity sector, in response to the reports in recent years of abusive organisational cultures as well as revelations about sexual exploitation and abuse of beneficiaries within the international aid sector.

Within this response a report '*In Plain Sight: Workplace bullying in charities and the implications for leadership*' has been funded by the Department for Digital, Culture, Media and Sport (DCMS) and produced as a collaboration between ACEVO, the Association of Chief Executives of Voluntary Organisations, and Centre for Mental Health.

The investigation and report draws upon the voices of victims of bullying in charities to describe the conditions in which it occurs and might persist, and provides analysis and recommendations for what charity leaders should do to create safer working cultures.

As well as providing a summary of the results of a detailed anonymous online survey returned by over 500 respondents, in-depth interviews with 20 victims of bullying, and personal accounts of victims of bullying, the report also provides information on relevant government and Charity Commission policy and advice as well as other charity sector initiatives.

In its conclusions, the report identifies six sector-specific systemic stressors and three key cultural and relational factors linked to the management of conflict, which appear particular to charitable organisations' culture and behaviour:



- weaknesses in governance and senior leadership
- weaknesses in organisational policies, procedures and practices
- a lack of information, skills and confidence within the charity workforce to identify and respond to bullying
- uncertainty among victims and charities about the regulatory framework and the specific remit of the Charity Commission in relation to bullying
- the absence of any sector-wide initiative to respond to bullying or promote healthier workplace cultures
- the absence of internal or external recourse for victims of bullying, or for concerned charity leaders
- charities become preoccupied internally with the same kinds of conflict they deal with in their mission – ‘mirroring’
- breakdown of trusting and respectful working relationships

- failure to acknowledge or resolve internal conflict over time, leading to patterns of emotionally abusive behaviour becoming established within organisational culture.

There is zero tolerance in the government response to safeguarding and addressing bullying cultures in both the international sector and domestic charities – it is an absolute requirement for charity leaders to put in place robust and effective systems for internal leadership and management to identify, report, investigate and deal with misconduct, and to remove wrongdoers. The report includes five detailed recommendations covering areas of governance, policy, the regulatory framework and sectoral cultural change.

The report is intended to be read by staff, managers and leaders within the charity sector, as well as policy makers and the victims of bullying who participated in the online survey and interviews. The full report is available from the ACEVO website:
<https://www.acevo.org.uk/wp-content/uploads/2019/07/In-Plain-Sight.pdf>

NCVO safeguarding resources

The National Council for Voluntary Organisations (NCVO) has launched a range of free safeguarding resources, supported by other organisations, to help charities create and implement relevant safeguarding plans.

The NCVO resources site recognises that safeguarding is about making sure your organisation is run in a way that actively prevents harm, harassment, bullying, abuse and neglect as well as being ready to respond safely and well if there is a problem. It acknowledges that everyone in an organisation has a role to play in safeguarding and that this should become part of the day to day activities.

This resource is structured as a series of links to web based resources which outline simple steps that charities can take to ensure that they are run in a way that actively prevents staff, volunteers

and everyone they come into contact with from suffering harm, harassment, bullying, abuse and neglect.

The safeguarding resources are available on the NCVO knowhow website:
<https://knowhow.ncvo.org.uk/safeguarding>

Charity Commission: safeguarding and protecting people for charities and Trustees

The Charity Commission has, in line with the ACEVO and Centre for Mental Health report mentioned on pages four and five, updated its guidance on safeguarding and protecting people which sets out what charities should do to protect people who come into contact with the charity through its work with abuse or mistreatment of any kind.

Although much of the guidance remains unchanged, the updates include when to consider DBS checks and how to put into practice policies and procedures, along with signposting to new sector resources.

The full updated guidance can be accessed from the GOV.UK website:
<https://www.gov.uk/guidance/safeguarding-duties-for-charity-trustees>

Charity Commission: reporting a serious incident in your charity when it involves a partner

In December 2019, the Charity Commission issued new guidance for charity trustees on when to report incidents involving the charity's partners as a serious incident.

For this guidance, partners include:

- delivery partners or sub-contractors of the charity
- a subsidiary trading company of the charity
- organisations that receive funding from the charity
- another charity or organisation that is linked to the charity, for example as part of a federated structure.

The guidance states that “Trustees should make a serious incident report when an incident has occurred involving one of the charity’s partners in the UK or internationally, which materially affects the charity, its staff, operations, finances and/or reputation such that it is serious enough to be reported.”

Although the guidance recognises that it is for the Trustees to determine whether an incident is ‘serious enough’, it looks at three

scenarios, and incidents within these, which are most likely to trigger the requirement to report a serious incident. The three scenarios are:

- the incident involves the charity’s funds, brand, people or an activity that it funds or is responsible for
- the incident does not involve the charity’s funds, brand or people but could have a significant impact on the charity
- the incident does not involve the charity’s funds, brand or people and has little or no impact on the charity.

The full guidance can be seen on the GOV.UK website:
<https://www.gov.uk/guidance/reporting-a-serious-incident-in-your-charity-when-it-involves-a-partner>

Preventing charity fraud

The Fraud Advisory Panel, supported by the Charity Commission, has recently published a report *'Preventing Charity Fraud: Insights and Action'*.

Ten years on from a report by the Fraud Advisory Panel on fraud in the charity sector, the Commission (partnered with the Fraud Advisory Panel) repeated and extended the scope of that survey, contacting a representative sample of 15,000 registered charities across England and Wales. With a 22% response rate, this is the largest ever analysis of fraud committed against UK charities.

The report on Preventing Charity Fraud highlights a number of conclusions, including a significant increase over the 10 years in the detrimental impact of fraud on charities, especially on their reputation. The report also finds that excessive trust is the main contributory factor that allows fraud to occur, suggesting more needs to be done to embed a culture of scrutiny and appropriate challenge.

In response the report highlights a number of actions for charities including the need to boost resilience, focussing on preventing fraud rather than waiting until after they've fallen victim, and reviewing their financial controls on a regular basis. It also highlights eight principles of good counter-fraud practice (see the updated Charity Commission advice on page nine) and provides a Fraud Prevention Checklist which lists nine actions to be assessed by charity Trustees, staff and volunteers.

Preventing charity cybercrime

Linked to the survey and report on charity fraud, the Fraud Advisory Panel has also published a report *'Preventing Charity Cybercrime: Insights and Action'*.

A positive conclusion from the report is that charities are increasingly aware of the risk of cybercrime. Perhaps not unexpected, larger charities are more likely to appreciate the threat, probably because they generally have a greater capability to detect cybercrime. Many small and medium sized charities are less aware of the cybercrime threat, and therefore likely to have fewer processes in place to help mitigate risk.

The report recognises that large charities are more likely to be the victim of a cybercrime than smaller charities, with phishing/malicious emails the most common method of attack. It highlights the need for charities to raise awareness of cybercrime and encourage Trustees, staff and volunteers to raise concerns, especially where phishing attacks and malicious emails are suspected. It also emphasises that charities should clarify responsibility for managing the risk of cybercrime and ensure it is a governance priority for the Board.

As well as providing various conclusions and actions, the report also emphasises that public trust and confidence in the sector relies upon good governance in charities and that within this, ensuring effective cyber security is a vital component.

The full reports can be accessed from the GOV.UK website:
<https://www.gov.uk/government/publications/preventing-charity-fraud-insights-and-action>

<https://www.gov.uk/government/publications/preventing-charity-cyber-crime-insights-and-action>

Charity Commission: fraud and cybercrime

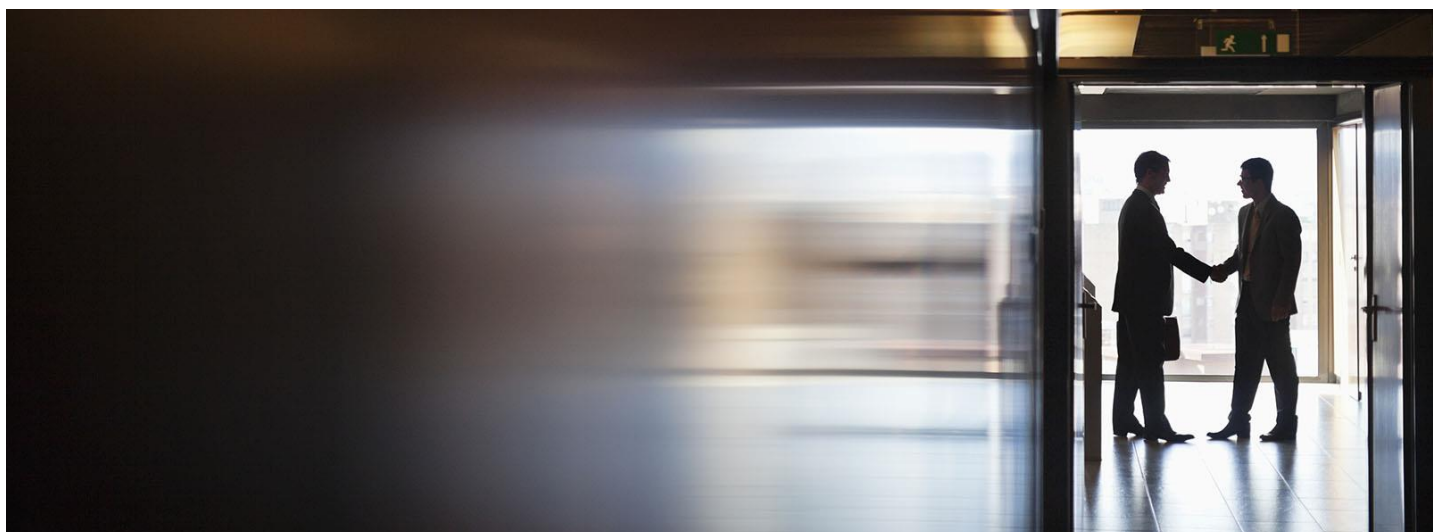
Following the Fraud Advisory Panel reports, the Charity Commission has updated its guidance on protecting your charity from fraud and cybercrime by adding the eight guiding principles for tackling charity fraud:

- fraud will always happen – simply being a charity is no defence
- fraud threats change constantly
- prevention is (far) better than cure
- trust is exploited by fraudsters
- discovering fraud is a good thing
- report every individual fraud
- anti-fraud responses should be proportionate to the charity's size, activities and fraud risks
- fighting fraud is a job for everyone.

As a key feature of the 2019 Charity Fraud Awareness Week, the Commission also included a free online awareness hub which brings together all the free information, guidance, videos and case studies as well as enabling charity professionals from across the globe to discuss and share ideas on how to protect the sector.

These eight guiding principles have been presented as a one-page summary which is available from the GOV.UK website: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/841056/8_Guiding_Principles_for_Tackling_Fraud_Final_Oct19.pdf

The online awareness hub can be accessed from the Fraud Advisory Panel resources page: <https://www.fraudadvisorypanel.org/resource/>



Charity Commission: the value of the charity sector

In its five-year strategy published in October 2018, the Charity Commission set out a new purpose, “to ensure charity can thrive and inspire trust so that people can improve lives and strengthen society”. The Commission’s strategy reflects the fact that the public’s perception of the value of charity is determined by how well charities meet public expectations, with both what they achieve and how they do it.

As charities become more prominent in the delivery of a wider range of services - including many that were previously the purview of government - the Commission believes that it is important, and urgent, to understand the value charities deliver, what determines that value, and what makes charities unique in the eyes of the public.

In September 2019, the Commission, together with Frontier Economics, published a paper to explain the steps that are needed to measure the value of the charitable sector. The paper aims to promote discussion on proper measurement as an important step that would allow the sector to understand its value and to deliver more benefit.

The report identifies five potential components to the value of a charity:

- direct value to the public in receipt of charitable services
- value to members of the public who act as volunteers for charities

- wider value to members of the public who donate to charities, beyond the value of their donation
- wider value to the employees of charities, beyond their salaries
- wider benefit to society through their broad role in society as distinct to their specific impacts on individuals.

Whilst noting that the charity sector can no longer count on being given an automatic benefit of the doubt, and that the public wants reassurance that charities are behaving charitably and delivering their charitable purposes, the paper does not provide any conclusions on the measurement of value but is presented to promote discussion on this topic.

The paper is available from the GOV.UK website:
<https://www.gov.uk/government/publications/the-value-of-the-charity-sector>

Compliance

Charity Governance Code: keeping the code up to date

In November 2019, the Steering Group responsible for updating and maintaining the Charity Governance Code published a consultation to inform the future development of the Code.

Following the publication of the new edition of the Code in summer 2017, the Steering Group intended to review the contents and impact of the Code at three-year intervals to make sure that it remained current. However, the Group have concluded that there is a balance to be struck between continually updating the Code and potential disruption to those using the Code, especially as it can take some time to work through all the recommendations. They are therefore proposing only a light 'refresh' of the Code in 2020, with more far-ranging changes taking place in 2023. In line with this they are looking to develop a 'route map' of suggested changes for implementation in 2023.

The current consultation process began on 4 November 2019 and is set to run until 28 February 2020. Anyone interested in providing their input to the consultation can do this through the online survey: www.surveymonkey.co.uk/r/TMRJFHF

or by email or post using the pdf copy of the consultation questions available on the Charity Governance Code website: <https://www.charitygovernancecode.org/en/about-the-code-1/charity-consultation.pdf>



Charities and cryptoassets

Whilst receiving and holding cryptoassets is not yet a mainstream activity for most charities, it is certain that some charities will become the owners of such assets, if not as a matter of policy then potentially through a gift from a kindly supporter and benefactor.

A UK government backed task force has recently published a legal statement on cryptoassets and smart contracts which provides some clarity on the status of such assets under the existing law – including, for example, how they might be transferred as a gift.

The legal statement provides conclusions on the principal questions - under what circumstances, if any, would a cryptoasset and/or a private key be characterised as personal property?

The conclusion states that whether English law would treat a particular cryptoasset as property ultimately depends on the nature of the asset, the rules of the system in which it exists, and purpose for which the question is asked. However it also states:

- cryptoassets have all of the indicia of property
- the novel or distinctive features possessed by some cryptoassets - intangibility, cryptographic authentication, use of a distributed transaction ledger, decentralisation, rule by consensus - do not disqualify them from being property
- cryptoassets are not disqualified from being property as pure information, or because they might not be classifiable either as things in possession or things in action

- cryptoassets are to be treated, in principle, as property
- a private key is not in itself to be treated as property because it is information.

The legal statement then continues with a number of ancillary questions, including how title to that property is capable of being transferred.

HMRC have also published two policy papers, *'Cryptoassets: tax for businesses'* and *'Cryptoassets: tax for individuals'*. These papers explain how HMRC will tax transactions involving cryptoasset exchange tokens that are undertaken by companies, other businesses and individuals. Although much of this is not directly relevant for charities, both papers confirm that businesses and individuals will not have to pay tax on non-tainted donations of cryptoassets to a charity. The 'tax for individuals' paper also confirms that cryptoassets will be property for the purposes of Inheritance Tax.

The legal statement can be accessed from the UK Judiciary website: <https://www.judiciary.uk/announcements/the-chancellor-of-the-high-court-sir-geoffrey-vos-launches-legal-statement-on-the-status-of-cryptoassets-and-smart-contracts/>

Charity Commission guidance from the internet

In September 2019, the government published a new access page for the Charity Commission guidance. As well as providing a list of all Charity Commission 'CC' guidance (CC3 to CC49) it also lists the available guidance under six topics:

- Trustee role and board
- charity money, tax and accounts
- managing your charity
- staff and volunteers
- fundraising
- setting up a charity.

Within each topic the guidance is further segregated to help readers identify guidance that will be relevant to them, for example the 'Trustee role and board' guidance is presented under 'introductory guides', 'essential reading', 'detailed guidance' and 'other'. The other topics have different but relevant groupings for their guidance documents.

The page also has a link to a search facility which may be helpful to users looking for guidance on specific topics.

The full updated guidance can be accessed from the GOV.UK website:
<https://www.gov.uk/guidance/safeguarding-duties-for-charity-trustees>



Financial reporting



Streamlined Energy and Carbon Reporting (SECR)

For accounting periods commencing on or after 1 April 2019, new legislation has come into force requiring all large companies, including large charitable companies, to include additional disclosures in their annual Director / Trustee reports on their annual energy use and greenhouse gas emissions together with related information.

Charities affected will be those that meet two or more of the following requirements, in either the current or previous financial year, and do not qualify as low energy users:

- turnover - more than £36 million (or £43.2 million gross for a charitable group)
- balance sheet total - more than £18 million (or £21.6m gross for a charitable group)
- number of employees - monthly average more than 250.

Charitable companies which qualify as low energy users (defined as a company which consumed 40,000 kWh of energy or less in the United Kingdom) during the period for which the directors' report is prepared are exempt from the detailed disclosure

requirements, although they must state in their report that this is why the information is not disclosed.

For all large companies that do not fall within the above exemption, the additional reporting requirements are set out in the legislation, and require disclosures based on all of the energy use and emissions by the company inside the United Kingdom. For charitable groups, although the basic reporting requirement is for the combined group, there is an exemption to exclude from the report any information which relates to a subsidiary which does not itself meet the reporting criteria as above.

The required disclosures for large charitable companies with no exemption are:

- The annual quantity of emissions in tonnes of carbon dioxide equivalent resulting from activities for which the company is responsible involving:
 - a) the combustion of gas, or
 - b) the consumption of fuel for the purposes of transport.
- The annual quantity of emissions in tonnes of carbon dioxide equivalent resulting from the purchase of electricity by the company for its own use, including for the purposes of transport.
- A figure, in kWh, which is the aggregate of:
 - a) the annual quantity of energy consumed from activities for which the company is responsible involving:
 - i) the combustion of gas; or
 - ii) the consumption of fuel for the purposes of transport; and
 - b) the annual quantity of energy consumed resulting from the purchase of electricity by the company for its own use, including for the purposes of transport.
- If the company has taken any measures for the purpose of increasing the company's energy efficiency in the financial year to which the report relates, the report must contain a description of the principal measures taken for that purpose.

The report must also state the methodologies used to calculate the information disclosed as above, include at least one ratio which expresses the charitable company's annual emissions in relation to a quantifiable factor associated with the company's activities, and (with the exception of the first year of reporting) include the comparative information as disclosed in the report for the preceding financial year.

To assist companies affected by this new reporting requirement the government have published some Environmental Reporting Guidelines which are aimed at helping companies both to comply with the new reporting requirements, and to understand the extent of other environmental impacts of the organisation such as water usage and waste.

The Environmental Reporting Guidelines can be accessed on the GOV.UK website:

<https://www.gov.uk/government/publications/environmental-reporting-guidelines-including-mandatory-greenhouse-gas-emissions-reporting-guidance>

Full details of the new disclosure requirements are set out in The Companies (Directors' Report) and Limited Liability Partnerships (Energy and Carbon Report) Regulations 2018 which can be seen on the GOV.UK website:

<http://www.legislation.gov.uk/ukSI/2018/1155/contents/made>

Accounts monitoring review: reporting of related party transactions in charity accounts

In a monitoring review report published in August 2019, the Charity Commission has expressed concern that a significant proportion of charities are not fully reporting their related party transactions.

The Commission looked at the completeness of reporting of each of the types of related party transaction, which charities preparing accruals accounts (in accordance with the Charity SORP) must disclose:

- Trustees' remuneration and benefits
- Trustees' expenses
- transactions with those persons and entities that are closely connected to the charity or its Trustees, referred to as related parties
- for charities with no transactions in any of these categories, a statement of this fact.

The Commission found that, although the vast majority of charities disclosed Trustees' remuneration and, to a lesser extent, Trustees' expenses in the notes to their accounts, the disclosure of transactions with persons and entities closely connected to the charity or its Trustees was significantly less complete.

The conclusions are based on three random samples taken from 2017 accounts filed by 262 charities. Compliance was best in the larger (over £1m income) charities, although even in this group the overall compliance was only 86%.

The Commission notes that the review highlighted that the Trustees of a significant number of charities are not being transparent about related party transactions; any lack of transparency is damaging to public confidence and casts doubt on the integrity of the governance arrangements at a charity. The Commission therefore emphasises that Trustees need to ensure that the related party transaction disclosures provided in their accounts are comprehensive and complete.

The report can be seen in full on the GOV.UK website:
<https://www.gov.uk/government/publications/accounts-monitoring-review-reporting-of-related-party-transactions-in-charity-accounts>

Charity SORP-making body seeks views on charity accounting framework

The SORP-making body charged with developing the Charities Statement of Recommended Practice (the SORP) is looking for engagement partners that will form key stakeholder groups to help gather feedback and ideas for change.

Chosen engagement partners will have an interest in charity financial reporting and the work of the sector, and will have the opportunity to work with the SORP Committee to make sure that their views are expressed correctly. The engagement partners will be put into stakeholder groups based on their main areas of work and will be asked to reflect on:

- the information needs of users of charity annual reports and accounts
- how far the SORP needs to change to meet those needs
- what information users of the SORP need to prepare for good annual report and accounts
- opportunities to simplify and remove unnecessary reporting and ensuring technical compliance with the UK-Irish Generally Accepted Accounting Practice (GAAP).

Although the SORP-making body's recruitment to the new SORP Committee has now closed, they are still looking for engagement partners with applications being invited from donors, funders, commentators, accountants, Trustees, auditors, independent examiners or advisors in the UK and Ireland who are interested or knowledgeable about charity financial reporting.

The closing date for applications is 31 January 2020 and more information on how to apply can be found on the GOV.UK website
<https://www.gov.uk/government/news/committee-seeks-views-on-charity-accounting-framework>



Taxation

Off-payroll working new rules and how they affect you

In July 2019, new draft off-payroll working rules were published introducing changes to the current regime, known as “IR35”.

The new rules take effect from April 2020 and require organisations engaging workers via a personal service company (PSC) or other similar intermediary to check whether the individual providing the services should be treated as an employee or self-employed for tax purposes

If these checks show that the relationship is effectively one of employment, and therefore IR35 will apply, the business paying the PSC will have to deduct PAYE and NIC from payments made for the worker’s services. Previously it was the responsibility of the PSC to make these deductions, but HMRC’s view was that fewer than 10% of these organisations actually complied.

Small businesses will initially be exempt. For incorporated entities a small business is defined as one that meets two of the following three criteria:

- a turnover of less than £10.2 million
- a balance sheet of less than £5.1 million
- fewer than 50 employees.

However an unincorporated entity need only exceed the £10.2 million turnover figure to be considered “not small”.

In view of the pending deadline, it is essential that affected charities take action now to ensure that they are ready to comply with the new regime from April 2020 by identifying all off-payroll workers and reviewing the terms of engagement and the necessary policies and procedures put in place. This will include documenting the engagers’ conclusions regarding the employment status of the worker and

issuing a “Status Determination Statement” to the worker, the PSC and any other intermediary (such as an agency) in the chain of engagement.

If a charity establishes that the new rules will apply and that it should be deducting PAYE and NIC from payments made to a worker, it will need to evaluate the cost of the employer’s NIC which will also apply, as well as any Apprenticeship Levy payments. This will need to be built into budgets going forward, and many engagers may re-evaluate the rates they are prepared to pay freelance workers as a result.

If the charity continues to engage with PSCs, remember that it is the charity’s responsibility to perform and evidence an employment status check on the individual. Employment status is a subjective area based on case law rather than legislative tests and, as a result, there is an embedded risk.

The risk of getting the status wrong is expensive; not only would the charity, as the engager, be subject to interest costs and potentially penalties for failure to operate PAYE correctly, but it opens up the possibility of back taxes on the individual worker for four or six years, depending on the specific rules applied. NIC can also be charged going back six years.



Extension to eligibility to join VAT groups

New VAT legislation has now been introduced which allows entities that are not 'corporate bodies', but which control other entities, to be included within a VAT group.

Prior to 1 November 2019, all members of a VAT group were required to be corporate entities (i.e. established by Royal Charter, Act of Parliament or as a company Limited by Guarantee) and consequently trusts, partnerships and individuals were not allowed to be included.

While many charities do have corporate status there are also many charities established as trusts that, while having ultimate control of other companies within a group, have not been able to join or form VAT groups because they are not incorporated.

A VAT group is a facilitation that allows entities that fall under common control to form a single VAT entity. Members of a VAT group are, therefore, not required to apply VAT to intra-group charges. In some cases this can save VAT where the group contains entities that are unable to recover VAT on costs in full (because they make

exempt and/or 'non-business' supplies) and can also save on administration since one VAT return is submitted that aggregates all group members' activities.

If you have a 'non-corporate' entity, such as a charitable trust that has not been able to be part of, or form, a VAT group previously, there may be a benefit in applying to HMRC for group treatment. However, before doing this it is important to consider whether forming or changing a VAT group would require detrimental changes to existing partial exemption and/or business/non-business methods.

VAT zero rating on digital publications

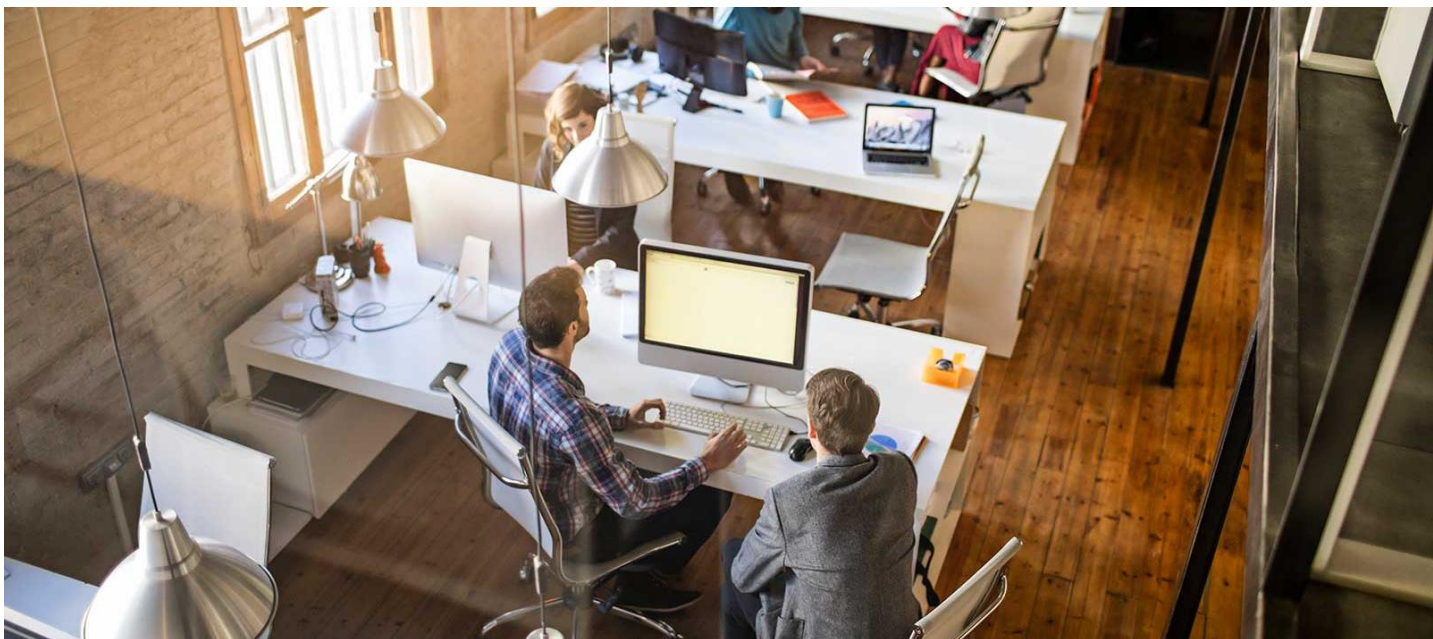
Charities or their subsidiaries who have been accounting for VAT on digital publications at the standard rate may have an opportunity to submit a claim for overpaid output tax.

HMRC's previous position, that digital publications are not able to benefit from zero rating unlike physical/printed versions, has been overruled in a recent Upper Tier Tribunal decision. It may also potentially allow charities to move to more digital publications in the future.

We expect that HMRC will appeal against this decision and so the matter is unlikely to be concluded in the near future. However, due to the four year statutory limit on adjusting VAT claims and the length of time that may be taken if HMRC are to appeal, our recommendation is that protective claims are submitted to HMRC going back four years in order to protect any over-paid VAT going 'out of time'.

Until the dispute is finally resolved and/or HMRC issues updated guidance, we would recommend that taxpayers continue to account for VAT on digital publications and submit further protective claims if necessary.

For more information on this please see the full article on our website:
<https://www.crowe.com/uk/croweuk/insights/overpaid-vat-digital-publications>



VAT is due on invoices from Google and Facebook

We have previously highlighted that HMRC was looking at the VAT position on advertising services that charities receive from suppliers, such as Facebook and Google. HMRC has now interpreted these supplies to be VAT standard rated supplies of targeted marketing.

HMRC's main argument is that the provision of 'advertising' services, where suppliers such as Facebook/Google are able to target recipients by using their browsing history, is not 'advertising to the public' (a key condition for treating a supply to a charity as advertising). As a result, these services are not zero rated but are considered to be marketing services which are standard rated.

HMRC admit in its own published guidance that an element of 'targeting' can still be seen as advertising, for example an advertisement in a trade magazine only available to members of that particular trade body. However, the Facebook and Google targeting goes beyond what they deem 'an element'.



There is a perception that HMRC perhaps do not fully understand the technical provision by Facebook, Google and similar providers, and therefore cannot make a judgement as to the extent of targeting. However, based on this HMRC interpretation, and as most of the suppliers are based overseas, it is the responsibility of charities to account for standard rated Reverse Charge VAT if this is seen as a marketing supply; the Reverse Charge due on any advertising services received from overseas continues to be zero rated.

HMRC has not published proper clarification on its position on this and is still discussing matters with Charity Tax Group. However, visiting officers from HMRC are insisting that this matter is a 'done deal' and assessments are being issued; charities who receive these services should be prepared and make the necessary provisions, as HMRC can go back four years.

Declaring Reverse Charges

As well as the Google and Facebook Reverse Charge issue on page 24, it will be easier for HMRC to see whether or not Reverse Charge VAT is being declared on other supplies from overseas as Making Tax Digital becomes further reaching in the next few years.

HMRC define overseas suppliers as any supplier who is based outside the UK, so the Reverse Charge applies to supplies from both EU and Non-EU suppliers. HMRC are looking at services received from these overseas suppliers, which if received from a UK supplier would have UK VAT charged at the standard rate, and then checking to see if entities have applied a Reverse Charge to these services on their VAT returns.

As well as the marketing services highlighted previously, services can include web hosting, software licences, consultancy, photocopier/asset hire and other marketing

services. Charges for such services must be converted into sterling, and the receiving entity must then charge itself VAT at the standard rate on these charges and account for the VAT on their return.

This can be important for charities, both because a lot of the services purchased abroad do not give the charity the right to a full recovery of input tax, and because not applying the Reverse Charge has led to assessments which could, in turn, lead to penalties for not completing VAT returns with 'reasonable care'.

New registration requirements for Charitable Trusts

We commented in our previous Charity Alert that, under the fifth EU money laundering directive ('5AMLD'), all UK resident express trusts could be required to register with HMRC from April 2020, regardless of whether or not they have any liabilities for tax.

In April 2019, HM Treasury issued a consultation document proposing how they would implement this directive, including the requirement for all express trusts (which includes charitable trusts) to register with HMRC's Trust Registration Service.

Following the responses to this first consultation, a further consultation was expected at the end of 2019. However nothing has been published to date, and in the absence of further discussion it is likely that the legislation will go ahead in accordance with HM Treasury's proposals.

Under these proposals, unregistered trusts already in existence on 10 March 2020 will have a deadline of 31 March 2021 for registration. and new trusts created on or after 1 April 2020 will be required to be registered within 30 days of their creation. Registration will be required online through the GOV.UK website:
<https://www.gov.uk/trusts-taxes/trustees-tax-responsibilities>.

Further information on the registration process as currently available is included on our website:
<https://www.crowe.com/uk/croweuk/insights/registration-charity-trusts>. We will update this as and when there are any further clarifications on the registration requirements.



Start the conversation

Pesh Framjee

Global Head of Non Profits
London
pesh.framjee@crowe.co.uk
+44 (0)20 7842 7100

Naziar Hashemi

National Head of Non Profits
London
naziar.hashemi@crowe.co.uk
+44 (0)20 7842 7229

Guy Biggin

Partner
Cheltenham
guy.biggin@crowe.co.uk
+44 (0)1242 234421

Ian Weekes

Partner
Kent
ian.weekes@crowe.co.uk
+44 (0)1622 767676

Vicky Szulist

Partner
Manchester
vicky.szulist@crowe.co.uk
+44 (0)161 214 7531

Helen Drew

Partner
Midlands
helen.drew@crowe.co.uk
+44 (0)121 543 1903

Alastair Lyon

Partner
Thames Valley
alastair.lyon@crowe.co.uk
+44 (0)118 959 7222

www.crowe.co.uk



@CroweUK

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