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Charities & Education

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Chartered Accountants & Business Advisers

New guidance on changes to charity law

The Charity Commission has issued guidance about changes to charity law that are being introduced in England and Wales under the terms of the Charities Act 2022. The changes, which will take effect over the next 12 months, are a response to recommendations made by the Law Commission. They are designed to simplify certain regulatory requirements and to give trustees more flexibility when managing their charity.

The Act also gives charities new powers to buy goods from trustees. Currently, charities can pay their trustees for services (over and above the normal trustee duties) and for goods supplied in connection with those services, but they cannot pay trustees for supplying goods only. Following the implementation of the Act, this will be permitted as long as certain procedures are followed.

The Act has also introduced simpler and more proportionate rules on failed fundraising appeals. Under the new rules, if a fundraising appeal raises too little money, the charity will be able to spend donations below £120 on similar charitable purposes without needing to contact individual donors for permission. The complexity surrounding what trustees must do if a fundraising appeal raises too much or if donations can't be used as intended has also been simplified.

In addition to these key changes, the Act makes wide ranging technical reforms to charity regulation on a range of issues. For example, it reduces the legal restrictions on how charities can use permanent endowments and trustees will be allowed to borrow up to 25% of the value of their permanent endowment funds without approval from the Charity Commission.

The reforms will also allow trustees to access a wider range of professional advisers on the sale of land and make it easier for charities to amend their governing documents or Royal Charters. It also gives the Charity Commission new powers to instruct a charity to change its name in certain circumstances and to ratify the appointment of a trustee where there is uncertainty about whether the appointment is valid.

Also, still under consideration but without a planned implementation date is a new power for charities to make small 'ex gratia' payments (i.e. payments that are not made as part of the charitable work of the charity but which the trustees wish to make) without prior approval from the Charity Commission.

Read more about the changes at: https://bit.ly/3zjWlVa and https://bit.ly/3DjSPLY

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Consultation on changes to the annual return

To improve diversity on trustee boards, the Charity Commission should make it easier for voluntary organisations in England and Wales to pay trustees who cannot afford to give their time for free. This is according to New Philanthropy Capital, which also recommended that charities should report on the diversity of their boards.

The recommendations were made in response to a Charity Commission consultation on reforms to the annual return, which all charities with an annual income of £10,000 or more must complete. The consultation included proposals that would simplify the questions asked on the return and introduce new questions to gain a greater understanding of charities' governance structures, geographic location and income sources. In addition to reporting on the diversity of their boards, New Philanthropy Capital recommended that charities should be asked to provide evidence of the impact they have achieved during the financial year.

Other organisations responding to the consultation included the Charity Finance Group, which warned that new reporting requirements should not be introduced without a clearly stated reason. Charity Finance Group also recommended that charities should not be asked for information that would be difficult to collect and verify accurately.

The Directory for Social Change had similar concerns. It warned that additional questions about charity finances would be likely to substantially increase the regulatory burden and recommended that there should be a cost benefit analysis of any new reporting requirements. The Directory for Social Change also pointed out that it may be difficult for charities to provide accurate answers to proposed questions about the geographic location of their operations, and that publishing the answers may lead to safeguarding concerns.

There were 460 consultation responses in total. The Charity Commission is now analysing these and expects to publish a report by the end of 2022.

Read more about the consultation at: https://bit.ly/3DzrPJE and https://bit.ly/3fbq8J0

Government consults on using dormant assets for good causes

The National Council for Voluntary Organisations (NCVO) has called for dormant assets to be used to support local communities. This was in response to a Government consultation on how best to distribute dormant financial assets under the Dormant Assets Scheme.

Dormant assets are financial products that have not been accessed for a long time, are unlikely to be accessed in future and for which no owner can be found. While legislation has allowed money from bank and building society accounts considered dormant to be spent on good causes since 2008, this was extended in 2021 to include financial products such as shares, pensions and insurance. Money collected as part of the scheme must be spent on youth, social investment and financial inclusion, although legislation also gives the Government the power to consult on which causes should benefit without needing to pass a new law.

An online survey, which closed on 9 October 2022, allowed organisations and individuals to have their say on how the money should be spent.

The NCVO backed a combination of approaches aimed at ensuring the money had a long-term impact on communities. This included backing the campaign for a long-term Community Wealth Fund to allow consistent funding of community projects and social infrastructure, such as broadband, transport and community spaces.

Other schemes highlighted by the NCVO were the Community Enterprise Growth Plan, which would make finance more accessible, and include a Black-led social investment fund to tackle current inequalities in social investment.

Read more about the consultation here: https://bit.ly/3sA52a5

In brief...

Low pay threatens charity sector

Low pay is weakening the charity sector by making it more difficult to recruit and retain staff, according to a report from Pro Bono Economics. Overall, charity workers are paid 7% less per hour compared with their counterparts in the wider economy. The report has revealed that the charity sector would need to increase pay by almost £1.5 billion per year to close the pay gap. In addition, the cost-of-living crisis is further widening the gap and an extra £3.3 billion will be required by 2024 to ensure wages do not fall in real terms.

Read more about the report at: https://bit.ly/3DczoEG

Charities at risk of closure due to rising costs

Charity sector bodies have warned that some organisations will be forced to close due to rising inflation and higher costs. Increased demand for services and lower donations have also intensified the challenges facing the sector, with a third of charities concerned about whether they will survive. In addition, 82% of charity leaders are worried about how they will pay their utility bills. As a result, charity sector bodies have urged the Government to introduce support measures and tax reforms to tackle the impact of rising costs and funding challenges facing charities.

Read more about the warning at: https://bit.ly/3FlaNzZ

National Lottery funding to double

The value of funds allocated to good causes through the National Lottery is expected to double over the next decade. Overall, Allwyn has pledged to donate £38 billion when it takes over operating the National Lottery for the next decade from February 2024. According to Allwyn, the additional funding will be raised through sales growth. In comparison, current operator Camelot has raised £18 billion in the last 10 years and £46 billion since 1994.

Read more about the announcement at: https://bit.ly/3Fg4fTs

Advisory group to improve leadership in MATs

The Department for Education has announced a new advisory group to improve leadership in multi-academy trusts (MATs). The group, which brings together representatives from trusts, will oversee the creation of a new professional development offer for MAT chief executive officers. It will also look at the skills needed to perform the role of chief executive officer, as well as the delivery model required to meet the needs of the education sector. The advisory group was set up to help deliver a Government target for all schools to become part of a MAT by 2030. The group will report on its findings by the end of 2022.

Read more about the advisory group at: https://bit.ly/3N8Dn9P

Increase in gifts in wills

Research from Smee & Ford has revealed that a record 10,760 charities across the UK were beneficiaries of gifts in wills in 2021, which is the highest level recorded in the last 10 years. Gifts in wills now raise more than £3 billion for good causes every year. The research has also indicated that there were 37,424 charitable estates in 2021, up 10.7% compared with 2020. Overall, the total value of charitable estates increased by almost 11% year-on-year in 2021 to reach £19.8 billion.

Read more about the research at: https://bit.ly/3N9gYck

New requirements for MATs

The Department for Education has published its 'Opportunity for all' white paper setting out plans to reform the school landscape in England. Under the plans, all trusts will be expected to have at least 10 schools or 7,500 children, while all schools must either be in strong trusts or have plans to join or form one by 2030. The expansion will be supported through £86 million of trust capacity funding. The white paper includes proposals to cap the proportion of schools one trust can run in any area, as well as new statutory standards for all trusts. It also sets out measures that will allow local authorities to establish MATs in areas where there are not enough strong trusts.

Read more about the white paper at: https://bit.ly/3f8KylJ

Maintained schools reluctant to join MATs despite Government plans

Only 12% of local authority maintained schools plan to join a multi-academy trust (MAT) in the near future. This is despite a Government push for a fully-academised system by 2030. A survey by the National Governance Association (NGA) found the appetite to join a MAT was slowly increasing. When responses from maintained schools and stand-alone academies were combined, 11% planned to join a MAT, compared to 6% in 2020.

However, 43% of respondents had not considered joining a MAT, while 17% had considered joining one but decided against it.

The reluctance of schools to join a MAT is despite the publication of the 'Opportunity For All' schools white paper in March 2022, which set out the ambition for all schools to be in or joining a strong trust by 2030. However, the NGA has warned that its survey was carried out just a month after the white paper was published, meaning many respondents would not have had time to properly consider its full impact on their schools.

Some respondents said the publication of the white paper had started discussions about joining a MAT, although some said they felt pressured to join even though it might not be in their school's best interest. The white paper was also seen as encouragement for MATs to expand, with over half (55%) of respondents choosing reasons relating to the white paper for future expansion.

Despite the Government's ambitions, the Department of Education has indicated that there are currently no plans to introduce legislation forcing schools to become academies.

Read more about the plans here: https://bit.ly/3NcbbTw

Case for lifting fundraising cap on charity lotteries

A report by People's Postcode Lottery has set out the case for lifting the fundraising cap that applies to charity and society lotteries. People's Postcode Lottery is licensed by the Gambling Commission to manage lotteries on behalf of 20 Postcode Trusts. Each individual Postcode Trust is registered as a charity and supports a particular cause, such as animal welfare or care services.

Lotteries are the only form of charitable fundraising that are capped. The total amount that can be raised in ticket sales by a charity or society lottery (the annual sales limit) and the total value of ticket sales per draw (the per-draw sales limit) are capped. In July 2020, charity lottery reforms increased the annual sales limit from £10 million to £50 million and the per-draw limit from £4 million to £5 million.

According to the People's Postcode Lottery report, the reforms freed up more funds for good causes and allowed Postcode Trusts to move to regular, quarterly funding for beneficiary charities. However, the annual sales limit is still costing charities millions of pounds. In 2022, three Postcode Trusts were forced to lower ticket prices from 85p to 80p to avoid exceeding the limit. This represents £1 million in lost income for each Postcode Trust.

Further increases in player numbers will result in reductions in ticket prices, meaning trusts' income and the value of their grants will not rise, or could even fall.

The report calls for the annual sales limit to be removed completely, so the whole of the third sector can benefit. As a minimum, the report calls for the annual sales limit to be doubled to £100 million, which the Government has described as its preferred option.

Read more about the report at: https://bit.ly/3TETfDy

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