

Editor's welcome

In this issue we look at

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The UK electorate has decided we are to come out of the EU. This is a very unsettling time for us all and not least for the charity sector. Rob Wilson, the minister for Civil Society warned that leaving the EU would exclude charities from access to a funding pot worth £13bn between 2014 and 2020. We will know more over the coming weeks and months, at this stage it is a case of watch this space but the Government must not, in its negotiations, forget this most important sector.

Moving on, the focus of this summer's newsletter is to explain how you will be affected by new guidance and changing legislation including the Common Reporting Standard and the Charities Bill. We are also delighted to announce the date for our annual Charity Conference on 2 November 2016 - I hope to see many of you there!

I trust you will find the topics covered by the articles in this newsletter interesting. As ever if there are issues that you would like us to cover in future newsletters, please do let me know.

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New SORP - update

Jane Marshall gives an update on the current SORP research exercise.

A research exercise intended to identify necessary changes for the next Statement of Recommended Practice: Accounting and Reporting by Charities (the Charities SORP (FRS102)) is in progress.

The joint SORP-making body and SORP Committee are seeking views on five specific areas for potential SORP development:

- the SORP's structure, format and accessibility
- implementation issues that require improvements to the SORP
- SORP Committee member suggestions for changes to the SORP
- charity regulator themes for making changes to the SORP
- ideas for items to remove, change or add to improve the SORP.

Responses are welcome on one or more of the areas identified. If responding to two or more areas, you may wish to submit your comments either as a single response or instead choose to submit a separate response for each section. All responses must be received by the closing date of 11 December 2016 if they are to be considered.

The SORP Committee will be meeting in early 2017 to reflect on the consultation responses and will consider what changes to make when drafting the Exposure Draft of the next SORP in light of the consultation feedback. The next Exposure Draft SORP is likely to be issued in 2018 with the new SORP effective for accounting periods commencing 1 January 2019.

We and our clients are well into the practical implementation of SORP FRS102 and there are issues that are arising, not least in relation to the cumbersome requirements on comparatives in the notes, and the danger of further complicating charity accounts which are already far more complicated than normal business accounts.

So I would encourage you to get involved in the consultation to make sure your views are heard.

The consultation document and questions are available from the SORP microsite www.charitycorp.org.



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The Common Reporting Standard: what you need to know

Rachelle Rowbottom provides an overview of the new rules and the impact of them on the charity sector.

It is important that charities consider whether they are affected by the rules now, in order to ensure that they have systems in place that will enable them to deal with the requirements.

For those of you who have not heard of the Common Reporting Standard (CRS), it is new international tax transparency legislation that came into effect in the UK for the year to 31 December 2016.

The CRS has been developed, following the introduction of the Foreign Account Tax Compliance Act (FATCA), as a global mechanism to prevent tax evasion via the use of offshore accounts and structures. As with FATCA, the CRS provides for the automatic exchange of financial accounts information between jurisdictions.

The regulations require UK financial institutions to undertake due diligence checks and obtain a self-certification form (which confirms tax residency information) from account holders. This information, together with details of certain payments made to them will need to be reported to HMRC by those financial institutions.

There are therefore two ways in which your charity may be affected by the rules and these are described below.

Reporting requirements

For the purposes of FATCA, there is an exemption for charities which means that they do not have any reporting requirements. Under the CRS there is no exemption and some charities may well be classified as a financial institution, even though they would not consider themselves as such.

There are a number of subcategories



within the financial institutions definition and charities may fall within the Investment Entity subcategory. This will be the case where the charity meets the criteria of being managed by a financial institution **and** more than 50% of its income is received from investments eg interest, dividends, royalties and annuity income.

This is likely to be particularly relevant to endowed charities, and, where applicable, the charity would need to consider if they maintain “Financial Accounts” which must be reported to HMRC. “Financial Accounts” include the issue of equity interests, bonds and other debt instruments which is unlikely to be relevant to the vast majority of charities. However for charities established as trusts, it will also, quite alarmingly, include grant beneficiaries.

This means that charities need to consider their entity classification in order that they can put systems in place to gather the relevant information that will be needed in order to report to HMRC.

The reports for the year 1 January 2016 to 31 December 2016 will need to be made to HMRC by 31 May 2017 using HMRC’s online service.

Forms from banks and investments managers

As with FATCA, your charity may receive forms from its bank or investment manager that need to be completed and returned. These forms will require you to categorise your charity in accordance with the CRS legislation.

The FATCA classifications, differ to the categories within the CRS legislation and therefore it will be necessary to look at the specific CRS guidance in order to report accurately.

Charities who think they may be affected by the rules need to act now to determine whether the charity is considered to be a financial institution.



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The Charities Protection and Social Investment Act 2016

Jane Marshall takes a look at the new Charities Act and the implications for charities.

The Charities (Protection and Social Investment) Act 2016 received Royal Assent on 16 March 2016. Most of the provisions in the Act do not take effect immediately, but will be implemented over a period of time.

Many of the Act's provisions help to address gaps in the Charity Commission's protective powers and will only affect a relatively small number of charities and individuals. However, it also makes a few significant changes – most notably on disqualification- of which all charities will need to be aware. The Act will come in over 3 phases in July 2016, October 2016 and April 2017. The timetable therefore gives trustees sufficient time to take any action that is needed.

The changes cover four main areas but in advance of the introduction of some of the changes there will be further consultation by the Charity Commission on the following.

- How they use their power to disqualify individuals from being trustees and holding senior management functions. The consultation for this ends on 22 August 2016.
- How they will use their official warning power that will be available from October. The consultation was launched on 1 July 2016 and closes 23 September 2016.

The changes relate to the following areas.

1. Power to make social investments

The Charity Commission are going to be updating their investment guidance in time for the introduction in July of this power which allows trustees to invest their charity's money to get a financial return (even

if it is below a commercial rate) and, at the same time, further its charitable purposes.

2. Other protective powers

In July, a number of protective powers will come into force including the power to direct a charity to wind up and the power to direct charities to not take a particular action. Some of these powers can only be used when the Charity Commission have opened a statutory inquiry. As such, most charities and trustees will not be affected but these powers will improve the Charity Commission's ability to resolve cases with a better regulatory outcome.

3. Fundraising agreements – new terms, new accounting requirements

October will see the introduction of changes to fundraising agreements, following last year's concerns about charities' fundraising activities. They will require, in addition to existing requirements already in force, agreements with commercial fundraisers to be clear about certain standards, how they protect the public (including vulnerable members of the public) and how the charity monitors their compliance. They will also require charities subject to audit to include statements about these matters in their annual report.

More information about these requirements is available in the updated version of the Charity Commission's fundraising guidance (published in June 2016) and in their updated accountancy guidance.

4. Automatic disqualification changes

Next April will see some badly needed strengthening of the list of reasons that will automatically prevent someone from being a trustee and



will include, for example, unspent convictions for terrorism or money laundering, or individuals who have been convicted of certain sexual offences. It is also going to mean that all the automatic disqualification provisions (including the existing ones covering bankruptcy, individual voluntary arrangements, convictions for dishonesty and deception related offences) will cover senior managers such as those in chief executive and finance director positions.

The start date, 1 April 2017, is some time away but charities will need to prepare in good time. Those who are disqualified will need to stop acting in these positions or apply for a waiver, which will be decided upon on a case by case basis.

Further information will become available from the Charity Commission in the coming months so watch this space.



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Funding non-charitable organisations

Mike Jackson considers the implications of the Charity Commission's new guidance on grant funding to non-charity organisations.

I was interested to see that the Charity Commission recently published guidance on grant funding to organisations that are not charities. The guidance is comprehensive and aimed at charities which are grant making, passing charitable funds to non-charitable organisations.

As a trustee of Leeds Community Foundation ('LCF') which gives out very many thousands of pounds in grants to small organisations who carry out good works for the Leeds community, the new guidance is of particular interest.

Not being aware of any untoward publicity in respect of this matter, I did the usual searches on Google, BBC, and Charity Commission websites to see if I could find anything. Nothing specific was revealed other than a charity in Bury – The W. O. Street Trust – concerning grant making in line with the trusts purposes i.e. to worthy causes within the Greater Manchester district. That charity was highlighted a number of times showing the PR risk associated.

As far as LCF are concerned I am reassured by the systems the charity has in place to ensure grants are paid appropriately and used for the purposes intended.

If your charity is giving out grants to organisations that are not registered charities then the trustees do need to take note of the advice given in the guidance issued by the Charity Commission.

To summarise, trustees need to:

- ensure that any grants are in line with your charity's purposes and that the recipient fully understands the aim of the grant

and what the grant can and cannot be used for;

- ensure their charity has appropriate systems and procedures in respect of grant applications, authorisation, issue of grant and monitoring of activity to enable the trustees to identify and assess risks and make informed decisions;
- carry out risk assessments before making grants;
- supervise delegated authority on the decision to award a grant through an appropriate policy framework and reporting procedure;
- ensure any grants awarded are restricted to cover the costs of the activities it has agreed to fund and NOT overheads of the non-charity;
- ensure a written agreement is put in place setting out clearly the terms and conditions;
- ensure monitoring arrangements are in place that are appropriate to the value of the funding and assessment of risks.

Having put in place all the checks and balances above is not a guarantee and things can still go wrong. Where things do go wrong the trustees must consider suspending or withdrawing funding or if possible requesting

repayment. Of course these actions need to be available to the charity within the terms and conditions. You may also need to report to the Charity Commission and of course consider your PR, both internally and externally.



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Save the date!

Date announced for 2016 BHP Charity Conference

BHP is pleased to announce that it is holding its ninth Charity Conference on Wednesday 2 November 2016 at Doncaster Racecourse.

This year's highly relevant programme will provide an update on several important issues affecting charities with speakers from both BHP's specialist charity team and guest speakers from the sector.

The free full day conference is open to all charities and full details will be issued later in the year. If you would like more information at this stage, please contact Louise Bright. Louise.bright@bhp.co.uk or call 0114 266 7171.