



Third Sector Update

Autumn 2021





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Editor's Welcome

We need to take the positives from the pandemic & the ways in which we have worked differently & more effectively

It feels as though we are getting back to some sort of normality, although for many coming out of the restrictions will be harder than going into them. After many months of wearing masks and social distancing its interesting to see the caution in the guidance about safe and responsible fundraising issued by the Fundraising Regulator and the Chartered Institute of Fundraising. Of course during the last 20 months there has been very little face to face fundraising activity so many in the sector will welcome the ability to begin to do this again.

We need to take the positives from the pandemic and the ways in which we have worked differently and more effectively. For example the grant making trusts have been

more flexible, worked more closely together and realised at long last the need to fund core activity rather than restricted activity. This is a force for good and we must hope it continues. The use of Zoom/ Teams for meetings has increased attendance by trustees at meetings without the need to travel.

The next year is going to be challenging as the furlough and other government support comes to an end and the recently announced increases in employing staff, as outlined by Rachelle Rowbottom, start to bite.

On a positive note I am delighted to announce the return of our Charity Conference on 9 November. We hope that many of you will be able to join us.

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Gift Aid Awareness Day



Rachelle Rowbottom
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Rachelle Rowbottom gives a round up of some current tax issues for charities...

Are you ready for Gift Aid Awareness Day 2021?

Gift Aid is a valuable tax relief that allows charities to submit claims to HMRC for an extra 25p per £1 of voluntary donations received under the scheme.

This year, Gift Aid Awareness Day will take place on Thursday 7 October. As well as promoting this vital relief to encourage donors to [#tickthebox](#), Charity Finance Group are inviting charities to say 'thank you' to their donors that have given so generously during the most unprecedented of years.

Find out how you can get involved at: cfg.org.uk/tickthebox

Health and Social Care Levy

The Prime Minister has set out new plans to reform the NHS along with the wider Health and Social Care sector in the UK. The funding of these reforms breaks a previous manifesto pledge to freeze tax rates.

The government has decided to raise revenue through two means; a new, UK-wide 1.25 percentage point increase to National Insurance Contributions (NICs) and an increase in the tax individuals will

pay on dividends. The increase to NICs will affect employees and employers alike and therefore charities need to understand what the impact of this will be on their costs so that they can ensure that this additional expenditure can be funded. For many charities staff costs are a significant portion of overall expenditure.

The changes will commence with transitional provisions on 6 April 2022 which will amend the headline NIC rates for one year as follows:

- **Employees - from 12%/2% to 13.25%/3.25%**
- **Employers - from 13.8% to 15.05%**
- **Self-employed - from 9%/2% to 10.25%/3.25%**

From 6 April 2023, the NIC rates will revert to current levels and will be replaced by what will be known as the "Health and Social Care Levy" which will be charged at 1.25%. This will be applicable to employees, employers and the self-employed.

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Meet the Team...



Nicola Adams,
Director

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Director

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Get to know a bit more about one of our Directors; Nicola Adams...

When did you join BHP?

I joined BHP in 2007 after completing A Levels at 6th form college.

What attracted you to BHP?

I wanted to get stuck in to a job right away so joining BHP, as a training firm, meant I could learn on the job with real life experience working in accounts and audit.

What is your role and what does a typical day look like for you?

I am the Director in the audit and accounts team, specialising in the charity sector, which I love. I also act for some SMEs. A typical day would involve planning/reviewing an audit, communicating with clients and coaching staff on assignments. It also involves plenty of cups of tea!

What do you like best about working at BHP?

Definitely the people and working as a team across the whole office.

How has BHP helped you in your career so far?

I have progressed from a trainee up to a Director role with the support of a mentor. BHP gave me the experience to gain my Chartered Accountancy qualification and then my Diploma in Charity Accounting. I have a clear progression path ahead of me.

What are your highlights and key achievements?

One of the highlights of my job is to see staff, within the firm, develop their careers knowing I played a part in that development enabling them to achieve their career goals.

What advice would you give to someone who was thinking about applying for a role at BHP?

Do it! BHP is a great, friendly place to work with a lovely bunch of staff and clients.

What do you enjoy doing when you are not at work?

Out of work my toddler tends to keep me very busy! I enjoy going on daytrips with him and socialising with friends and family.

What is your favourite type of cuisine and why?

This is a tough question... I'm a bit of a foodie and enjoy going out to restaurants so I like all different types of cuisine. I think Mexican has to be my favourite overall.

What is the best place you have travelled to and why?

I spent 3 weeks driving Route 66 across America which was fantastic as I got to visit lots of different cities and see plenty of different sights in each state.

If you weren't an accountant, what would your dream job be?

My nickname in the office is Little Miss Organised so I think I would be an events planner or something along those lines.

At the Chesterfield office we have plenty of social events so I am well practised!

One of the highlights of my job is to see staff, within the firm, develop their careers

BHP gave me the experience to gain my Chartered Accountancy qualification and then my Diploma in Charity Accounting

Charity Commission Update



Alyson Kimber
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Alyson Kimber looks at the latest news from the Charity Commission

Research Reports that Trust in Charities is at a 6 Year High

In July 2021 the Charity Commission released a report showing that the Trust in charities is recovering and is the highest it has been for 6 years. The independent study, carried out by Yonder, reported that Charities are the third most trusted group in society, with doctors and the police snapping up first and second place.

The report is a welcomed reversal of the previously declining trust reported over the last decade, it is believed that the reason for the improvement in the public perception in charitable organisations may in part be down to the response made by charities to the COVID-19 pandemic, notably in areas such as food poverty and support for NHS and other key workers. In addition it appears that high-profile scandals in household name charities appear to be fading in the memories of the general public.

There is still however a long way to go, and researchers warn charities that there is “no room for complacency”. The findings confirm that the key drivers of trust in charities have not

changed during the pandemic, that the general public has high expectations which include:

- Showing that they make a positive difference
- Spending a high proportion of funds on the end cause, and
- Living their values, showing charity not just in what they do, but how they behave along the way

This highlights the importance of the Trustees’ Annual Report, it is one of the ways a charity can tell its story and show the general public how it is meeting their high expectations.

Impact of Covid-19 on Charities

As part of the research, completed by Yonder for the Charity Commission, 2,700 Trustees were asked how the pandemic had impacted them in the short term.

The results varied, with a quarter of smaller charities (those with an income of less than £10,000) forced to close their doors and cease all services compared to just 3% of larger charities (those with an income in excess of £500,000).

In addition the larger charities were more likely to move their existing services online and to have continued to be able to directly help throughout the pandemic.

Most charities reported significant challenges arising from the pandemic, however, reports of longer term benefits were noted including improvements in the quality and speed of decision making.

The full research reports are available on the government website at:

[gov.uk/government/publications/public-trust-in-charities-and-trustees-experience-of-their-role](https://www.gov.uk/government/publications/public-trust-in-charities-and-trustees-experience-of-their-role)

Helen Stephenson, chief executive of the Charity Commission commented:

“It is vital that we learn the right lessons from this research. The pandemic has been a momentous event in our collective experience, with charities proving their value time and again. But it has not changed people’s fundamental expectations of charity. More than ever, people need evidence that charities are not ends in themselves, but vehicles for making the world a better place, both through what they achieve, and the values they live along the way.”

This research also reminds us that while the public shares the same basic expectations of charity, people have different attitudes depending on who they are and where they come from. If they are to continue rebuilding trust, charities must recognise and respect this diversity, and engage with a wide range of views and attitudes. I encourage charities to read the research and respond to its findings.”

The 13th BHP Charity Conference 2021

Save the Date...

at Doncaster Racecourse

Tuesday 9 November

[Register Here](#)

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The Charity Commission Issues Updated Guidance on Meetings

On 3 August 2021 the Charity Commission updated its COVID-19 guidance to reflect the lifting of restrictions, including its previous advice to hold meetings remotely, or to postpone or even cancel meetings where this was not possible.

As restrictions have now eased it will be possible for charities to gradually move back to face-to-face meetings and hold any outstanding AGMs or other meetings. However, as coronavirus continues to have an impact Trustees may still need to consider how and if they can hold meetings.

We would recommend that all charities review their governing documents to ensure that they are allowed to meet online, by telephone or on a hybrid basis (with some people meeting face to face and others joining virtually). It is also important, for the good governance of your charity, that you record any decisions around meetings especially if these are not in line with the current provisions in the charity's governing document and approve any previous decisions as soon as possible.

If your governing document does not allow online telephone or hybrid meetings you should consider if you can use any power in your governing document to amend the rules to allow the meeting.

Detailed guidance on making changes to your charity's governing document can be found at: [gov.uk/government/publications/changing-your-charitys-governing-document-cc36/](https://www.gov.uk/government/publications/changing-your-charitys-governing-document-cc36/)

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Improvements to the Register of Charities

The Register of Charities plays a vital role in helping people make informed decisions about which charities to support. You can use it to check the 170,000 charities which are registered, download data for research, find out whether donations are being spent in the way they should, and search for charities that might be able to help you. The Charity Commission launched an improved version in September 2020 however a report issued in May 2021 details a number of recent improvements

Details can be found at:

charitycommission.blog.gov.uk/2021/05/24/improving-the-register-of-charities/

and the Charity Commission's desire to continue the process of updating the register based upon the suggestions of the users.

The Charity Commission asks users to let them know what they think and make suggestions for further improvements using their feedback form located at:

smartsurvey.co.uk/s/CharityRegisterSurvey/

Managing Faith Charities

On 28 July 2021 the previously known 'Faith in good governance' guidance changed its name to 'Managing faith charities as trustees'. This guidance is the Charity Commission's core guidance for religious charities whose main focus is religious worship and related activities.

A copy of the guidance is available at: [gov.uk/government/publications/faith-based-charities#history](https://www.gov.uk/government/publications/faith-based-charities#history)

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The New Charities Bill



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Nicola Adams reviews the main measures in the new Charities Bill...

The new Charities Bill, which is currently making its way through parliament, addresses a variety of technical issues in the law governing charities and implements recommendations made by the Law Commission in their 2017 report, 'Technical Issues in Charity Law'. These measures simplify a number of processes and provide a consistent legal framework which should save charities time and money, mainly in relation to legal costs.

The implementation of the Law Commission's recommendations is estimated to save charities at least £28m over a ten-year period. It will also allow charities to focus on delivering their mission rather than satisfying administrative, legal burdens.

Main measures in the Bill:

Amending Governing Documents

Charities will have wider powers and flexibility to amend their governing document. The inconsistencies between incorporated and unincorporated charities will also be reduced.

Improving Land Transactions

There is a clearer and less

administrative, burdensome legal framework for buying, selling, leasing and mortgaging charity land. There is greater flexibility to obtain advice on disposals from a variety of advisors and creation of certainty of compliance with the Charities Act for purchasers.

Making Use of Permanent Endowment

Introducing a power, with appropriate safeguards, for charities to borrow from their permanent endowment and to make certain social investments.

Helping Incorporations & Mergers

Improvements to facilitate incorporations and mergers such as allowing legacies in wills to be transferred to a merged charity, providing trustees with certainty about Charity Tribunal costs and giving corporate charities 'trust corporation status' automatically if they administer charitable trusts.

Other measures

Fundraising appeals — expending and rationalising how funds from failed fundraising appeals can be applied.

Remuneration for supply of goods from trustees — enabling payment

subject to appropriate safeguards to align with current law for payment of services.

Ex-gratia payments — enabling relatively small payments without seeking Charity Commission approval.

Charity trustees — creation of a new Charity Commission power to ratify a trustee appointment or election which is, or potentially is, invalid

Detailed information can be found on:

[gov.uk/government/publications/charities-bill-factsheet/charities-bill-factsheet](https://www.gov.uk/government/publications/charities-bill-factsheet/charities-bill-factsheet)

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The implementation of the Law Commission's recommendations is estimated to save charities at least £28m over a ten-year period

Coronavirus (Covid-19):

Supporting Safe, Responsible Fundraising



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Jane Marshall reviews the joint guidance from the Fundraising Regulator & Chartered Institute of Fundraising

The Fundraising Regulator and the Chartered Institute of Fundraising have issued guidance that will support charities and their fundraising partners, to fundraise safely and responsibly in ways which protect the public, fundraisers, and volunteers. Every fundraising organisation needs to be mindful of the continuing impact and need to respond to COVID-19 as they plan and practice fundraising for the foreseeable future. All fundraising organisations must continue to plan and carry out fundraising activity in a safe and responsible way, following the guidance that is in place in each UK nation.

As formal and legal restrictions (such as social distancing, limits on gatherings, and mandatory wearing of face coverings) are changed or ended by each UK nation, there remain key considerations and principles which fundraising organisations should consider in their planning. Even where formal restrictions are lifted, cautious approaches are still being encouraged by public health bodies and there is a focus on individuals and organisations taking responsibility for their way of working. Individual organisations may choose to adopt social distancing and protective ways of working where they

consider that it is right for them, the activity they plan to carry out, and for the management of risk.

The intention is to set out a framework to aid good decision making by organisations across the sector so that fundraising is carried out in a way that is safe, responsible, and gives confidence and protection to the public.

The guidance:

- Signposts to relevant guidance set out by UK nations and public health organisations
- Sets out key considerations for fundraising organisations to take on board
- Provides advice on how to fundraise in a way that is consistent with the Code of Fundraising Practice and the values of legal, open, honest, and respectful fundraising.

It is each individual organisation's responsibility to ensure that they follow government guidance for each UK nation where they are fundraising, and to consider this guidance and apply it to their work. By doing so, organisations can continue to fundraise in a way that protects the safety and wellbeing of donors and the

The intention is to set out a framework to aid good decision making by organisations across the sector

public, as well as fundraisers, and that they act responsibly in making and explaining their decisions where necessary.

It is intended that the guidance will be updated as and when relevant changes are made. However, organisations should always follow government guidance and any restrictions that are in place at the time of their fundraising.

Even where formal restrictions are lifted, cautious approaches are still being encouraged by public health bodies

You must continue to comply with the Code of Fundraising Practice. You should also work through the following key considerations before undertaking any fundraising activity to ensure they are mitigating the risks:

- Keep up to date with and follow Government guidance and any continuing or new restrictions (including regional or local ones) that are in place in England, Scotland, Wales and Northern Ireland.
- Carry out a thorough risk assessment to identify the risks associated with your fundraising activity.
- Following the outcome of your risk assessment, identify the steps you will need to take to protect the public, fundraisers, and volunteers.
- Consider the public mood and likely feelings and preferences of supporters
- Ensure decisions made to carry out a fundraising activity are thoroughly considered, carefully evaluated, and regularly reviewed.

Full details of the guidance can be found at:

fundraisingregulator.org.uk/more-from-us/resources/coronavirus-covid-19-supporting-safe-and-responsible-fundraising

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Every fundraising organisation needs to be mindful of the continuing impact and need to respond to COVID-19 as they plan & practice fundraising for the foreseeable future

Royal Opera House Covent Garden

VAT Recovery on Production Costs



Simon Buchan
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Earlier this year The Court of Appeal confirmed the decision of The Upper Tax Tribunal that the ROH was not entitled to VAT recovery in relation to its production costs on the basis that they should, in part, be attributed to its taxable supplies of catering amongst others.

Way back in the mists of time The Mayflower Theatre Trust established the principle that VAT recovery on production costs should be

determined by taking into account closely associated taxable supplies such as programme sales and production specific sponsorship.

The ROH attempted to extend this principle further by attributing the cost of producing the shows to other taxable income such as catering sales, ice cream sales, shop sales and venue hire etc.

The Court was having none of it.

For VAT to be recoverable there must be a direct and immediate link between the costs and the taxable supplies. A direct and immediate link is established with the production costs and programme sales for example because production costs are used in creating sets and costumes that are used in the performance and also feature in the programmes.

However, the court took a different view as far as the catering and ice cream sales etc were concerned. The “but for” argument that the production costs incurred when producing an opera or a ballet attracted people to the opera house which in turn resulted in catering, ice cream sales etc did not create a strong enough link to attribute the production costs to this income.

So, where does the elephant come in?

Well not stage left — it’s behind you.

In 2015 Chester Zoo had a similar question considered by the First Tier Tribunal (FTT). The zoo had similar income streams to ROH — VAT exempt entry fees and taxable income from cafes and retail shops etc. The issue was whether the recovery of VAT suffered on the costs of keeping the animals was attributed solely to the entrance fees (no recovery) or attributed to the entrance fees and catering/retail income (partial recovery)?

In this case FTT found in favour of the zoo ruling that there was a strong enough link between the taxable supplies of the zoo and the costs of keeping the animals.

What is the difference between ROH and the zoo? Some would argue very little and therefore my initial question remains, frustratingly, unanswered.

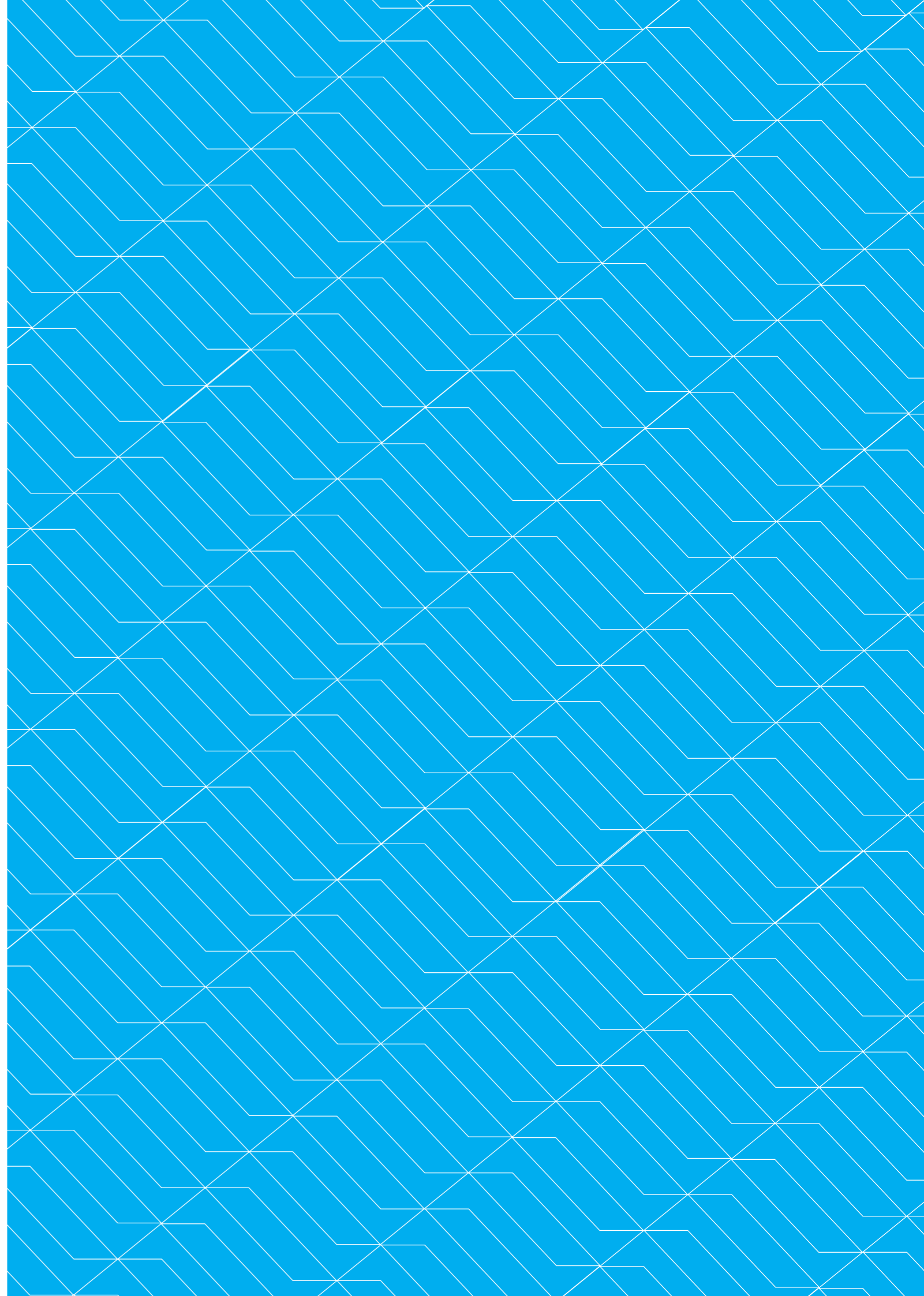
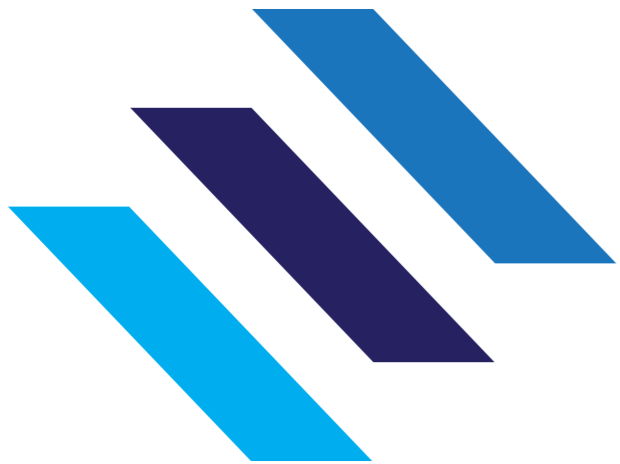
The main point to take away here is that the decisions of the FTT whilst binding on the parties involved do not set precedents unlike the decisions of The Court of Appeal. Charities relying on the Chester Zoo case to determine their VAT recovery may wish to review their position.

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What is the difference between an elephant & a ballerina?

This is one of those esoteric questions that VAT throws up from time-to-time which Simon Buchan will examine in this article...

For VAT to be recoverable there must be a direct and immediate link between the costs and the taxable supplies





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