BHP

Third Sector Update

Spring 2019

In this issue we look at:

- Making Tax Digital
- Dealing with wrongdoing and harm - lessons for trustees
- Charity Tax update
- Trustee Training sessions
- News from the Charity Commission

Editor's welcome

As I write this welcome for our Spring newsletter we are less than a month from the Brexit deadline and still have no plan, no certainty and no idea at all what is going to happen.

A not unfamiliar scenario for a sector that largely relies on uncertain funding streams, increased costs and demand for services. It's a challenge that many charities deal with on a day to day basis.

There are other challenges looming not least of which is the introduction of Making Tax Digital (MTD) from 1 April 2019, also less than a month away. There has been an extension to 1 October for some charities but if you think you are one of these and have not yet heard from HMRC they are expecting you to comply from 1 April. Simon Buchan's article, therefore, is essential reading.

Elsewhere the Charity Commission has published its review of lessons to be learned by trustees from its case workload over the last 12 months. There are some very useful messages about insider fraud, safeguarding and the reporting of serious incidents.

Finally we have just announced the dates for our trustee training sessions for 2019. Do encourage your trustee boards to attend for either an introduction or a refresher to trustee responsibilities.

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Making Tax Digital (MTD)

Simon Buchan provides an overview as to what this will mean for VAT registered charities.

Despite rumours (or hopes) to the contrary MTD will be introduced with effect from 1 April 2019 (1 October 2019 for a limited number of businesses including trusts). You should have heard from HMRC by now as to when your start date is.

MTD will be mandatory for all VAT registered organisations whose taxable turnover exceeds the VAT registration threshold (£85,000). It introduces the requirement for VAT records to be kept in a digital format for example an accounts package such as Xero, Sage, Quickbooks etc and for the VAT return to be calculated within the software and submitted to HMRC directly from it.

Spreadsheets will be regarded as digital records provided the MTD record keeping criteria are met and it is possible to submit VAT returns directly to HMRC from them via bridging software.

It will no longer be possible to keep records in paper format.

So, what should you do now?

If you currently:

- keep manual records then you must seek a digital solution as soon as possible
- use spreadsheets to keep your accounting records then you must obtain bridging software to allow you to submit your VAT return directly from the spreadsheet
- use accounting software for example Xero, Sage, Quickbooks etc contact your provider to see whether it will be upgraded to meet MTD criteria.

When you are satisfied that your accounting records comply with MTD criteria you must then notify HMRC through the government gateway. HMRC will then switch you from the current platform, used for submitting VAT returns, to the MTD platform. At the present time we are not clear how long it will take HMRC to switch you over so we would advise that you convert to MTD as soon as possible, after you have submitted your last return on the old system.

This process sounds relatively straightforward but there is a fly in the ointment if you pay your VAT liability by direct debit (DD). It seems that it takes an age for HMRC to update their MTD systems to accommodate DD's.

For example, if you are required to submit a return for the quarter ended 30 June 2019 where the submission date is 7 August 2019, DD payment 10 August 2019, the last date you can safely notify HMRC that you are MTD compliant is 10 July 2019.

If you submit monthly returns and pay your liability by DD the window to inform HMRC is much tighter, approximately 4 days in the middle of the month following the month concerned. For example for a monthly return for April 2019, the submission date is 7 June 2019, DD payment 10 June 2019, the window for notifying HMRC is 13-16 May 2019 inclusive.

Very careful planning is therefore required to ensure that your VAT obligations are met in this start up period.

For further information please contact Simon Buchan
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Dealing with wrongdoing and harm - lessons for trustees

Jane Marshall looks at the highlights from the Charity Commission's annual report outlining the lessons and warnings that trustees might usefully draw from some of the casework they handled over the previous 12 months.

There are lessons in six areas from the Charity Commission's work in 2017-18.

Insider fraud
It was found that almost three quarters of cases are because of:
- too much trust in an individual or individuals
- others in the charity not challenging things.

Lessons for trustees
Trustees are accountable and you must protect your charity and its funds and assets.

You must:
- make sure charitable funds are properly used to further your charity's purposes
- have strong internal and financial controls
- have robust financial management.

This should be a core part of your charity's culture. Encourage everyone in your charity to look out for things that do not seem right and to speak out. Divide financial duties among different people. This should help you to check and verify records and transactions.

Safeguarding
The Charity Commission received 1,580 serious incident reports about safeguarding in 2017-18. This was more than in previous years but under reporting is still an issue. Only 1.5% of charities have submitted a serious incident report since 2014.

Serious incidents will happen. The Charity Commission consider charities that do not report them as higher risk than those who do.

Lessons for trustees
Trustees have a duty to protect people who come into contact with their charity from harm. It is not only something for charities working with children or adults at risk.

Make sure that your charity's staff and volunteers are safe in the workplace, as well as your users and customers. You should also protect people who may only come into contact with your charity temporarily. For example, if you host an event where people who you do not usually work with might be at risk. Create an open culture and listen to victims.

Review your safeguarding policies and procedures if you have not done so in the past year.

Reporting serious incidents
The Charity Commission received 2,819 reports of serious incidents in 2017-18. Most reports were about safeguarding.

Lessons for trustees
Protect your charity and its reputation by:
- acting early
- reporting things where necessary.

Make sure you know when you should report incidents and who to report them to.

Counter-terrorism
From their casework in this area the Charity Commission removed or disqualified the trustees of the relevant charity from being trustees in the future as well as removing the charity from the register of charities.

Lessons for trustees
Compared to the number of charities, the number of proven cases of abuse of charities for terrorist purposes is small. But they can reduce public confidence

and trust in charities.

Do not do anything that would reasonably be seen to support or associate with a terrorist organisation or activities that support terrorists and extremists.

Have proper procedures in place to:
- manage the risks of coming into contact with designated entities, groups or persons
- take action quickly if this situation arises.

Data protection
GDPR was introduced in May 2018. This was a challenge for all charities and is likely to become a more high-profile risk for charities in 2019.

Lessons for trustees
Trustees should:
- review data protection procedures
- put appropriate processes in place
- Follow the guidance from the ICO.

Trustees should also make sure their charity has an appropriate social media policy in place and be clear on how it applies to them.

Military charities
The Charity Commission looked at a sample of military charities that had registered since 2007 and work with veterans.

The lack of safeguarding policies and practices to deal with mental health in some of the charities was a concern. There was a need to strengthen policies in most of the others.

In other charities, trustees had not taken appropriate responsibility for the charity's fundraising.

Lessons for trustees
Think about who your users are. Make sure that everyone who comes into contact with your charity is safe. If you work with veterans, be aware of any particular needs they may have.
You are responsible for your charity's fundraising. Operate effective control of any fundraising done on behalf of the charity.

The six principles for trustees are:
- plan effectively
- supervise your fundraisers
- protect your charity's reputation, money and other assets
- follow laws or regulations that apply to your charity's fundraising
- follow any recognised standards that apply to your charity's fundraising
- be open and accountable.

For further information please contact Jane Marshall
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Charity Tax update

The Finance Bill 2018-19 received Royal Assent on 12 February 2019 and became Finance Act 2019. Rachelle Rowbottom provides a reminder of the previous charity specific announcements that have now been legislated for.

Gift Aid donor benefits
As expected, legislation has been introduced to simplify the donor benefit thresholds which will apply to donations received by charities from 6 April 2019 onwards. For donations of up to £100, the maximum level of benefit that can be provided to a donor is 25% of the amount of the donation. For donations exceeding £100, the maximum level of benefit is £25 plus 5% of the excess over £100. Charities should review the benefits that they provide and consider whether donations can be properly made under the Gift Aid scheme.

Small trading exemption
The small trading exemption threshold had not increased for some time. However, following a request from the sector, I was pleased to see the budget announcement that from 1 April 2019 for charitable companies, and 6 April 2019 for unincorporated charities, the small trading threshold would increase to £80k (where total income exceeds £320k) from the current maximum of £50k (where total income of the charity exceeds £200k.) The increase in the threshold should provide charities with more ability to undertake activities which raise vital funds, but are not charitable in nature, without the need to establish a trading subsidiary. However, charities should always consider the risk associated with any new venture, as well as the impact on the VAT position as there may be other reasons for establishing a subsidiary company.

Gift Aid Small Donation Scheme (GASDS)
The GASDS allows eligible charities to claim a top up payment on up to £8,000 of small donations per tax year. With effect from 6 April 2019 donations will be treated as small if they amount to £30 or less. This has increased from the previous limit of £20.

For further information please contact Rachelle Rowbottom
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Calling all trustees!

BHP is delighted to invite you to attend one of our popular free trustee training seminars. This year's events will be held in three locations across Yorkshire; the Hospitium in York (26 March), The Hepworth Gallery in Wakefield (21 May) and an advanced training session at The De Grey Rooms in York (9 July).

These seminars offer a comprehensive introduction for new trustees as well as a useful refresher for existing trustees, ensuring they are fully aware of their legal and financial responsibilities as trustees.

For more information, please visit www.bhp.co.uk/events

News in brief

In our regular feature, we look at the latest news from the Charity Commission.

Accounts Monitoring Review: Public reporting by charities in their trustees' annual report and accounts

In their recent accounts monitoring review, The Charity Commission claim 70% of trustees' annual reports and accounts met the basic benchmark of user requirements, which is a decrease from 74% in the previous year. The criteria to establish the benchmark focussed on accounts quality rather than technical conformity and was derived from the Populus survey of public trust and confidence published in July 2018. Populus found that 'ensuring that a reasonable proportion of donations make it to the end cause' and 'make a positive difference to the cause they work for' remain the most important factors driving public trust and confidence in charities.

The results are based on 105 sets of accounts submitted to the Charity Commission with income over £25,000 in the 12 month period to 31 December 2016. The three documents that must be submitted to the Charity Commission are the annual accounts, the trustees' annual report and either the independent auditor's report or independent examiner's report.

One of the main reasons why charities' accounts submissions did not meet the benchmark, was failure to provide meaningful information about their charity's purposes or the activities carried out to achieve those purposes. In addition, some charities also failed to issue complete accounts, had incorrect wording within either the independent auditor's report or independent examiner's report or lacked overall transparency. In extreme cases, either the independent auditor's report or independent examiner's report was omitted and in addition the documents submitted were inadequate.

The findings highlight the need to ensure all three documents are submitted and the need to meet the requirements as detailed in the guidance issued by the Charity Commission. Guidance can be found in the charity money, tax and accounts section of the 'how to' guides on the Charity Commission website at: https://www.gov.uk/government/organisations/charity-commission/about/publication-scheme#how-to-guides

The findings also remind charities of the importance of explaining their activities, and how a charity's purposes are for the public benefit. Charities need to be clearer about who they are helping and the difference they are making. Whilst there is a legal requirement to prepare the trustees' annual report and accounts, they are also a marketing tool and provide a great opportunity for charities to demonstrate to their funders, supporters and the public how they have managed their resources effectively and how they are meeting their charitable purposes.

Changes to Charity Commission email addresses

From 25 February 2019 the Charity Commission has changed email addresses.

You need to remove the '.gsi' from any emails you send to them. Also update any records that you have which include Charity Commission email addresses. For example, change inboxname@charitycommission.gsi.gov.uk to inboxname@charitycommission.gov.uk

Changes to public display names on the charity register

As part of changes to their online services, if current trustees have used a public display name on the charity register their full legal name will be displayed to the public from the 1 April 2019, unless they apply to have it removed. This is known as a dispensation.

The Charity Commission can grant a dispensation if displaying a legal name to the public could put the relevant person or people in personal danger. Dispensations will not be granted automatically.

Find out more at https://www.gov.uk/guidance/addresses-and-trustee-names-in-your-charitys-public-details

If trustees have already been granted a dispensation for their legal name not to be displayed to the public on the register, this will be retained. There will be no need to apply for a dispensation again.

Safeguarding and protecting people

In October 2018, the Charity Commission issued an update to their guidance 'Safeguarding and protecting people' for charities and trustees. Trustees must take reasonable steps to protect people, who come into contact with your charity, from harm. This includes, people who benefit from your charity's work, staff, volunteers and it may also include other people who come into contact with your charity through its work.

Safeguarding is a key governance priority for all trustees, not just those working with groups traditionally considered at risk. It is important that you contact the Charity Commission about any safeguarding issues, or serious safeguarding incidents, complaints or allegations which have not previously been reported.

The detailed guidance is available at: https://www.gov.uk/guidance/safeguarding-duties-for-charity-trustees

For further information please contact Rachel Heath
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Specialist advisors to the charity and not for profit sector