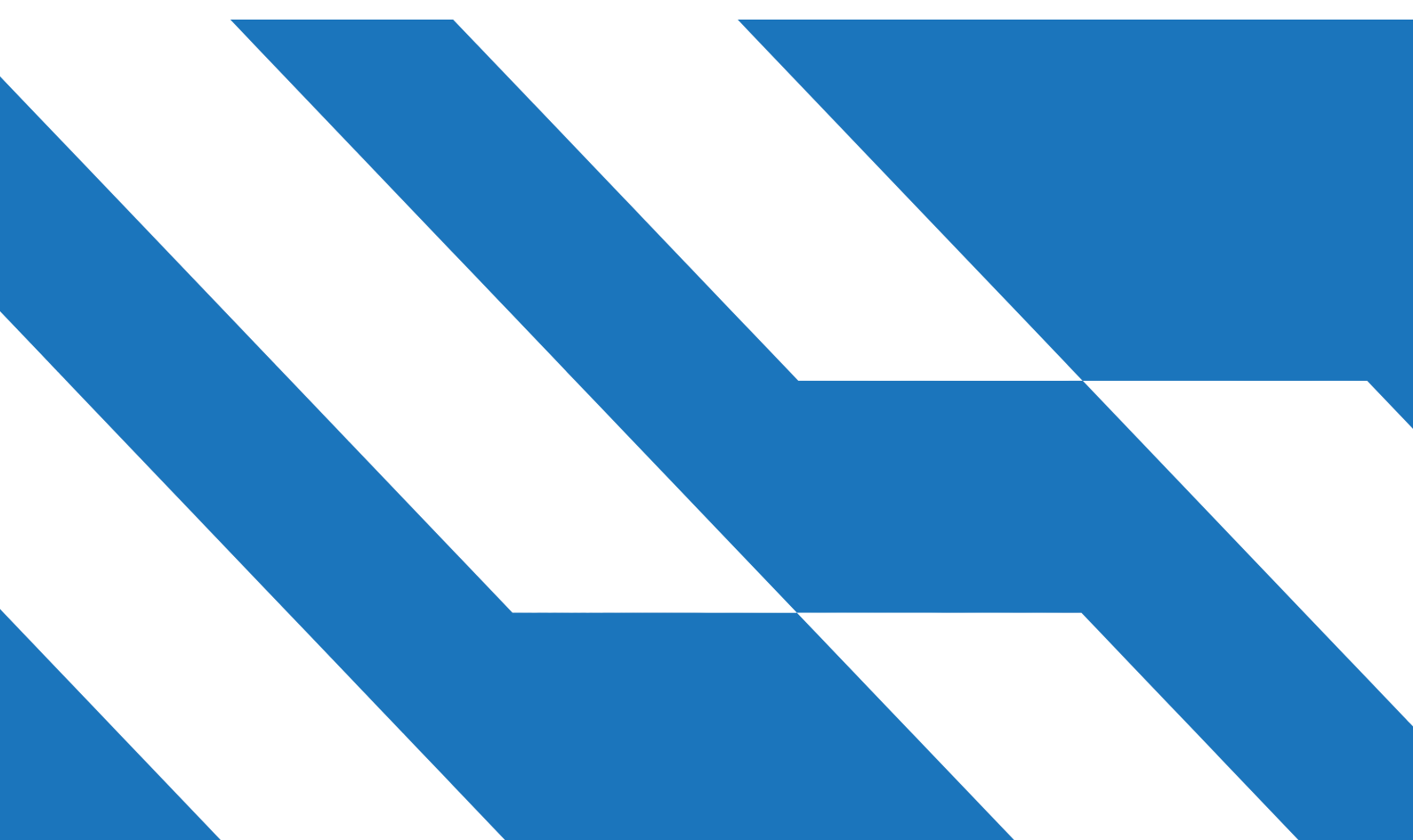




# Charity Newsletter

June 2022





**Jane Marshall**  
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## Welcome to the latest issue of the Charity Newsletter...

No sooner have we begun to see our way back to some sort of normality following the pandemic, we are now into a cost of living crisis with prices at petrol pumps reaching an all time high this month, inflation at 10% and soaring energy prices. This means the value of any reserves that your charity holds will have decreased in value. Sound financial management of your charity's resources is as important as ever as we navigate our way through whatever the next few years present us with.

On another note, I attended the Yorkshire Funders Forum conference earlier in the month, an excellent event and I would encourage any grant makers to join this forward-thinking forum. Key themes that came out of the day included the need for funders to continue to provide unrestricted core funding, as they did through the pandemic

and not to go back to restricted funding being the norm. There is evidence that minority groups still make up a smaller percentage of grant applications than they should do. Therefore, it is essential that grant application processes are transparent and readily accessible by all. Another theme was around ensuring that trustee boards represent the people that charities are there to support

I'm delighted to introduce another senior member the charity team, Jade Boam in the meet the team article and hope you will find the other articles in this newsletter interesting and useful. Finally, we are in the late stages of planning our annual Charity Conference which will be on 15 November 2022, a date for your diaries.

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# Charities Aid Foundation and ICAEW Report



**Jane Marshall**  
Partner  
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**Jane Marshall looks at the main issues raised by CAF and ICAEW.**

**The Charities Aid Foundation (CAF) in partnership with The Institute of Chartered Accountants in England and Wales (ICAEW) has recently produced a report on the future of trusteeship and the challenges and opportunities facing charities and their boards in 2022.**

The six areas of challenge highlighted in the report are:

## **Financial resilience**

The top challenges cited by charity leaders were generating income and achieving financial sustainability (58%), followed by meeting demand for services (30%). A fifth (21%) of charities said that they planned to use charity reserve funds to cover income shortfalls rather than for capital expenditure — this was twice as many as in 2019 (10%). Sourcing funding remains a concern. Diversifying funding and support networks is a focus area for

charities. Securing grants is also a challenging element of funding for charities — and not only because grants are competitive. Grants application processes can be stressful for charity trustees. Charities have also been under pressure to deliver services — often whilst trying to cut costs — within the broader contexts of Covid-19 and Brexit repercussions. Increasing threats from cybercrime are also of concern.

## **Working together**

The nature and involvement of a charity's trustees can significantly impact the collaboration and culture within the organisation. Collaboration, including beyond the sector, is a key part of helping charities realise their potential and be innovative and effective. Trustees can help guide their charity's collaboration, which is why having the right trustees can greatly affect their outcomes. Each charity will have a unique relationship with its trustees.

**The nature and involvement of a charity's trustees can significantly impact the collaboration and culture within the organisation**

Understanding the make-up of the board of trustees can help to identify what strengths they bring to the charity and where a board may be lacking. A trustee's motivation will impact their ability to influence and collaborate across different spheres. The most confident trustees have a good network of other trustees and charities and benefit from the inspiration and information that network provides. The majority, however, do not appear to have access to this type of network. A service that facilitates networking, to enable charities to connect with similar charities and learn from them, would be welcome.

## **Diversity**

More work could be done by charities and boards to train otherwise suitable candidates in becoming trustees, rather than rejecting them for lack of experience. A system that helps to attract new trustees would be a boon for the sector. This could

help to ensure a continuation of the skills required, as well as introducing a wider range of people into trusteeship, bringing talent and new ideas. For many charities, having the voice of a beneficiary on the board may be helpful or even essential.

## **Support and training**

There is no one clear, credible, centralised known support or training service for charities. The sector would benefit from an accessible centralised resource platform, potentially organised by a charity umbrella organisation, that offers training and support as well as opportunities for information sharing and networking between charities. Trustees would also benefit from role-specific training accessible, free or cost-efficient to help them perform at the best of their abilities in their roles.

## **Digital**

Digital technologies form an essential part of charity's outreach

toolkits and, in many cases, their service delivery. However, not all charities — or their trustees — feel confident using digital tools. Consequently, some charities are missing out on new ways of supporting service delivery and reaching wider audiences. Improved training and educational resources in this space would be valuable especially for charities managed by older generations.

## **Sustainability**

While some trustees are hesitant to pursue climate initiatives because of the view that these can be costly, there is a recognition that it is an increasingly important and necessary issue to address. Guidance on how to build climate or sustainability policies for smaller, local charities would be particularly helpful.

[https://www.cafonline.org/docs/default-source/charity-finance-and-fundraising/caf\\_icaew\\_trustee\\_research\\_final-\(1\).pdf](https://www.cafonline.org/docs/default-source/charity-finance-and-fundraising/caf_icaew_trustee_research_final-(1).pdf)

# Charity Commission Update



**Alyson Kimber**  
Director  
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## Alyson Kimber takes a look at the latest news from the Charity Commission.

### Ukraine humanitarian crisis: guidance for charities and trustees

The situation in Ukraine is changing rapidly and understandably many charities are wanting to assist, already raising funds and have launched appeals. The Charity Commission recognises the complex challenge this poses for charities responding to the crisis and have set out guidance on the most commonly asked questions, ensuring that support reaches those who need it most and potential pitfalls around dealing with large volumes of funding and safeguarding issues with vulnerable individuals, can be avoided. The Charity Commission has seen an influx of applications for new charities to support those affected by the conflict in the Ukraine. The Commission is prioritising these applications however they encourage those applying to first consider whether supporting an established registered charity with relevant experience may be more efficient: existing humanitarian charities know how to get help to those who need it and how to operate safely on the ground. Existing charities who are wanting to assist should first consider if their charitable objectives allow this. You can check this by reviewing your

governing document.

If your existing objects do not allow you to help, you may be able to amend your governing document. But first the trustees should establish if there are other charities that may be better placed to respond and also consider the long-term impact of changing your charity's objects, including the impact on your existing beneficiaries.

Although it is understandable that charities wish to assist those caught up in the conflict, the trustees' first priority should be to its existing objectives and beneficiaries and questioning if a change is in the best interests of your charity. For further details and a copy of the guidance please see: [www.gov.uk/guidance/ukraine-humanitarian-crisis-guidance-for-charities-and-trustees](http://www.gov.uk/guidance/ukraine-humanitarian-crisis-guidance-for-charities-and-trustees).

### Charity Commission Business Plan 2022 to 2023

In May 2022 the Charity Commission published its business plan for 2022/23. The plan sets out the detailed steps the Commission plans to take to deliver against their purpose, strategy and statutory objectives. The Charity Commission is concentrating on three areas: data, trustees and people. They have structured their

approach to these areas around three priorities:

1. Improving their ability to regulate efficiently, effectively and robustly
2. Increasing engagement with trustees, and supporting them to run their charities well
3. Strengthening the Charity Commission to ensure they deliver

A copy of the business plan, with a detailed outline of these priorities, can be found at:

[www.gov.uk/government/publications/charity-commission-business-plan-2022-to-2023/charity-commission-business-plan-2022-to-2023](http://www.gov.uk/government/publications/charity-commission-business-plan-2022-to-2023/charity-commission-business-plan-2022-to-2023).

### Orlando Fraser's inaugural speech

On the 4th May 2022 Orlando Fraser gave his first speech as Chair of the Commission. In this speech he set out his intention to lead an expert regulator that is fair, balanced and independent. During the speech Orlando acknowledged the difficult work charities undertake to offer hope and light to their beneficiaries. He spoke of his respect for trustees and recognised the legal responsibilities borne by volunteers. A full script of the speech is available on the Charity Commission website and is worth a read. Orlando spoke about his own time as a volunteer and outlined what he sees as the three key values; fairness, balance and

independence. The full speech can be found at:

[www.gov.uk/government/speeches/orlando-frasers-inaugural-speech](http://www.gov.uk/government/speeches/orlando-frasers-inaugural-speech).

### Charity Commission spending over £25,000

As part of the Charity Commission's commitment to transparency they have committed to publishing all expenditure (excluding its pay bill) over £25,000. Expenditure, in this instance, is all individual invoices, grant payments, expense payments or other such transactions that are over £25,000.

For details of March 2022 transactions, which were published on the 23 May 2022, please see: [assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1077690/Charity\\_Commission\\_spending\\_over\\_25\\_000\\_March\\_2022.csv/preview](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1077690/Charity_Commission_spending_over_25_000_March_2022.csv/preview).

### Safeguarding and protecting people for charities and trustees

On the 1 June the Charity Commission issued updated guidance on protecting people who come into contact with your charity through its work, from abuse or mistreatment of any kind. The guidance has details on managing the risks involved and advice on implementing policies, with details on the procedures and practices you need to ensure you have in place.

All charities should have a code of conduct which is clearly communicated to all its trustees, staff and volunteers, ensuring

that it is checking the policies and procedures it has in place to protect not only its beneficiaries but also its staff and volunteers from harm.

A copy of the guidance is available at:

[www.gov.uk/guidance/safeguarding-duties-for-charity-trustees](http://www.gov.uk/guidance/safeguarding-duties-for-charity-trustees).

### Update on remote meeting guidance

Since April 2020, the Charity Commission had allowed charities to hold meetings remotely even if their governing document did not permit this. From 22 April 2022, charities wishing to hold meetings online, by telephone, remotely or a combination of remotely and face to face will need to make sure their governing document allows this.

The Charity Commission felt that, as restrictions had been lifted, it's right that charities should return to meeting the requirements of their governing document or to make the necessary changes to allow them to hold meetings in the way that works best for them, meaning some charities may wish to update their governing documents accordingly.

The Charity Commission is urging trustees to check their governing document. For further details please see [www.gov.uk/guidance/coronavirus-covid-19-guidance-for-the-charity-sector](http://www.gov.uk/guidance/coronavirus-covid-19-guidance-for-the-charity-sector).



# Meet the Team: Jade Boam



**Jade Boam**  
Senior Manager

## When did you join BHP?

I joined BHP in 2013 after finishing my A levels.

## What attracted to you to work for the firm?

I liked the idea of learning on the job whilst getting a professional qualification. I was also attracted by the CSR activities that BHP get involved in, which I am passionate about.

## What does a typical day at work look like for you?

As a senior manager in the audit and accounts team, a typical day for me would involve planning/

reviewing an audit file, catching up with my clients and being on hand to help train staff through their assignments.

A couple of times a month I head out for lunch with my colleagues to catch up outside of the office.

## How has BHP helped you in your career so far?

I have progressed from a trainee to senior manager with the support of my mentor. BHP gave me the experience and study opportunities to gain both my AAT and ACCA qualifications, as well as a clear progression path to strive towards.

## What are your highlights and key achievements?

My key achievement to date was getting promoted to senior manager in October. A great highlight of my job is watching colleagues that I manage progress through the firm and reach their career targets.

## What or who inspires you at work?

I am thoroughly grateful for the help of Nicola Adams and Claire

Hodgkinson for their unwavering support throughout my career at BHP, mentoring me throughout my journey from a school leaver to where I am today. They have become life-long friends in and outside of work.

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

Do it! BHP is a great place to work and develop, with a lovely bunch of staff to keep you company along the way!

## What do you enjoy doing outside of working?

I love socialising with friends and family which would usually involve going out for food and drinks or going for a walk.

I also love both watching and playing football. I am the captain of my local women's football team.

## If you could host a celebrity dinner, who would you invite?

Probably Peter Kay because I find him hilarious, David Attenborough because he is amazing and Beyonce because, well she is Beyonce!

## What is your favourite type of cuisine and why?

Definitely Indian! Anyone that knows me knows I love a good curry — mainly because I love spicy food but also because I enjoy cooking them too.

## What type of holiday do you prefer? Beach, active or city break?

I prefer a beach holiday to relax and read a good book with cocktail in hand.

## If you weren't in your current role, what would be your dream job?

My dream job would probably be getting paid to fly around the world and review fancy hotels and restaurants!



# Charities Act 2022

There is no major overhaul of the law and implementation of the Act will be phased

## Catherine Rustomji, Head of Charities at Shakespeare Martineau LLP considers the key highlights.



**Catherine Rustomji**  
Head of Charities at  
Shakespeare Martineau LLP  
Catherine.Rustomji@shma.co.uk

### The 2022 Charities Act is made up of seven parts, namely:

- Purposes, powers and governing documents
- Charity land
- Charity names
- Charity trustees
- Charity mergers
- Legal proceedings
- General

However, there is no major overhaul of the law, in particular, there are no changes to:

- Definition of charity/charitable purposes
- Public benefit
- Annual accounts/annual returns provisions
- Charity Commission investigatory and inquiry powers

### Amending governing documents

Unincorporated charities make up 45% of all registered charities and

will soon be able to benefit from a simpler regime for amending their governing documents, so that a cy-pres occasion or Charity Commission scheme will no longer be required. There will be a new statutory power to amend their governing document and a new 'regulated alterations' regime for changes to objects, trustee benefits, etc in the same way as for incorporated charities.

### Failed fundraising appeals

Where a charity is unable to return a donation (either because of the expenses that would be incurred or the time that has lapsed since the gift was made), if it is a small donation of £120 or less, the charity is able to retain the funds. For other circumstances, where the charity has not identified or found the donor after 'agreed actions' are taken, i.e. those actions agreed in writing between the trustees and the Charity

Commission as being reasonable in all the circumstances to identify and fund donors, the charity can retain the funds.

### Permanent endowment

There is a revised definition of permanent endowment, which is property that is subject to a restriction on being expended, which distinguishes between income and capital. The powers to release restrictions on spending capital have been simplified and there is a new power to be able to borrow from permanent endowment of up to 25%, which must be repaid within 20 years.

### Payment of trustees

There is a new power allowing one or more of a charity's trustees to be paid for providing goods only to their charity and a new power for the Charity Commission to authorise a trustee

to retain remuneration for work already done for a charity if the Commission considers that it would be inequitable for the person not to be paid or not to retain the benefit.

### Ex gratia payments

There is a new statutory power to make small ex gratia payments (where trustees consider they have a moral obligation to make the payment but no power to do so) without Charity Commission authority. The thresholds per payment are subject to the charity's gross income in its last financial year:

- If below £25K = £1,000
- If £25K - £250K = £2,500
- If £250K - £1m = £10,000
- If over £1m = £20,000

### What next?

Implementation of the Act will be phased. The Charity Commission has confirmed that there will be at least 12 new or updated trustee guidance documents and more than 20 new or updated internal guidance documents. Watch this space for further updates.



# 50 Years of VAT



**Simon Buchan**  
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On 1 April 2023, VAT celebrates its 50th birthday. Many would think that this span of time would be long enough to sort out and understand the basic principles of the tax.

However, we are still arguing over basic principles such as single and multiple supplies, what is a land transaction, what is a Transfer of a Going Concern (TOGC), and most importantly to charities, when is an activity a business activity for VAT purposes?

The question as to whether an activity is a business activity for

## Simon Buchan takes a look at the latest HMRC approach to determining what is a business activity.

VAT purposes has long been a bone of contention. HMRC's traditional view has always been that if there has been a supply of goods or services for a consideration, there has been supply regardless of the level of consideration or whether the supplier has an intention to make a profit.

The Courts have often disagreed with this approach and have regularly considered a number of other factors such as the intention of the charity and whether they intended to make a profit. This approach gave rise to the business test as an aid to determining whether an activity was a business activity.

Those of you who have followed my articles in this newsletter or heard my comments at the BHP charity conference may recall that my view was that judgements of the Court of Appeal in the disputes between Longbridge on the Thames (2016) and Wakefield College (2018) and HMRC would further encourage HMRC that their long-held view is correct.

It has taken some time but on 1 June 2022 HMRC published a policy paper - R&C Brief 10 (2022) - to explain how they will now determine whether an activity is a business activity for VAT purposes, following on from the decisions in those cases.

According to HMRC, the Court in Longbridge on the Thames emphasised that the test for determining whether an activity is a business activity is whether there is a direct link between the goods or services supplied and the payment received.

In Wakefield College, the Court considered whether there was a business activity based on a two-stage test as follows.

**Stage 1:** The activity results in supplying goods and services for a consideration and

**Stage 2:** The supply is made for the purpose of obtaining income therefrom.

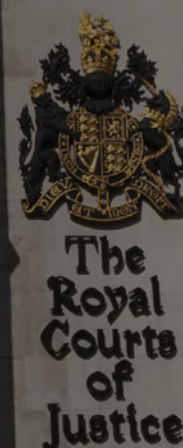
HMRC's new policy is that the business test is no longer an

appropriate test to determine whether an activity is a business activity and now considers that the two-stage test applied in the Wakefield College case is the correct approach to take.

Whether this is the case, only time will tell. I suspect that this issue will still be the subject of disputes when VAT is approaching its 100th birthday.

Charities should be aware of HMRC's new approach to this issue and if you wish to discuss how this may affect you, please contact Simon Buchan at [simon.buchan@bhp.co.uk](mailto:simon.buchan@bhp.co.uk)

The question as to whether an activity is a business activity for VAT purposes has long been a bone of contention





# Gift Aid: a period of transition

## In the Spring Statement the Chancellor announced that the basic rate of income tax will be reduced to 19% with effect from April 2024. Rachelle Rowbottom considers what impact this will have on Gift Aid claims.

Donations made by an individual to a charity are treated as having been made after deduction of basic rate tax. Provided that the requirements of the Gift Aid scheme are followed, charities are able to claim back that tax from HMRC.

Given that the basic rate of income tax is to fall from April 2024, you would automatically assume that this announcement would impact charities with effect from the same date.

However, also announced was a three-year transition period that will apply for Gift Aid relief.

The effect of the transition period is that it will protect the current level of Gift Aid that can be claimed by charities,

which amounts to 25p per £1 on qualifying donations, until April 2027. The Charity Tax Group has estimated that the transitional relief will be worth around £250m to the sector between 2021 and 2027.

It is understood that the transitional relief will operate in the same way that it did when the basic rate of income tax reduced previously. Further details will be released in due course.

Going forwards, charities will need to consider the impact of this announcement on their budgets and forecasts and make plans to deal with the shortfall in income.



**Rachelle Rowbottom**

**Tax Partner**

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# BHP CSR Update



**Rachelle Rowbottom**  
Tax Partner  
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## BHP Yorkshire Three Peaks Challenge

We're delighted to announce that our team of 58 people have raised more than £20,000 for charities across the UK after completing the Yorkshire Three Peaks Challenge.

Our charity trekkers set off from Horton-in-Ribblesdale in the Yorkshire Dales at 7am on 20 May 2022 and went on to tackle the 24.5-mile route incorporating

1,585m of ascent across the peaks of Pen-y-Ghent, Whernside and Ingleborough.

All participants chose to raise money for causes personal to them or to support BHP's elected charity, Macmillan Cancer Support. The team set an ambitious target of £15,000 and managed to surpass that by a huge margin, raising an incredible total of £20,609.

It was fantastic to see so many people getting involved, with many walking further than they have ever walked before. It was a privilege to organise and to support the event, and to have raised such a tremendous sum of money for so many different charities is an absolutely fantastic achievement. And we're so proud of everyone who took part.

## Charity Trustee Training

In May, we delivered free training to 121 charity trustees over three sessions.

The informative and practical online webinars provided a comprehensive introduction for new trustees, as well as a useful refresher for existing trustees, and they were really well received.

Speakers included Jane Marshall, Partner and Head of Charities and Not for Profit, and our regular guest speaker Catherine Rustomji, Head of Charities at Shakespeare Martineau LLP.

If you have any feedback on the training or suggestions for future events, please get in touch at [lucy.ellis@bhp.co.uk](mailto:lucy.ellis@bhp.co.uk).

## Communities

We're now a proud member of Business in the Community (BITC), the largest and longest established membership organisation dedicated to responsible business, now in its 40th anniversary year. BITC has a network of more than 600 members across the UK, each firmly committed to embedding

responsible business throughout their organisation. As part of our membership, we will be helping to drive and inspire action in our communities in order to achieve greater social and environmental impact, while benefiting from expert advice and training to help us build on our own responsible business practices.

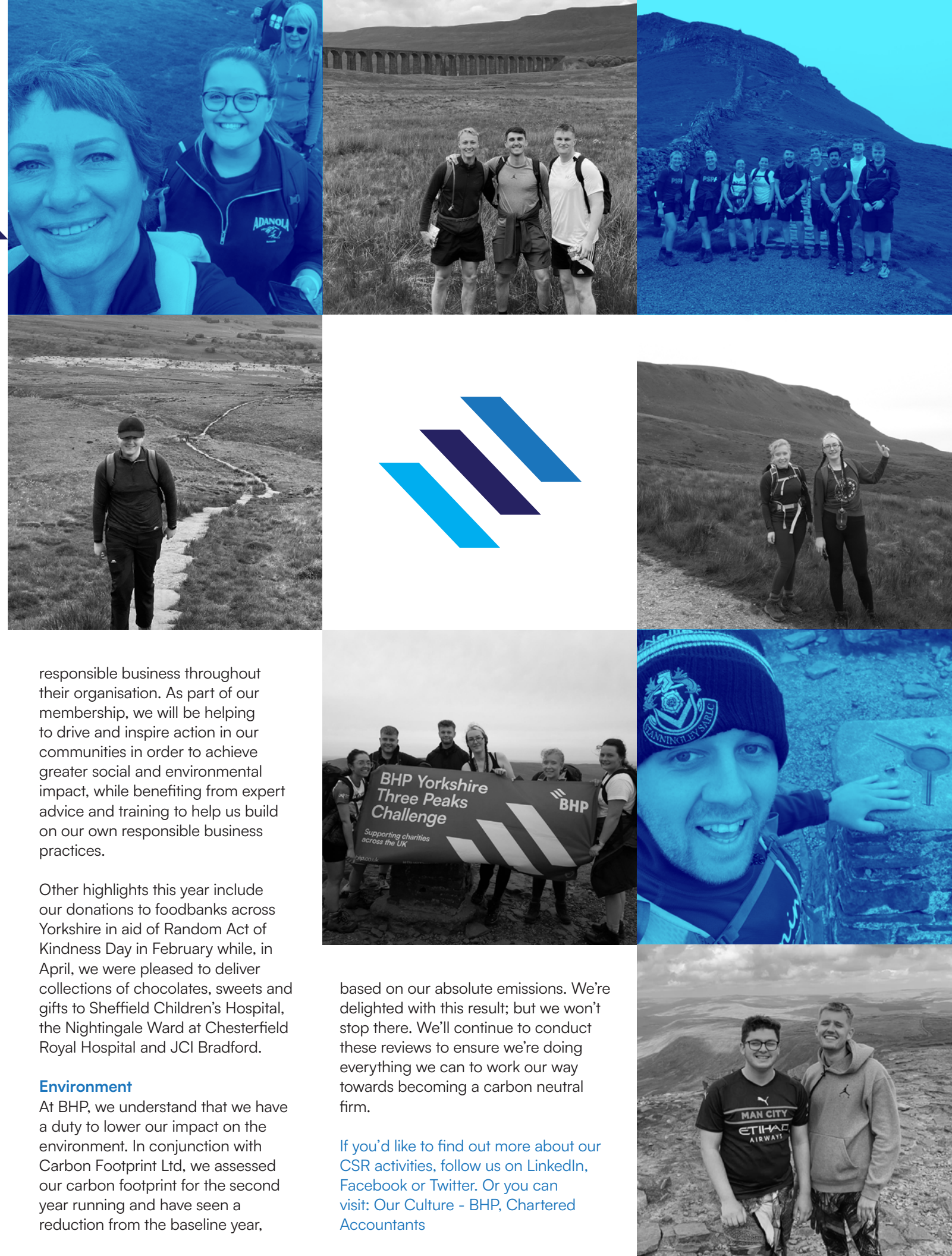
Other highlights this year include our donations to foodbanks across Yorkshire in aid of Random Act of Kindness Day in February while, in April, we were pleased to deliver collections of chocolates, sweets and gifts to Sheffield Children's Hospital, the Nightingale Ward at Chesterfield Royal Hospital and JCI Bradford.

## Environment

At BHP, we understand that we have a duty to lower our impact on the environment. In conjunction with Carbon Footprint Ltd, we assessed our carbon footprint for the second year running and have seen a reduction from the baseline year,

based on our absolute emissions. We're delighted with this result; but we won't stop there. We'll continue to conduct these reviews to ensure we're doing everything we can to work our way towards becoming a carbon neutral firm.

If you'd like to find out more about our CSR activities, follow us on LinkedIn, Facebook or Twitter. Or you can visit: [Our Culture - BHP, Chartered Accountants](#)





Save the date

# BHP Charity Conference 2022

## When?

Tuesday 15 November

## Where?

Doncaster Racecourse

We'll be announcing more details about our 14th annual charity conference shortly.







## Get in touch

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