Charity Newsletter

Autumn 2023

Jane Marshall
Editor
Partner and Head of Charities and Not for Profit
jane.marshall@bhp.co.uk

Welcome to Autumn issue of the Charity Newsletter...

The days are shortening and the night's drawing in which means we are looking forward to seeing many of you at our annual Charity Conference on 8 November at The Cutlers' Hall in Sheffield.

I hope you will enjoy the updates in this newsletter which cover topics to help you run your charity and deliver on the objectives for which you are established.

There is an important revision to CC14' Investing Charity Money; Guidance for Trustees'. This is a good news story as the guidance has been simplified and it's an essential read for charities with investment portfolios.

The results of the government's Cybersecurity survey are concerning as it appears that the importance of controls in this area has diminished, especially in smaller charities. Cyber attacks can be very harmful and its really important therefore that charities are on top of this.

Nicola Adams sets out some key gift aid reminders. Don't forget that the use of gift aid increases donations to your charity by 25%. When there is pressure on income streams this is a relief not to be missed.

Finally, we find out things we didn't know about Jonathan Verrier, a charity manager in our York office.

Contents

In this issue:

Charity Commission update

Rachel Heath
Director
rachel.heath@bhp.co.uk

Rachel Heath reviews the latest news from the Charity Comission.

The Charity Commission has published new guidance on charities' social media use.

Published on 18 September 2023, the new guidance makes clear that charities using social media should have a social media policy in place. Social media is a highly effective way for a charity to engage its audiences and communicate about its work but that there are risks involved.

Trustees are not always aware of the risks that may arise from using social media, meaning that some do not have sufficient oversight of their charity's activity, leaving them and their charity vulnerable. The guidance aims to help trustees understand these risks, how their legal duties apply and what to consider if issues arise to help protect their charity.

Full guidance can be found **here.**

Register of merged charities

The Charity Commission maintain a register of charities that have merged or transferred their assets to another charity. The mergers register will be updated on a monthly basis and will ensure that future legacies can be transferred to your new, merged charity without it having to approve the transfer.

More details can be found **here.**

House to house collection licence (England and Wales)

Charities in England or Wales must apply for a licence for house-to-house collections of money or goods (that you plan to sell at a later date) from people's homes for charity. You must apply to your council (or if you are in London, the Metropolitan Police) for a licence if you're a:

- small charity
- local group, eg scouts, girl guides

If you don't get a licence before starting house-to-house collections you could face fines and penalties.

More information can be found **here.**

Guidance on investments refreshed to help improve clarity and boost trustee confidence

On 1 August 2023 the Charity Commission published **renewed guidance** on charities and investments, bringing it up to date for the modern era. See Laura Masheder's article on page 12.

My Charity Commission Account

From 31 July 2023 access to the Charity Commission's online services has changed.

Every user will need to set up their own 'My Charity Commission Account' using an individual email address and password (you will receive an access code to this email address each time you sign in).

If you are involved with more than one charity, you will view all your charities through a single account.

Your level of access for each charity within your account will be determined by your role or relationship with that charity. There are different steps for setting up your account depending on your role. This will also determine what permissions and access you can have:

- charity contact
- trustee
- third party (for example, a charity employee or a professional advisor such as a lawyer or accountant)

Trustees will need to request an account by speaking to your charity's contact. You will need a link from them to set up your account.

More details including video guides can be found **here.**

Common issues can be found **here.**

Income recognition - legacies

Jane Marshall
Partner and Head of Charities and Not for Profit
jane.marshall@bhp.co.uk

Jane Marshall takes a look at this complex area of charity accounting.

Income recognition in charities is often an area of some contention and in many circumstances does not follow the basic matching rules many accountants are used to seeing. The recognition of legacy income in charity accounts is often approached inconsistently. The inconsistency arises from how the Charity SORP can be interpreted and applied to give differing results and also is due to the inherent complexity in actually understanding the requirements of the SORP.

In 2015 when the FRS 102 compliant SORP was published there was a feeling that it would significantly change the point of recognition of legacy income and that we would be recognising legacies much sooner. In reality the SORP generally had enough flexibility built in and the impact on many was negligible. Only those tending to something very close to cash accounting were impacted significantly.

The recognition of legacies hinges on two key hurdles, the first is always probability and the second is reliability of measurement.

The SORP explains that:

5.29 "For accounting purposes, evidence of entitlement to a legacy exists when the charity has sufficient evidence that a gift has been left to them and the executor is satisfied that the property in question will not be required to satisfy claims in the estate.

5.30 "Of itself, establishing entitlement is insufficient to recognise legacy income. The recognition of the gift is also affected by the probability of receipt and the ability to estimate with sufficient accuracy the amount receivable.

5.31. Receipt of a legacy must be recognised when it is probable that it will be received.

Receipt is normally probable when:

- there has been grant of probate;
- the executors have established that there are sufficient assets in the estate, after settling any liabilities, to pay the legacy; and
- any conditions attached to the legacy are either within the control of the charity or have been met."

All three of the criteria must be met, the grant of probate and the meeting of conditions are generally the easiest bullets to deal with. Probate is a statement of fact, we do often see conditions attaching to a legacy which would mean that recognition now is inappropriate, e.g. a lifetime interest in a property left to the charity.

Looking more specifically at the second of the bullet points, this could support the policy of waiting until the estate accounts are settled, therefore recognising legacies at the earlier of receipt of funds or estate accounts being settled. However, there is enough flexibility in point two to also use draft estate accounts and correspondence with executors where these demonstrate that there are sufficient funds in the estate and that a distribution will be made. Although this may be more appropriate for pecuniary legacies than residuary legacies.

Some charities may feel they have sufficient information and be comfortable enough around probability sooner than this, based on previous experience and sector knowledge. The SORP affords some flexibility in approach and goes as far as to lay out a possible portfolio approach based on historic outcomes, which may be appropriate in certain circumstances. However, this approach is not suitable for charities that do not receive a good number of legacies with consistent frequency or for individual material legacies — naturally this approach therefore favours larger charities who often have a great number of individual legacies.

The SORP goes on to state that:

5.32 "When a portfolio approach is not adopted charities must recognise a legacy when the executors have determined that a payment can be made following the agreement of the estate's accounts, or on notification by the executors that payment will be made."

The 'must' in the paragraph above emphasises that the point of recognition is when the executors have determined a payment can be made — this is usually some time after the probate date, sometimes considerably later. Practically, in our experience charities tend not to wish to recognise legacy income sooner than they need to, especially when that income may not be received for some time and tend towards final estate accounts or communication of a distribution.

Some charities also treat pecuniary and residuary legacies differently. It can often be apparent from the notification or probate that the fixed amount is clearly available within the net estate and as such receipt of the amount is clearly probable. Reliability of measurement is the second hurdle, if you have established entitlement, we then look to this. A legacy should be included if receipt is probable and a materially fair estimate can be made. From final estate accounts this can often be very straightforward e.g. cash and investments.

However, some cases are more complex where property is involved and value can be difficult to establish. We have seen cases of estates where planning is pending on a property or land and the difference between the value with and without planning is materially different — as such entitlement is proven but we can't establish a materially fair estimate of the value. Some property cases are easier. Residential properties are generally quite straightforward, and recent sales and underlying market data can be used to accurately estimate the value.

Finally, where we have established that there is entitlement but we can't reliably measure the amount, so have not recognised the income, the SORP requires that a contingent asset is disclosed in the financial statements. Practically, the trustees may also consider disclosure of this in the Trustees' Report financial review as a particularly material legacy is very likely to impact on the financial future of the charity in a positive way.

Meet the team Jonathan Verrier

Jonathan Verrier
Manager
jonathan.verrier@bhp.co.uk

When did you join BHP?

I joined Barron & Barron in 2001, which then became BHP's York office about 10 years ago.

What attracted you to work for the firm?

I was attracted to BHP because the people here are friendly and there is an atmosphere of caring.

What does your day-to-day role involve?

I'm a manager in the audit team with a varied portfolio of clients including charities and professional practices. As well as the actual audit work, this involves meeting and communicating with clients.

Where did you grow up?

I spent six years in Kenya before moving to Scarborough when I was seven years old. I went to Newcastle University, which is a great city to be a student in!

What do you do to unwind after a day in the office?

Last year I started to grow some vegetables in the garden. I find that checking on them and watering them when needed is a really good way to unwind.

What are your hobbies?

I enjoy running and walking. Every year I spend a week in the Lake District where I get in plenty of walking and the occasional lake swim — this year in Buttermere.

What do you prefer — a TV series, book or film? What are your favourites?

I really enjoy reading. Terry Pratchett is my favourite author. I like his imagination and sense of humour. I also enjoy crime novels such as the DCI Banks series.

What is the one place on earth that you would want to visit (that you haven't already) and why?

I would like to go to Canada; the scenery there looks to be stunning.

Cybersecurity

Laura Masheder
Partner
laura.masheder@bhp.co.uk

The Goverment has published its cybersecurity survey. Laura Masheder summarises the results.

Cybersecurity breaches are a common and growing threat globally across all sectors. Since 2018, the UK Government has published its cybersecurity survey detailing cybersecurity policies, processes, and resilience by sector, which separately splits out specific sectors such as charities. While the survey primarily informs government policy on cybersecurity, it provides useful insight by sector on the policies, processes, and approach to cybersecurity.

Common cyberthreats and protections

The Government advises the use of a set of "cyber hygiene measures" to combat the most common cyberthreats - which are relatively unsophisticated chance attacks. Over two thirds of organisations in all sectors have a range of these measures in place. These include malware protection, cloud backups, passwords, restricted administrative rights, and network firewalls.

Less encouragingly, the survey indicated that certain areas of cyber protection have consistently declined. These include:

- Use of password policies (79% in 2021 vs. 70% in 2023),
- Use of network firewalls (78% in 2021 vs. 66% in 2023),
- Restricting administrator rights (75% in 2021 vs. 67% in 2023) and
- Policies to apply security updates within 14 days (43% in 2021 vs. 31% in 2023).

The results of the survey show that in larger organisations these percentages remain unchanged, so the decreases mainly reflect downward shifts in smaller organisations.

Key qualitative results from the survey

The survey provides a valuable insight into the cybersecurity landscape. Key points include:

1. Sixty-nine percent of large organisations and 32% of smaller organisations (24% of charities) experienced a breach and/or cyberattack in the year.

2. Sixty-eight percent of the victims of a successful phishing attack said that they had loss of funds as a result.

3. The number of microbusinesses who consider cybersecurity to be a top priority has declined from 80% in 2022 to 68% in 2023.

4. Only 30% of businesses (and 31% of charities) have a board member or trustee who takes explicit responsibility for cybersecurity in their organisation.

5. Eleven percent of businesses and 8% of charities have fallen victim to at least one cybercrime in the last 12 months.

6. UK businesses have experienced around 2.39 million cybercrimes of all types and 70,000 non-phishing cybercrimes in the last 12 months.

7. The mean cost of a non-phishing cybercrime was £20,900.

8. The average cost of a cybercrime to a charity was lower at £500, but the reputational cost is considered a much higher risk and carries greater cost.

The cybersecurity breaches survey shows that smaller organisations have not prioritised cybersecurity, which is perhaps due to rising costs and the overall economic outlook presenting competing priorities.

Some of the trends identified may also reflect shifts in working models since the pandemic. More home and remote working has changed how access is granted and how users are monitored. The survey shows that the proportion of organisations restricting access to work devices has fallen significantly over the last four years. And that considerably fewer are undertaking any monitoring of user activity this year.

Cybersecurity is a genuine risk to all organisations. Adopting the basic hygiene measures and designating responsibility at Board level is an absolute must to ensure that the issue gets priority on the agenda.

8% of charities have fallen victim to at least one cybercrime in the last 12 months.

£500 the average cost cybercrime to a charity.

24% of charities experienced a breach and/or cyberattack in the year.

CC14 - Investing Charity Money: Guidance for Trustees

Laura Masheder
Partner
laura.masheder@bhp.co.uk

Laura Masheder considers the implications for charities with investment portfolios.

CC14 has been updated to improve clarity and is designed to help Trustees make the right investment choices.

Following consultation with 1,000 charities, charity specialists and other sector stakeholders the new shorter and sharper CC14: 'Investing Charity Money: Guidance for Trustees' was published on 1 August. As well as clearer language, the structure has been updated to make it shorter, around a quarter of the length of the previous guidance, and easier to use.

The guidance clarifies that Trustees are free to choose what is best in their circumstances with a range of investment options open to them — provided they are ultimately furthering the charity's purposes. The aim of the guidance being to support Trustees in having more confidence to make the right investment opportunities.

The revised guidance also reflects the 'Butler-Sloss' case, which was a significant High Court judgment around Trustees' investment duties. The guidance confirms the relevant legal findings of the case. It's the duty of the Trustees to consider the approach to investment based on the charity's circumstances — this can focus on producing a financial return alone but there is a greater clarity in the guidance that Trustees can also consider factors such as ESG, the reputational risk to the charity and potential conflicts of interest alongside the maximisation of financial return.

The guidance in summary:

- Retains the 'must' and 'should' steers to ensure that Trustees understand what they need to do to be compliant with the law v's other considerations which are best practice and not legal requirements.
- Now includes more practical examples to support Trustees in their decision making, including the potential for an investment to conflict with the purposes of the charity or the potential reputational impact of making an investment.
- Reminds Trustees that acting in the best interests of the charity is about furthering the objects and all decisions must ultimately achieve this. It also warns Trustees to not allow personal motives, opinions or interests to affect decisions.
- The guidance now incorporates the previously separate guidance on social investment and removes confusing terminology such as 'ethical investment', 'mixed motive investment' and 'programme related investment'.

Overall, the new guidance confirms that there is no one answer when it comes to investing for charities and eery charity must consider its own circumstances. It offers valuable support for Trustees and takes them through the decision making process drawing out the things that they must and should be thinking about — but it is clear that maximisation or income and or return need not be the only considerations!!

The future of Gift Aid - have your say

Nicola Adams
Director
nicola.adams@bhp.co.uk

Nicola Adams sets out how you can be involved:

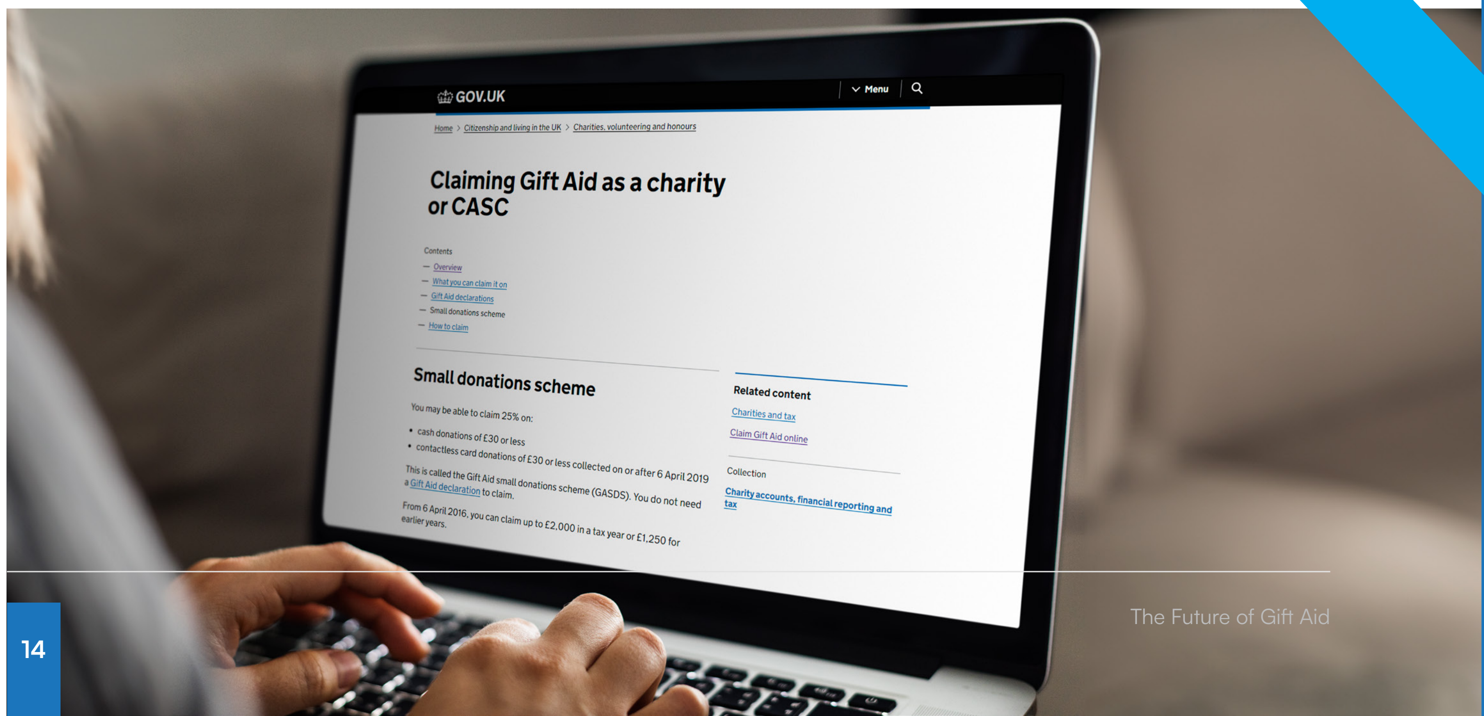
HMRC is continuing to engage with the charity sector to improve the way that Gift Aid works by using digital technology to minimise the administrative burdens. They are interested in how the Gift Aid service can be improved for everyone who uses it.

A review of the current process for charities claiming Gift Aid is being undertaken which includes looking at the viability and desirability of new systems and better use of technology and online services to help donors better understand the rules and simplify the claims process.

HMRC are interested in speaking to a range of charities with relevant experience of using the Gift Aid services including:

- small, medium, and large charities
- charities who claim Gift Aid using the full range of available routes, including the charities' portal, agents, paper forms, through APIs, and through agent intermediaries such as Just Giving
- charities who claim both Gift Aid and through the Gift Aid Small Donation Scheme (GASDS)
- charities whose Gift Aid claims are submitted by both employees and volunteers
- charities who do not claim Gift Aid

If you would be interested in taking part, or have any questions about their research, please email their user researcher Niamh Collard at **niamh.cliffordcollard@hmrc.gov.uk**



Key Gift Aid reminders

Nicola Adams
Director
nicola.adams@bhp.co.uk

Nicola Adams provides an overview of the Gift Aid reminders

Gift Aid Small Donations Scheme

The deadline for submission of a claim under the GASDS is two years from the end of the tax year in which the small donation was made. Any donations collected under the scheme should not be included within Gift Aid schedules.

Overpayments

There is an option to include a 'tax adjustment' on Gift Aid claims so you can repay any previously overpaid Gift Aid. Please remember:

- the amount in the Gift Aid box is the tax amount not the donation amount.
- the tax adjustment must not be greater than the amount you are claiming i.e. the total claim is not a negative amount

Following the above rules correctly will avoid delays in your Gift Aid repayment.

Loan waivers and Gift Aid with corporate lenders

In May 2021, HMRC published guidance confirming that Gift Aid could be claimed on Waived Refunds and Loan Repayments from individuals. Previously, a waiver of debt was not eligible without funds being returned to the donor first, as Gift Aid requires a 'payment of a sum of money'.

Recently HMRC removed a section of its online guidance in this area while an internal review is carried out on Waived Refunds and Loan Repayments made by a body which is subject to corporation tax (rather than income tax). The corporation tax loan relationship rules mean that it is not possible for the amount waived to qualify for charitable donations relief.

In order to claim charitable donations relief, the charity will need to repay back the loan and the corporate lender make a separate 'payment of sum of money' as a donation to the charity. The company deducts the donation from its taxable profits before calculating its Corporation Tax liability. The donation is therefore made gross of tax and the charity does not claim back any tax from HMRC.

CSR - Summer roundup

Rachelle Rowbottom
Partner
rachelle.rowbottom@bhp.co.uk

BHP volunteering

In our last issue, we brought you news of our summer of volunteering, having planned a programme of group activities across Yorkshire and North Derbyshire.

We told you about three volunteering days that had been organised in the summer, and five further events have now taken place including:

- Arkwright Society at Cromford Mills in Matlock
- Marie Curie UK in Bradford
- Rothwell Country Park in Leeds
- Moss Valley Woodlands in Sheffield
- Centenary Riverside, Rotherham.

Watch our video **here.**

BHP Charity Walk 2023

Following the huge success of the BHP Yorkshire Three Peaks Challenge last year, we decided to organise another big fundraising challenge. So earlier this month, we donned our walking boots and headed to the Peak District National Park.

On Friday 6 October, a team of 34 trekked more than 19 miles (31km) around the Ladybower, Derwent and Howden reservoirs in Derbyshire. The charity walk took in landmarks such as Slippery Stones, Haggwater Bridge and Derwent Dam — the site where pilots famously practised for the 'Dambusters' raids in World War II.

Our team were all walking to raise money for the British Red Cross, as well as a number of other charities close to their hearts. We're delighted to share that we collectively raised more than £6,000 for worthy causes across the UK.

Tree planting

We're pleased to announce that BHP has introduced a new initiative and will now plant four trees for every new client we take on. This is part of our ongoing pledge to pursue sustainable business practices and reduce our global carbon footprint.

Planting more than 100 trees per month will enable us to offset an element of our carbon footprint and give back to the carbon initiative globally on our ultimate journey to achieving net zero.

As a business, it's just one of a number of green initiatives we've been implementing over the last couple of years. Some of the other important changes we've made include only using responsibly sourced and environmentally friendly products, installing energy-efficient LED bulbs, reducing the number of printers in our offices, making duplex our default print setting, and cutting down on the amount of printing we do overall.

BHP hosts its 15th annual Charity Conference

When?
Wednesday 8 November

Where?
The Cutlers' Hall, Sheffield

We're looking forward to welcoming you all to The Cutlers' Hall in Sheffield on Wednesday 8th November for the 2023 BHP Charity Conference.

This year's packed programme will focus on highly relevant issues facing charities. As well as providing an update on accounting, tax and VAT matters, we'll also be looking at innovative solutions to help charities to be better — better in what they do, and better in how they do it.

Our speakers include senior members of the BHP specialist charity team, together with external presenters including:

- Tony Saunders and Kathryn Burkitt, St Luke's Hospice
- Gearalt Fahy, Womble Bond Dickinson
- Chris Charlton, The Alan Turing Institute
- Chris Hannett, Cymplify
- Ben Twyman, Donorfy

Click here to view the programme of events.

We're delighted to announce that Canon Mark Titterton, Executive Chair at Derby Diocesan Board of Finance, has kindly agreed to act as Chair.

The 2022 BHP Charity Conference was a great success, with attendees writing after the event:

"A fantastic conference — interesting, informative and inspiring. Already looking forward to next year's!"

"The BHP Charity Conference is the best of its kind — considered and intelligent agenda, knowledgeable speakers and good presentation and production. I'll try to attend every year."

"It's often difficult to take the time out of your day when we've all got so much to do. However, it's a day very well spent, you'll pick up tips from the experts as well as delegates who are all in similar positions."

The closing date for booking your place is Friday 27 October, for more information please email **lucy.ellis@bhp.co.uk**

Get in touch

0333 123 7171
info@bhp.co.uk

bhp.co.uk