



Charities & Education

Legal Update

January 2020

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A very Happy New Year from Hewitsons' Charities and Education Team



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A round up of 2019 for Charities, Education and Social Enterprise

We trust you feel rested following the Christmas and New Year break and are now energised for the challenges and opportunities which lie ahead in 2020! There are certainly plenty of both those things, so there has never been a better time to make sure your governance is in good order and you're keeping up with changes.

To help you with that, Chris Knight and the team provide a brief round-up of some of the most important developments affecting charities in the last 12 months.

Charity Commission regulatory work

The Charity Commission conducted a number of formal inquiries and intervened in many other charities last year: the cases demonstrated both the potential for mismanagement and abuse within charities and the seriousness with which the Commission views this. One highly publicised case involved trustees being disqualified for serious misconduct at a charity and found guilty of terrorism offences involving children. There were also a variety of cases involving the disqualification of trustees over financial mismanagement, governance failings and non-compliance with Charity Commission measures. Another clear message is there are some trustees who simply do not understand their role. Our advice to charities is always to understand the requirements and address problems swiftly rather than hoping they disappear! All trustees can make mistakes, and the best way to ensure good governance is to recognise them and take steps to put things right transparently.

Data management

The General Data Protection Regulation (GDPR) has been with us for over a year, and the application of it is good to monitor. A closely related area for charities is fundraising. Early in 2019, the Fundraising Regulator reported that 59 Charities were referred to the Information Commissioner's Office (ICO) for failing to comply with requests to unsubscribe made via the Fundraising Preference Service. It is vital that your organisation complies with the provisions and principles of these regulations relating to data management. Please contact us if you require our expert help in this area.

Fundraising regulation update

The Fundraising Regulator updated the Code of Fundraising Practice. The Code sets out the responsibilities applicable to fundraising carried out by charitable institutions and third-party fundraisers in the UK. The changes include consolidation of the Code, rulebooks and legal appendices, clearer navigation by restructuring the standards into three parts and clarification of where there are differences in law in England and Wales, Northern Ireland and Scotland.

Safeguarding

During the year, the Charity Commission updated its guidance around safeguarding following feedback from users on Twitter. Updates included help in turning principles into practice and more clarity on when criminal record checks should be undertaken. The National Council for Voluntary Organisations also updated its safeguarding [guidance](#) and launched a series of free guides in a bid to make safeguarding a core value for every charity. We also all need to recognise that the regulatory understanding of safeguarding has developed in recent years from a focus which was more on children and vulnerable adults to one which encompasses trustees, volunteers, employees and anyone who

may be in contact with the charity (such as a visitor). 'Safeguarding' relates now to such a broad series of issues it will impact on every charity. If you need to review how your charity handles these matters, please contact us.

Risk

The Charity Commission published [information](#) on how to assess risk for charities working internationally, because of the particular risks that these charities face. There has been a series of incidents involving overseas charities which we have all read about in the media, so the profile of these issues is currently very high. Also as to risk, we hosted a seminar in our London office focussing on the risks faced by charities which include governance challenges, cybercrime and financial issues. We discussed how these risks can be identified and managed and if you were not able to attend but would like a copy of the notes, please be in touch.

Brexit

Still an inescapable topic! Now we are where we are, what do the risks associated with Brexit mean for the sector? A survey conducted by the Charity Finance Group found that 75% of charities have made little or no preparation for a no-deal Brexit. Whilst a no deal Brexit (or any deal which is detrimental to a charity) remains a potential outcome, it is vital charities are prepared. Issues to consider include employment, funding, contracts, supply chains and the impact of the economic turmoil. The [NCVO](#) and [Charity Digital](#) have prepared a comprehensive webpage dedicated to explaining how charities should prepare for the potential effects of Brexit. We are also ready to assist you with your risk management policies and practice.

Team news

We are very fortunate to have such interesting clients doing an amazing amount of wonderful work in the sector and it is a great privilege to support you all in this. This means our work is fantastically varied and in 2019 involved us helping with a number of mergers and succession strategies, the conclusion of a complex exemption dispute with HMRC, the redevelopment of a faith charity's campus, a governance review for the charity parent of an international group, and many dealings with the Commission for registrations, consents and serious incident management. Life is never dull!

As well as client work, we continue to support the sector with training, forums, updates and knowledge sharing in various forms. Chris Knight and Virginia Henley provided charity law expertise towards chapters in the Directory of Social Change [Community Fundraising](#) book. It is a comprehensive guide packed with case studies, strategy, planning and key activities related to community fundraising. We continued with our annual Trustees Week event with Voluntary Impact Northampton with presentations given on recent developments in charity law and the work of local charities and the challenges they face. A well-attended event with some lively discussion.

As a firm we raised money in interesting ways for some excellent charities including, Macmillan Cancer Support, Eve refuge, Cynthia Spencer Hospice and Save the Children. We and our colleagues, took on challenges such as:

- Tour de Hewitsons challenge, cycling 150 miles to all four of our offices from London to Cambridge, Milton Keynes to Northampton raising money for Cancer Research UK;
- Chariots of Fire annual charity relay race in Cambridge raising money for Addenbrooke's Charitable Trust;
- Legal Walks in Northampton, Cambridge and London;
- Christmas collection for local refuge charity Eve;

- Cycle 4 Cynthia, the annual cycle ride around the Northamptonshire countryside; and
- The Milton Keynes Midnight Moo, raising money for Willen Hospice, where Hewitsons sponsored a mile and provided over 1000 lollipops!

Advance notice: we are already beginning to think about Trustee Week 2020. This year we are planning November events in both Northampton and Cambridge to celebrate and support the work of our charity clients and other local charity trustees. More details to follow.

We hope 2020 is a successful year for you and your organisation. Do please keep in touch, we love to hear your news and to advise and help wherever we can.

The Hewitsons charities and education team.

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