



Hewitsons Charities & Education

2019 Summer Update

Absolute Client Focus

June 2019

Welcome to our latest update on news items which we hope will interest all of our charity, education and social enterprise clients.

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Digital meetings:

ACEVO, the Association of Chief Executives of Voluntary Organisations, which has a network of 1,200 individuals, is to abandon its usual annual general meetings and replace them with a digital event. As a membership organisation, it is hoped that this move will encourage and enable its members to be more proactive in holding its leadership / trustees to account. This decision came after realisation that only 16 members out of a membership of nearly 1,200 attended the AGM in 2018. By contrast, more than 250 members came to their annual conference and over 900 attended forums, special interest groups and other events in the past year. ACEVO has proposed that they will continue to engage members in their governance by ensuring that, for example, the annual report and accounts will be circulated to all members every year by posting them on the website, publicising them through their members e-news, social media and a hard copy of the summary infographic will be posted separately to members.

This is a promising development as to the future of how charities conduct annual meetings to ensure that their members are kept engaged and up to date on developments. If you are interested in adopting a similar approach, please contact our charities team.

New Code of Fundraising Practice

The Fundraising Regulator has 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 update follows a consultation held last Autumn and is focused on the style, presentation, clarity and accessibility of the Code.

The changes will come into effect in October 2019 and include:

- consolidation of the Code, rulebooks and legal appendices so that all of the standards can be found in one place;
- clearer navigation by restructuring the standards into three parts so that users can clearly identify which standards apply, according to the type of fundraising they do;
- clarification of where there are differences in law in England and Wales, Northern Ireland and Scotland; and
- transparent, jargon-free language, following an independent review by the Plain English campaign, which gave the updated Code a Crystal Mark standard.

Accept, return or refuse donations:

The Charity Commission is encouraging trustees and other interested parties to collaborate with the Commission to develop a toolkit to help trustees make decisions regarding accepting, refusing or returning donations. Donations, whether major donations or regular giving and campaign responses, are critically important for charities but vigilance is required. Anyone with an interest in this is encouraged to email guidanceandpractice@charitycommission.gov.uk.

We know that many charity trustees as a result of recent high profile scandals have been looking to update their policies. The Institute of Fundraising has revised its [guidance](#) on acceptance and refusal in order to give charities further support in preparing a consistent and considered strategy for potential risks. HMRC also has guidance on potential tainted donations which can be relevant. The charities team here at Hewitsons is available if you need further advice or assistance in drafting a suitable policy or on specific donation issues.

Whistleblowing hotline:

In response to recent criticism, the Charity Commission has established a whistleblowing hotline where current or potential whistle-blowers will receive confidential advice and assistance on how best to raise concerns and whether to escalate these to the Commission. The hotline will be run independently by Protect, a charity that specialises in whistleblowing. This is all part of the Commission's work to make it easier for charity workers and volunteers to raise concerns about the way a charity is being run and for the Commission to be alert to such issues. People wishing to contact the service can call 0800 055 7214.

Oxfam report:

Charities are being warned that 'no charity is so large, nor its mission so important, that it can afford to put its own reputation ahead of the dignity and well-being of those it exists to protect'. This comment by Baroness Stowell came as the Charity Commission published a [150-page report](#) concluding its statutory inquiry into Oxfam.

The report looked at 7000 items of evidence including the way the organisation handled the safeguarding concerns and events in Haiti and claims that the charity had attempted to cover up its internal investigations. The Chief Executive of the Charity Commission, Helen Stephenson, reported that the publicised incidents in Haiti were symptoms of a wider problem and that Oxfam had at times lost sight of the values it stands for.

The Charity Commission found that Oxfam GB repeatedly did not meet the standards expected of them. The charity was found to have a culture of tolerating poor behaviour and its commitments made to safeguarding were consistently not met.

The report by the Charity Commission together with the actions it has taken against Oxfam demonstrates that no charity, regardless of size or reputation can escape its legal duties and responsibilities. From our own experience we can say that sadly the Oxfam case is by no means isolated. If you have any concerns as to safeguarding, governance, risk management or international work, please [contact us](#).

New NCVO Trusted Charity Brand: mark of charity excellence

NCVO Trusted Charity, the new name for PQASSO, was launched on 11 June 2019. NCVO introduced a new quality mark for excellence in governance and operations with the aim of helping charities to display their high standards.

Since PQASSO launched in 1997 the brand was used by over 18,000 organisations. In 2014, NCVO took on the PQASSO brand as part of a merger with Charities Evaluation Services. Trusted Charity replaces this brand following independent market research commissioned by NCVO which asked various stakeholders, quality mark achievers and NCVO members what they wanted to see from the quality mark. One response was a clearer name. The hope is that this will improve the value of the quality standard to which charities aspire.

NCVO has invested in the process charities have to go through to achieve the mark, which now consists of an online self-assessment tool followed by an external assessment to achieve the Mark. The director of enterprise at NCVO stated that Trusted Charity is a comprehensive and user-friendly way of helping charities achieve and demonstrate excellence and provide them with the reassurance of methodical checks and help to consistently improve.

Call of diversity in the fundraising profession:

Earlier this month, the Institute of Fundraising released the results of the 'largest survey of diversity' in UK fundraising. It highlighted a severe lack of diversity and inclusion in the fundraising community. The report titled '*Who isn't in the Room*' looked at the data of 6,912 fundraisers. It explores the composition of fundraising teams and organisational practices, highlighting a lack of women in senior positions, as well as an under representation of people from Black, Asian and Minority Ethnic groups and those with a disability.

Charities are encouraged to read the report and put in place relevant recommendations which will lead to a more diverse workforce. The full report is available for download [here](#).

Excessive salaries of senior academy staff:

The Government is taking greater action to prevent unreasonable pay for senior academy school employees. As a result of a government clampdown, in the last 19 months, 213 academy trusts have been asked to justify salaries. So far, 50 academies have made adjustments to make salaries more proportionate. Academies Minister, Lord Agnew, highlights that this is a positive step and states that in the majority of cases trusts follow the rules.

In May 2019, the Chairs of Trustees at 94 academy trusts had been written to on behalf of the Academies Minister being asked to justify excessive salaries of chief executives and head teachers, some members of staff being paid over £100,000. 31 trusts have failed to provide reasonable justification for paying these salaries despite previous contact from the government. Those academies yet to respond have been told to hastily comply and provide evidence on 12 aspects of their pay policy including things like details for highly-paid staff after their impending reduction in salary.

This is a difficult area for academy trusts, to respond to Government and public pressure in a way which does not risk losing excellent senior staff or employment claims concerning any proposed changes. Do contact us if you want to discuss these issues.

Assessing risks for charities working internationally:

Charities that work internationally often face specific and higher risks: greater levels of corruption or criminal activity; broken infrastructure, presence of terrorists; potential financial sanctions, cultural challenges and heightened safeguarding challenges. There are over 168,000 registered charities in England and Wales; roughly 17,000 function internationally and not all charities can be treated the same. As a result, there is no uniform criteria for assessing risk and the onus is on charities to decide what is in the best interest of their charity.

The Charity Commission has specific guidance both on risk and working internationally and there are many agencies supporting such work. The International Charities Engagement Team has produced a risk assessment tool to make risk management easier and help to protect charities from harm. The compliance toolkit includes a risk assessment matrix which evaluates the impact, likelihood and potential controls. One aspect of the toolkit is PESTLE. The PESTLE analysis tool divides into six sections the issues which charities need to address:-

- The effect political issues could have on the wider functioning of their organisation;
- The economic stability of a country and the risks associated with the economy such as collapse, hyperinflation and how financial sanctions imposed by the UK government could impact delivery of aid.
- Social issues within the country. Health is an important outside risk that charities need to look at for staff and volunteers. Moreover, the health and social situation in the country could affect how charities manage their support and services.
- International charities will also need to consider the ways they communicate and therefore the technologies available to them. Equally, charities should look at their technological compatibility with other countries as this could cause substantial difficulties.
- Variation in legal systems between countries will influence the risk the charity faces when working internationally. This will affect the lives of the staff and volunteers, and the support charities could provide.
- The significant threat of environmental issues and climate change and contrast in terrain are risks all charities face and will need to take appropriate action to manage day-to-day services, deliveries and methods of support.

An article with helpful examples is available [here](#).

For advice and support on any of the issues covered above in relation to your charity or social enterprise [please contact](#) the Hewitsons' Charities and Education team.



This Charities & Education Update is produced by Hewitsons for existing clients of the firm to provide them with a useful summary of recent cases, journal reports and dates to be aware of. It is not a definitive statement of the law in any area. Advice should be sought from a solicitor in the Charities & Education Team at Hewitsons in respect of any information contained in this update that affects any individual matter with which you may be concerned.

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