

Charities & Education

update

ALL CHANGE FOR CHARITIES



Whilst the flow of changes from the Charity Commission has slowed in recent months, the change of government and economic climate are giving charities plenty to think about.

The new coalition government is finding its feet, but there is a great deal of uncertainty as to what

the change in government will mean for the charity sector, particularly in light of public sector spending cuts. 20 October will be a critical date for charities when the Autumn Spending Review will be announced and the charity landscape in the years to come should become much clearer. Many figures have been quoted as to the likely extent of cuts, but taking into account areas such as international aid, the NHS and education - where the extent of cuts is likely to be less than in others - many commentators believe that average cuts are likely to be in the order of 25%.

VAT increases announced in the Emergency Budget will also have a disproportionate impact on the charity sector, which is unable to recover the vast majority of VAT which it incurs.

The phrase 'Big Society' was also much used in the run up to the general election. This is about creating a wider sense of social

responsibility, and giving people and organisations the opportunity to control their own destiny by empowering them and reducing their dependence on the state. Allowing parents to run schools has been a favourite topic in the press. It remains to be seen how this will fit with the anticipated spending cuts. Reduced public sector expenditure will have a detrimental impact on charities - many will suffer reduced funding and others will see a greater demand for their services.

The government believes that the charity sector can help by looking at how it operates, improving efficiency and collaborating more effectively - collaboration is certainly also very popular with the Charity Commission, and for many charities collaboration or merger may be the only way that they can survive in the future. It remains to be seen how charities will cope with these changes, but it is clear that charities face very challenging times.

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Public benefit - arts charities and schools

In July the Charity Commission published assessments of four arts charities, including the Royal Opera House at Covent Garden and three smaller charities. It concluded that all four charities were being administered for the public benefit. Dame Suzi Leather, Chair of the Charity Commission, said that "the arts charities have shown how they are accessible to a wide range of people, which confirms their uniqueness as charities."

The Commission has also completed its work on public benefit relating to independent charitable schools. The two schools which

initially did not convince the Commission that they were providing public benefit have now submitted plans to address the issues raised and been given sufficient time to make changes. The plans used a mix of new or additional bursary assistance financed by fundraising, together with educational benefits provided in the local community.

The Charity Commission's update suggests that it is taking a constructive approach to the public benefit issue and giving charities time to address any concerns.

For further information visit www.charity-commission.gov.uk



New financial guidance for charities

The Charity Commission has recently issued updated financial guidance:

- Internal Financial Controls (CC8)
- Financial Difficulties and Insolvency (CC12)
- Charities and Reserves (CC19)
- Charities and Risk Management (CC26)

It is no surprise that the guidance all relates to issues which are important in the context of the current economic climate.

Charities need to keep their risk review up to date given funding and other pressures, and have adequate internal controls in place to protect charity funds. Trustees should also be aware of their responsibilities if the charity runs into financial difficulties - this may become a big issue for charities heavily affected by public sector spending cuts.

Charities should also keep their reserves policies under review - this can sometimes create a difficult balance between ensuring that a charity has an adequate level of resources, but not a level which is too high and might cause the Charity Commission to question whether some of these reserves might be spent on the charity's charitable purposes.

The requirement for disclosure of charity reserves information in the trustees' report is as follows:

- Statement of reserves policy.
- Level of reserves held and explanation of why they are held.
- Details of amount and purpose of designated funds.
- Likely timing of expenditure of designated funds.
- Comparison of current reserves with target level.

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VAT at 20% - is there anything a charity can do?



It won't have escaped the attention of anyone in the charity sector that VAT is going to cost most charities more from 4 January next year. But is there anything that charities can do apart from simply budget on the basis they will get less bang for their buck? Not much, but don't overlook the obvious:

- Make sure you maximise whatever scope you may have for buying at the zero or reduced rate of VAT.
- If you are in business for VAT purposes, make sure you have the best possible method for calculating how much VAT you can recover.

But you will probably still be left with a substantial increase in irrecoverable VAT on your costs. How far can you go - cash flow

permitting - in achieving one-off damage limitation by being invoiced or paying upfront? How wary do you need to be of the "anti-forestalling legislation" designed to stop those who can't recover their VAT from avoiding the increase by early invoices or prepayments?

The measures to stop "abuse" are certainly there but you can limit the effect of the increase without falling foul of this legislation if all the following are true:

- You and your supplier are not connected.
- The amounts involved are not more than £100k or, if they are, it is normal commercial practice to issue advance invoices or to make prepayments.
- Neither the supplier nor any person connected with the supplier has funded a prepayment for a supply.
- Any advanced VAT invoice is payable in full within six months, or the supply relates to a hire purchase agreement and follows normal commercial practice.

It is also wise to avoid arrangements whereby you are granted standard-rated rights or options for goods or services before 4 January 2011 and then receive the goods or services for free or at a discount after that date; the anti-forestalling is likely to apply. But where you rent land, buildings or other assets, the legislation will not apply provided the period covered by a prepayment or advance invoice is less than a year or reflects normal commercial practice.

At all times apply common sense. If you are involved in doing something that would happen even without the rate change, then your arrangement is unlikely to be surcharged. But if you are doing something that seems "smart", it may not be all that clever.

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TRUSTEE EXPENSES

During June the Charity Commission published its response to a report by an independent working party on the expenses of trustees. The Commission broadly agreed with the findings and suggestions in the report. One of the suggestions in the original report was that the Charity Commission should investigate compliance with the Charity Statement of Recommended Practice (SORP) reporting requirements for trustees' expenses. Consequently it is likely that the disclosures made in a charity's accounts will be under further scrutiny and trustees should ensure that the charity's accounting system can produce the necessary information to comply with the disclosure requirements.

What are the SORP Requirements for Disclosure in a charity's accounts?

The SORP requires that the notes to the accounts disclose the total amount of trustees' expenses in the financial year along with a comparative figure for the previous year. The amount disclosed should include amounts paid directly to the trustees as well as amounts paid directly to a third party on behalf of the trustee.

In addition, the note to the accounts should state the total number of trustees who claimed or incurred expenses during the financial year. If none of the charity's trustees have claimed expenses this fact should be stated.

Finally the notes should give a brief description of the nature of the expenses incurred - for example travel or subsistence.

What are the most common disclosure errors made?

In many charities trustees choose not to reclaim the expenses they have incurred on behalf of the charity. However if this is the case the charity should remember to disclose this fact.

Often disclosure is made of amounts reimbursed to trustees but amounts paid directly to a third party on behalf of the trustees are ignored. The SORP is clear that where costs are paid directly to a third party these amounts should be included within the figures disclosed.

Are P11Ds required for trustees?

Unless a dispensation has been granted by HM Revenue & Customs (HMRC) technically a Form P11D should be completed for each trustee detailing expense payments. In practice some charities do not do this. However to avoid possible enquiries from HMRC a charity should consider obtaining a P11D dispensation covering trustee expenses or alternatively report expenses each year on P11Ds.

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