

April 2010

In this issue:**Sector news**

Charities legislation postponed

Treasury's Gift Aid reform proposal disappoints sector

Charity Commission warns about fraudulent direct debit payments

Charity Commission campaign against late filing

Exempt charity registration delayed

Government withdraws proposed academy charity registration

New website allows charities to showcase their projects

How to connect with donors

Technical update

The future of UK GAAP

Charity Commission guidance - Updated

Tax news

Community Infrastructure Levy (CIL)

VAT news

Delay in VAT compound interest case

Scotland

Update on charitable status reviews by OSCR

Scottish reporting consultation Results

OSCR's anti-fraud strategy

ASM Horwath newsletter for organisations with charitable status**Sector news****Charities legislation postponed**

The consolidation of existing charities legislation into a single all encompassing Act has been put on hold until after the general election. Draft legislation was published in September last year by the Office of the Third Sector (OTS) and consultation launched, with the aim of completing the passage of a consolidating Act through parliament before the election. However, it was announced in February that, due to a lack of parliamentary time, this would not be possible. It is expected that the OTS will publish the consultation responses soon.

The implementation of the Charitable Incorporated Organisation (CIO) has also been delayed until late 2010 or early 2011. The broad framework for CIOs, which provide an alternative legal structure specifically designed for charities, was set out in the Charities Act 2006.

Both the Commission and the OTS have indicated that they will produce further guidance in due course. We will keep you updated on progress.

Treasury's Gift Aid reform proposal disappoints sector

Disappointment was the overwhelming reaction of the sector to a meeting of the Treasury's Gift Aid forum last month. It now seems inevitable that there will not be any real progress on Gift Aid reform before the election, but more surprisingly, the Treasury stated that any reform must be 'cost neutral'.

Charity Commission warns about fraudulent direct debit payments

The Charity Commission's investigations department issued some guidance last month on how to avoid fraudulent direct debits. The warning follows their awareness of a number of instances of this type of fraud.

The guidance, which is very practically framed, is available for download at: http://www.charitycommission.gov.uk/investigations/Fraudulent_direct_debit.asp

Charity Commission campaign against late filing

February saw the Charity Commission launch a regional press campaign to remind charities to file their accounts and annual returns on time. The campaign will be focused at local trustees - encouraging them to make sure that filing deadlines are met.

April 2010

Dame Suzi Leather, Chair of the Charity Commission said: "It's not acceptable for charities to send their annual accounts and returns late - they are accountable not just to us but most importantly to their donors, to those whom they exist to help and to the wider public. As well as being a requirement, charities run the risk of damaging their own reputations and putting off potential donors if their financial affairs are not in order."

It seems likely that the reduction in the Companies House filing deadline from ten months to nine months will drive an improvement in the timely filing with the Commission, but this continues to be an area of focus for the Commission.

Exempt charity registration delayed

A delay to the date when exempt charities will have to register with the Charity Commission has been announced in the House of Lords. The delay follows concerns regarding the possible effect on 'friends of' charities that are connected to exempt charities. Registration will now not be required until 1 June this year and a solution for these types of charities is being sought by the Charity Commission in the meantime.

Government withdraws proposed academy charity registration

After a much-publicised debate, the government decided in February to withdraw a proposal in 'The Children, Schools and Families Bill' that would have given academies exempt charity status. The decision means that academies will continue to register with, and be regulated by, the Charity Commission to ensure their independence and accountability.

The Charity Commission welcomed the move, stating: "Today's decision gives clarity and certainty for those academies which are currently registered charities and for those who will be establishing academies in the future. By keeping academies within the mainstream charity framework it avoids any confusion about their status, accountability, transparency or independence."

However, this may not be the end of the story. If the Conservatives win the general election, it is reported that they would give academies exempt status.

For more information on the Charity Commission's statement and on its guidance for academies, visit the following address:

http://www.charitycommission.gov.uk/news/pr_academies.asp

New website allows charities to showcase their projects

A new website called 'See the Difference', which will be launched in Spring this year, will allow charities to showcase, through online videos, their current and proposed projects. As seen through the televised campaigns of Comic Relief and Children in Need, the use of video can often give a far more emotive insight into the work of charities, and this site should widen access to this type of campaigning and fundraising.

'See the Difference' is itself a charity and offers free training, mentoring and dedicated producers to help produce videos with real impact. The site will allow

April 2010

visitors to search videos based on a number of criteria, including the location and duration of the project. Whilst the videos play, links will be displayed to allow donations and it is intended that update videos will be posted as projects progress to show donors how they are contributing.

The site address is: <http://www.seethedifference.org>

How to connect with donors

The Charities Aid Foundation (CAF) published the results of a survey into what the general public and CAF customers think charities should be doing during the current difficult economic times. The results of the survey are useful as they offer possible strategies from a source independent of the sector, as well as providing insight into how to ensure that charities are seen positively by donors during a time when income streams are under pressure.

The findings show that the vast majority of respondents expected charities to behave differently during the economic slowdown, and also that increased prudence and efficiency with regard to how funds were spent are key. Effective communication was also stated as vital during this period.

The report can be downloaded from:

<http://www.cafonline.org/Default.aspx?page=18778>

Technical update

The future of UK GAAP

The Accounting Standards Board's (ASB) consultation on the future of UK Generally Accepted Accounting Practice (UK GAAP) has now closed. Responses to the consultation questions were received from over 150 organisations and individuals, including a number of charities, academics, professional bodies, listed companies and professional advisers.

The ASB will hold an event later this year to share its initial analysis of the responses, as well as how the process might be taken forward.

We suspect that the sheer volume of responses is likely to make this quite a challenging task! We will keep you up to date with developments in future Charity Alerts.

Details of the responses are available at:

<http://www.frc.org.uk/asb/press/pub2228.html>

Charity Commission guidance updated

The Charity Commission has recently published its third SORP information sheet that covers heritage assets. The document provides guidelines for the application of 'Financial Reporting Standard 30 – Heritage Assets' (FRS 30) in the context of the SORP.

April 2010

The guidance notes that FRS 30 and the SORP are broadly consistent with each other, the only significant difference being some additional disclosure requirements in the FRS. These are outlined in the information sheet, which can be downloaded at: <http://www.charitycommission.gov.uk/investigations/sorp/infosheet3.asp>

The Charity Commission has also just released updated versions of its guidance *Hallmarks of an Effective Charity* and *The Essential Trustee*. The updates relate to good practice recommendations on environmental responsibility and sustainability.

Details of the update and the new versions of the guidance can be downloaded at: http://www.charitycommission.gov.uk/publications/hallmarks_update.asp

Tax news

Community Infrastructure Levy (CIL)

The draft CIL regulations were published on 10 February 2010. If agreed by the House of Commons they will come into force on 6 April 2010. The CIL is a charge on new developments. The charge will apply to any building work for which planning permission has to be obtained, including both the construction of a completely new building or the re-development of an existing building. It will apply to the net additional increase in floor space as a result of the development. The amount will be set by the local planning authority, at a number of pounds per square metre.

Exemptions:

- there will be an exemption for small developments where the gross internal area of the new build is less than 100 square metres
- charities will have mandatory exemption from the CIL, but only for buildings that will be owned by a charity and used wholly or mainly for charitable purposes. This includes leaving the building unoccupied
- the local authority will also have the power to grant relief at its discretion where a charity or charities will be using a development wholly or mainly as an investment. The discretionary relief will not apply if the part of the building to be used as an investment is used for any trading other than the sale of donated goods. As with the discretionary 20% relief from business rates, charities will need to apply to the local planning authority which will decide whether or not to grant the relief
- there will be an exemption for social housing even when not let by a charity.

There is no exemption where:

- the building is owned by a charity's trading subsidiary, and use by a trading subsidiary of a building will not count as charitable use
- a building is owned jointly by a charity and a non-charity
- the exemption would count as State Aid.

April 2010

The relief will be clawed back if the development ceases to qualify (e.g. if the building ceases to be used for charitable purposes) within seven years of the commencement of development.

VAT news

Delay in VAT compound interest case

The Court of Appeal decision on the 'Vicglo' case, which will decide the principle of whether compound interest will be payable on 'Conde Nast' claims has been postponed until a similar Corporation Tax case 'FII litigation' has been decided.

Unfortunately, a decision is not expected in that case until late April at best and, if it is referred to the European Court of Justice, the delay may become years rather than months. The wait for the decision that could see many charities' claims increase several fold goes on...

Scotland

Update on charitable status reviews by OSCR

The Office of the Scottish Charity Regulator (OSCR) published an update on the progress of its charitable status reviews (the Scottish equivalent of public benefit reviews by the Charity Commission in England and Wales) during February. An interesting aspect of the report is the acknowledgement that, in line with the guidance from the Charity Commission, provision of free benefit within a charity's objects could assist in supporting charitable status. Provision of education to pupils from other schools and allowing use of sports facilities and similar measures are being considered as contributors towards a school's charitable status. This will be of particular interest to independent schools.

The full report can be downloaded from:
<http://www.oscr.org.uk/NewsItem.aspx?ID=1ed627ad-7906-4813-94a4-299857c4a873>

Scottish reporting consultation results

In the October issue of *Charities Alert* we reported that OSCR was carrying out a consultation on proposals to update the requirements for reporting to it, as well as some of the aspects of how the charities' register would work. The consultation closed at the end of last year and the results have now been published on OSCR's website.

The proposals made by OSCR have met with largely positive responses and plans to implement them are now in progress, with most changes likely to come into effect during 2011.

April 2010

The report can be downloaded at:

<http://www.oscr.org.uk/NewsItem.aspx?ID=738060ec-2fff-4313-8aec-822d4e8219ab>

OSCR's anti-fraud strategy

In February, OSCR launched its anti-fraud strategy. Its Chief Executive, Jane Ryder, noted that although experience suggested that fraud was rare in Scottish charities, the trust that the public have in charities makes prevention of fraud particularly important. The document, which is available to download via the address below, outlines trustees' responsibilities with regard to fraud, as well as detailing some areas particularly vulnerable to fraud, including fundraising and doorstep collections.

<http://www.oscr.org.uk/NewsItem.aspx?ID=00f26dfa-7da6-4826-bdf2-3dd8dbb9c656>

For further information .

If you would like any further information on the contents of this newsletter please contact:

Belfast Office:

Brian Clerkin
Tel: 028 9024 9222

Brian.clerkin@asmhorwath.com

Dungannon Office:

Norman Adams
Tel: 028 8772 2139

Norman@asmdungannon.co.uk

Magherafelt Office:

Michael McAllister
Tel: 028 7930 1777

Michael.mcallister@asmmfelt.co.uk

Newry Office:

Michael O'Hare
Tel: 028 3026 9933

Michael.ohare@asmnewry.com

This guidance is published without responsibility on the part of ASM Horwath for loss occasioned to any person actioning for refraining from action as a result of any information contained therein. © ASM Horwath April 2010. ASM Horwath is a brand name used by a number of separate Limited companies, namely,

ASM Horwath (A) Limited, ASM Horwath (S) Limited, ASM Horwath (M) Limited and ASM Horwath (J) Limited.