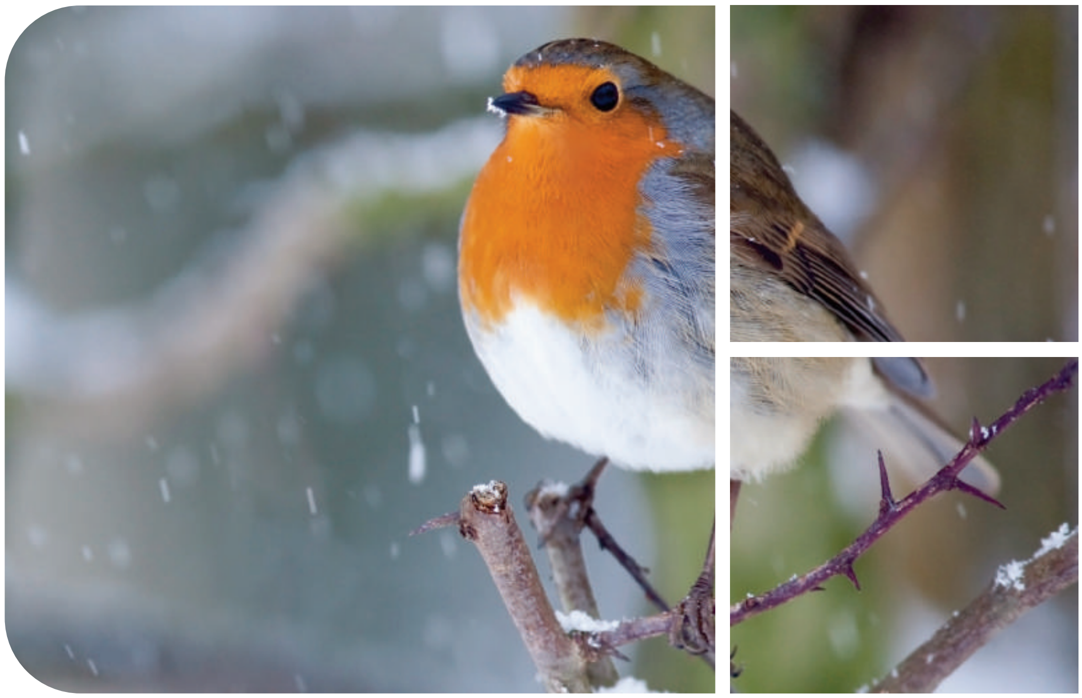
PRICE BAILEY | CHARITY NEWS DECEMBER 2015

GROWING AND GIVING



Specialist advice and information from the Price Bailey Charities Team

Price Bailey
CHARTERED ACCOUNTANTS

Welcome

Welcome to the December issue of the Price Bailey Charity News Letter

In this newsletter we explore the future of fundraising and gift aid. Many changes are expected as a result next year so we also explore change and whether this is a challenge for organisations.

Contents

Forthcoming events:

Our events programme starts again after Christmas. Our first event will be in conjunction with Metro Bank in January then following up with another in March. Then in February we kick off with the new Charities SORP-practical tips, examples and guidance on how to interpret the new SORP and what it means for you.

The dates of our forthcoming events are:

- Future Fundraising with Metro Bank: 12th January - to be held at Metro Bank, Cambridge (am)
- SORP Seminar: 10th February and 18th February - to be held at Price Bailey's City office (pm)
- SORP Seminar: 24th February - to be held at Price Bailey's Cambridge office (pm)
- Workplace Wellbeing with Metro Bank: 2nd March - to be held in Price Bailey's Cambridge office (pm)
- SORP Seminar: 4th March - to be held in Price Bailey's Norwich office (am)

We expect these events to be very popular so would encourage early registration to avoid disappointment. For more information or to register for these upcoming events please visit www.pricebailey.co.uk/events.

For updates and newsletters please sign up to our emails alerts at www.pricebailey.co.uk/subscribe.

Other future events will include trustee responsibilities training and grant income - advice on successful strategic grant applications.

Top Charity Auditor in the East of England Region.
Following the issue of Charity Finance magazine in December we are delighted to have topped the list of the region's charity auditors in the annual charity survey. With 100% satisfaction scores on our expertise and commitment we have climbed eight places and the results are a testament to our deep knowledge and understanding of the needs and challenges facing charities today!

Gift aid update:

This article was written by Helena Wilkinson.

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New gift aid declaration

On 21 October 2015, HMRC issued new model gift aid declaration for one off and multiple (or enduring) donations. This brings with it some good and bad news.

Let's start with the good news which is that the wording is considerably shorter and references to VAT and Council Tax have been removed. So what is the concern with the new wording? It refers to the implications on the donor if they do not pay enough tax. This element of the declaration has caused significant debate and protracted negotiation with HMRC since the summer 2013, and is softer in tone than previous proposals. There is a split view of whether this will or will not put donors off from signing declarations. The new example declaration form HMRC is as follows:

Charity Gift Aid Declaration – single donation

Boost your donation by 25p of Gift Aid for every £1 you donate

Gift Aid is reclaimed by the charity from the tax you pay for the current tax year. Your address is needed to identify you as a current UK taxpayer.

In order to Gift Aid your donation you must tick the box below:

I want to Gift Aid my donation of £______________ to:

Name of Charity ____

I am a UK taxpayer and understand that if I pay less Income Tax and/or Capital Gains Tax in the current tax year than the amount of Gift Aid claimed on all my donations it is my responsibility to pay any difference.

My Details
Title ____________________ First name or initial(s) ________________________________
Surname ____
Full Home address ____
____
____
Postcode _________________________ Date ___________________________________

Please notify the charity if you:

- **want to cancel this declaration**
- **change your name or home address**
- **no longer pay sufficient tax on your income and/or capital gains**

If you pay Income Tax at the higher or additional rate and want to receive the additional tax relief due to you, you must include all your Gift Aid donations on your Self-Assessment tax return or ask HM Revenue and Customs to adjust your tax code.

You can start using the new wording straight away but at least by 5 April 2016, so you need to look at and consider your gift aid stationery levels and prepare for when to order new stocks in time for the new deadline.

This gives little time to prepare for the changeover and remove/utilise all old stationery by that date. We understand that there will be no need to update existing declarations made prior to 5 April 2016. HMRC have also updated the enduring declaration which can be found:

https://www.gov.uk/government/publications/charities-and-casc-gift-aid-declaration-forms-for-multiple-donation

Retail gift aid

In addition, due to concerns by HMRC that volunteers and staff were not correctly applying the retail gift aid scheme, the guidance has been totally updated and rewritten to make it easier to understand. Furthermore, example letters have been created to help charities with the wording of these communications with donors which are:

- Standard method;
- Sales above £100 limit - method A;
- Sales above £1,000 limit - method B;
- Letter for the end of year - method A;
- Letter for the end of year - method B.

HMRC requires records of training volunteers and staff in retail gift aid to be retained by charities and expects charities to carry out spot checks on their operation. One bit of good news is that the new guidance has removed the wording that charities could be requited to liability if gift aid was claimed on individuals who were not a tax payer. Therefore all charities with retail gift aid need to read the updated guidance in section 3.42: https://www.gov.uk/government/publications/charities-detailed-guidance-notes/chapter-3-gift-aid#chapter-342-claiming-gift-aid-when-goods-are-sold-by-and-the-proceeds-gifted-to-charities

Finally, HMRC has updated its guidance on Audits by HMRC Charities (https://www.gov.uk/government/publications/charities-detailed-guidance-notes/chapter-7-audits-by-hmrc-charities) which explains how HMRC undertake gift aid audits, and what actions it will take on the outcome of the visit which are useful for charities to understand in order to test their own procedures. This is useful for charities to refer to so as to think about the records that they keep.

Charities paying for new fundraising regulation?

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New fundraising regulator

Many people give to charity in one way or another. Charities bring together people who are willing to donate time, money and resources by organising volunteers and fundraising to aid the causes they care about.

However there has been a lot of negative press recently concerning those charities that rely on the generous goodwill of the public to support their organisation and as a result, there are a number of developments and ongoing consultations in the sector.

The most recent report, published on 23 September 2015, was commissioned by the UK government and reviewed by a cross-party panel chaired by Sir Stuart Etherington, chief executive of the National Council for Voluntary Organisations (NCVO).

The report recommends that the current Fundraising Standards Board (FRSB) is closed down and replaced by a new fundraising regulator, provisionally entitled The Fundraising Regulator. The new regulator will be funded by charities that spend over £100,000 a year on fundraising from the public and will have strong links with the Charity Commission and Information Commissioner to ensure charities follow the rules. The review recommends a stepped levy so that those spending more on fundraising make a greater contribution.

Charities registered with the new regulator will be entitled to use a kitemark to demonstrate to the public that they adhere to the rules and charities which seriously or persistently breach the rules will be named and shamed and could be forced to halt their fundraising until problems are solved.

Currently there is no talk of financial penalties for not adhering to the rules. However the new system may be expensive for the charities called to fund it and these costs will need to be met from existing budgets. The review also recommends the creation of a new 'Fundraising Preference Service' for the public to opt out of fundraising communications. The service would also be overseen by the new regulator and would oblige charities to stop sending fundraising requests or making phone calls to those who have opted out. Members of the public would still be able to receive information from those charities they are interested in by opting to hear from them subsequently.

The message is this - fundraising must be undertaken in a responsible respectful manner that views donors as long-term partners rather than short-term opportunities and the public trust and confidence in charities must not simply be retained, but strengthened in order to secure the future of fundraising for those charities who are reliant on it.

It is important that trustees bear in mind that even when the day to day management of fundraising has been delegated to staff or volunteers, trustees still carry the ultimate responsibility and there is a reminder to trustees that they should be aware of whether the proposed fundraising activities correspond with the charity's values. The review highlights the importance of carefully considering the reputational risks and ethical implications of any method of fundraising as well as the costs involved including the financial risk and how the money raised is spent.

This new wave of regulation is being paid for by the charity, taking valuable funds away from it's beneficiaries and with The Charity Commission's new stance on proactive regulation what will charities be required to pay for next...? Helena looks at this issue in more detail in her article over the page.

Fundraising regulator and the Charity Commission – who will be paying?

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There has been a lot of activity on the fundraising front in recent months.

The draft Charities (Protection and Social Investment) Bill which originally began as increasing powers for the Charity Commission predominantly around disqualifying trustees has changed beyond recognition.

The most concerning change is the latest suggestion by Sir Stuart Etherington for this Bill to include a last minute amendment which will allow for the powers to create a Fundraising Regulator. My concerns are that such an addition to this Bill will not have been debated by the House of Lords and is perhaps too rushed and not well thought out.

We are continuously reading about self regulation where there are concerns about regulators that are acting for their members as well as regulating them. The concerns raised are about the independence of these regulators and how can they act impartially when their finances are dependent on these members. My institute, the ICAEW, and the Bar Council are examples where the members of these organisations are also regulated by the organisation and there are continuous challenges on how can they act independently without conflict arising which threatens their independence. Whether we believe this is right or wrong, here we are planning to create another one – the Fundraising Regulator.

The Fundraising Regulator is to be financed by charities themselves who spend more than £100k on fundraising, with a sliding scale of charging. So the Regulator will know who its funders are, how much they contribute to the regulator's purse and be responsible for invoicing and chasing their payments. Furthermore it will also be responsible for creating the fundraising code which will mean having representation and interaction with the same said charities with perhaps strong connections with the sector and individuals in charities who will be able to support and advise the regulator in this part of its role. As noted above, it will be responsible for regulating the same said organisations.

We are therefore creating an organisation that will be conflicted from the start. This is a nonsense. Regulators should not be directly and proportionally dependent on those who they regulate. It should be anonymised so that their independence should never be compromised. How can the regulator act totally independently if one of its greatest funders is under investigation?

There are alternative options, for example Companies House invoices all companies but this is a very small annual charge raised at the same level for all so that if one disappears it is not influenced by the loss of this small fee. Another way is for levies to be introduced which are based on the transaction and to ensure that there is no direct relationship with the regulator and regulated. These are automatically collated and passed over to the regulator. Why are we suggesting that a direct relationship with its funders is the correct way to go? The issue here is not if the regulator was or was not influenced by its funders when it made its decisions, but that it could have been. We could also see challenges on its decision making and press speculation perhaps as a result, which will not help build public confidence in charities which is one of the objectives.

Moreover, who will monitor, control and set the budgets for this regulator? One thing I have seen in my career is that regulation is expensive and can easily just grow and grow so to be seen as operating effectively. Most regulators are challenged and limited in their finances so that they cannot just add to their activities and remit but are tasked with looking at their operations to refresh and reconsider their approach as to how they deliver services within set constraints of funding. So who will ensure that the Fundraising Regulator does not just raise more finances from charities as it expands its activities and remit? There needs to be much more thought on the set up of such a new and important Regulator, what it will do, how much this will cost and how it can be funded. It may be limited in its activity by what finances are available to fund it rather than desirable.

If this is not enough, it looks like the Charity Commission is going the same way. Its strategic objectives for 2015-2018 include 'Operating as an efficient, expert regulator with sustainable funding'. There is an intention to look at alternative funding sources, including an annual charge for charities. The initial soundings from various representatives from the Charity Commission are sending mixed messages on how this will be achieved. If it plans to operate the same as Companies House with a small standard fee for filing accounts then this would not compromise its independence. However, as noted above, there are mixed messages that imply there may be a sliding scale for filing, which I fear would. There is also a worry that this is just the tip of the iceberg to more charges and fees to come in other areas. Hence again we could start to create a conflicted regulator moving forwards and its objectively may be compromised.

I have no issue with having properly constituted independent regulators but I fear that government funding constraints may be leading to a change in the direction of how regulation will work in this country and not for the better. The Charities (Protection and Social Investment) Bill is due for its second reading at the House of Commons (the date is yet to be announced), so we need to ensure that MPs are fully briefed and aware of the issues – especially if these passive powers for a Fundraising Regulator are added in at this late stage.

Is change a challenge?

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In all business today, irrespective of sector, the quotation that I often recall from my graduation ceremony is the quotation "if a business isn't changing – it's dying".

Now having been in the workforce for 10 years, I can definitely see that there is a lot of truth captured in that quote. Change affects us all both personally and professionally and this is the same for any organisation.

As an organisation changes, it is important that the risks associated with change are documented and everybody is aware of the risks that may occur and as a result are aware of the strategies in place to manage those risks effectively.

Identification of those risks at the earliest opportunity and having the right mitigation strategies in place can often result in increased cost savings to the organisation. Your internal auditors are central to this role through the providing of invaluable advice and assurance that risks are being managed effectively and also suggesting ways to further mitigate the risks materialising more effectively.

Charities and businesses are operating in an increasingly dynamic environment and face risks from an array of sources old and new, including cyber threats, privacy concerns and corporate culture clashes.

The growing list of pressure points poses serious challenges to any organisation. It includes rising stakeholder expectations (from staff to suppliers to funders to beneficiaries), the anticipated and unexpected regulatory changes and the unforeseen threats endemic in a volatile landscape.

The demands of stakeholders that an organisation engages with are always being reviewed and updated and responding to these changes is not new. What has changed is the level of reporting to external stakeholders, which has increased the need to use internal audit to provide assurance to the individual stakeholders in a consistent manner.

Investors, funders, beneficiaries, the media and regulators are increasingly requesting organisations to provide assurance on accountability and transparency. The challenge faced by organisations is to balance the needs of each stakeholder effectively and to communicate a consistent message across all forms of interaction and communication. Internal audit can help deal with the demands of these various stakeholders by ensuring that those difficult messages can be conveyed in a consistent manner. Therefore, boards want no surprises, management want partnering and value for money, funders want added value, beneficiaries want efficient, effective and caring, and regulators want independence and transparency. This may sound like a simple task, but meeting all these stakeholder expectations consistently is rarely straightforward.

The starting point is your strategy and plan which feeds into the risk management process. One paramount question that should be addressed in your risk register is the risk that an organisation is failing to meet individual stakeholder expectations.

How these risks (be they financial, operational, reputational, or strategic) are identified, measured and managed in a changing and challenging environment should be a key priority for you internal auditors . They can provide valuable feedback on your policies, processes, systems and control and assess their effectiveness for managing change whilst continuing to meet the needs of your stakeholders. This way an organisation can continue to adapt and grow "alive" for future success.

Charity Commission update

This article was written by Paul Fox.

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On 1st December the Charity Commission published its revised and updated governance framework following feedback received from an independent review.

The Charity Commission has considered its own governance arrangements and recognises that, to be able to deliver against its strategies, it needs sound corporate governance processes, systems and behaviours in place.

The independent review into the effectiveness of the governance framework at the Charity Commission made some key recommendations on improving their governance processes. Highlights included:

- Clearly defining the role of the Board and its functions - particularly in how these are exercised, the oversight and scrutiny of how they are carried out. Therefore it should be clear when the Board is decision making and exercising its powers versus the oversight of a function;
- Consideration of the timing of rotation of the Board, as the term of 6 Board members end in 2016.
- As with many charities, there is a change of disconnect between the Board and the rest of the organisation. Therefore a stronger connection between the Board and the Executive needs to be implemented so they work closely in harmony.
- More comprehensive induction of the Board.
- Strengthen practical day-to-day support of the Board.

The Charity Commission spoke at our evening seminars in July, we were delighted to be able to host them, and at these sessions they emphasised their focus going forward will be on regulation being investigations, monitoring visits and statutory enquiries. A message that continues to be spread by the Charity Commission that there must be more effort focused on compliance and accountability of the sector.

News flash on other updates:

New guidance:

- The **essential trustee (CC3) – reissued** www.gov.uk/government/publications/the-essential-trustee-what-you-need-to-know-cc3/the-essential-trustee-what-you-need-to-know-what-you-need-to-do
- Guidance on fee charging educational schools issued on 22nd October 2015 www.gov.uk/government/publications/charging-for-services This provides guidance, primarily for independent schools, on how to fulfill public benefit and on how sharing facilities with local state schools can help.

Other recent updates:

- Report issued on high governance costs (more than 20% of total expenditure) which can be found at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/477927/amr_high_governance_costs.pdf This report highlighted that many mistakes were made by charities in analysing out governance costs and of those reviewed, not many should have had such high costs.
- Act by the Charity Commission best interest and how to avoid making common mistakes issued on 13th November 2015. This explains that its about doing the right thing as a trustee and how you can achieve that.

Autumn Statement

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Summary of November Autumn Statement

There have been a few announcements that affect charities and NFP organisations in the Autumn Statement announced on 25 November 2015:

- Charity Commission budget held at £20M per year until 2019/20;
- Big Lottery Funds continue unaffected to support work of hundreds of small charities;
- VAT on sanitary products - £15M of VAT raised will create a new fund to support women's charities. Initial £5M allocated to The Eve Appeal, SafeLives, Women's Aid and The Haven. Further allocations will be announced in the Budget so bids from other women's charities are requested to apply for these funds;
- £25M banking fines allocated to support predominately military charities but also other causes such as £1.5M to Great Ormond Street Charity;
- £20M a year of new social impact bonds
- Sixth form colleges will be able to become academies so they can save cost of VAT:
- Museum and galleries –funding will be maintained so they remain free to the public and the government will look at a new tax credit to support exhibitions
- New apprenticeship levy of 6.5% on employers: paybill from April 2017 and each employer has a credit up to £15,000 to offset against this levy;
- Gift Aid Donation Scheme – to be reviewed for its effectiveness with a call for evidence starting in December; and
- Right to buy pilot – government will launch a right to buy pilot with five housing associations so as to inform the design of a new scheme which will commence from midnight on 25 November.

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