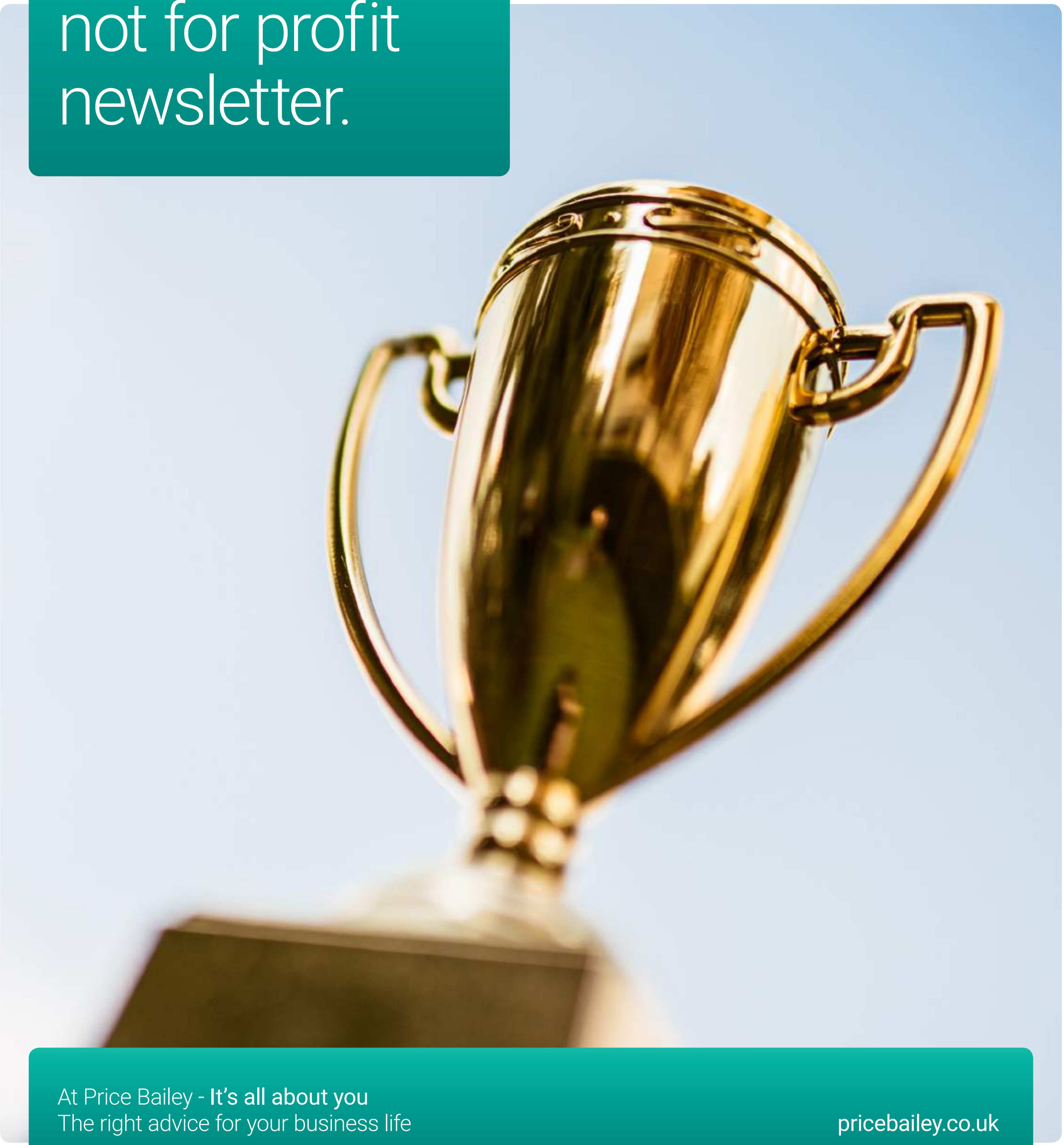
Price Bailey
CHARTERED ACCOUNTANTS

Charity Times

Charities and not for profit newsletter.



At Price Bailey - **It's all about you**
The right advice for your business life

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Welcome

Welcome to the Winter issue of the Price Bailey Charity Newsletter. 2016 has been a year of changes with a new Charities Act Bill, Fundraising Regulator, Fundraising Preference Service, findings following Kids Company, coping with a new Charity SORP, several VAT cases and a raft of guidance from the Charity Commission. It is becoming increasingly difficult for charities to keep up to date and do their day job! So we have some articles to update you on some of these changes.

Finally, one of the most contentious aspects from the Charity Commission, paying for its services, is going to be consulted on this Spring. William Shawcross has been quite vocal that the Charity Commission should be paid for by charities. However there are many in the sector, us being one of them, that believe such a move seriously jeopardies the independence of the Charity Commission as a regulator. There is also concern that as funds are raised from charities then the Government tap will decrease, if not stop altogether, which would mean the sector will need to fund the Charity Commission's activities in their entirety. Therefore, whether you agree or disagree with their view, it will be important to respond to this consultation to ensure that your voice on the shape of the sector in the future is heard, as this decision will have a long lasting effect.

Contents:

We hope that you find our newsletter informative and would welcome any **feedback** you may have.

Thank you!

Price Bailey is really proud to have been voted by you as 1st for Overall Service to Charities in the Charity Finance Annual Survey published in December 2016.

We have also been announced as the winner of the 2017 Corporate Intl Magazine Global Award: 'Non-Profit Sector Advisory Firm of the Year in England' for the second year in a row.

Forthcoming event

Join us at our upcoming event on Trustees roles and responsibilities training with a particular focus on staff and volunteers.

Do you understand your role and responsibilities and how to fulfil these as a trustee? Our seminar will look at providing you with the understanding of your role, how to best discharge your responsibilities appropriately and practical tips on how to be a trustee. We will cover your responsibilities including accountability and stewardship, how to deal with the strategic aspects of managing a charity and delegation – particularly with special roles, committees and staff.

Dates & locations

14th March – London (4.30pm – 8pm)

16th March – Norwich (7.45am – 10.30am)

23rd March – Cambridge (4.30pm – 8pm)

28th March – London (4.30pm – 8pm)

For more information visit pricebailey.co.uk/events.

New Year's resolution – better reporting?

This article was written by **Helena Wilkinson**, Head of Charities.

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One of the key aspects of a charity set of accounts, to my mind, is the narrative reporting section. Yet many are far too long and wordy and lose their impact as a result.

A review of the Top 100 charities' Trustee reports over the summer for an article in Charity Finance Magazine, revealed that the average narrative report was nearly forty pages long, one was in excess of eighty pages.

The whole purpose of the Charity SORP was to improve accountability and transparency. This level of narrative reporting means that the majority of the information now being produced in the statutory accounts of charities is ignored by the public and is no longer a useful document. So let's all make it a New Year's resolution to make our reports exciting and enticing this year.

We have worked with many charities over the summer to start this process, and are still continuing to do so to change the way that information is contained in the report and its focus.

From my perspective, there is only one key element of information that needs to be covered in the narrative reporting, which can be summarised from paragraph 1.36 of the Charity SORP for larger charities:

'In particular, the report of larger charities must provide an explanation of:

- Its aims, including details of the issues it seeks to tackle and the changes or differences it seeks to make through its activities
- How the achievement of its aims will further its legal purposes
- Its strategies for achieving its stated aims and objectives
- The criteria or measures it uses to assess success in the reporting period, and
- The significant activities undertaken (including its main programmes, projects or services provided), explaining how they contribute to the achievement of its stated aims and objectives.'

The only missing element in the above is perhaps an amplification of the criteria line to make it clear that it also encompasses both the risks that will prevent the charity from achieving its objectives and how this all ties into the finances/ reserves.

If the focus of the Trustees' Report was purely on this basis, it would require you to just 'Tell Your Story' from why you exist, what you do and how you know they are doing the right things (and so how you measure this). This will shape your narrative report into being a useful and meaningful document.

You need to carefully plan your report to clearly demonstrate your purpose, your activities and what you do and the outcomes and impact this has. Too often we hear that governance in the sector is poor and this is perhaps partly because there is not enough focus on strategy at the Board level which feeds into and directs the organisation.

Obviously for Charity SORP compliance, there is other disclosure which is required such as reference and administration details (name of professional advisers etc), but this can be relegated to the back of the report, (and I mean the very end of the accounts) as long as it is there you will be compliant. So let us help you transform the way you report this year.

Forthcoming event

Join us at our upcoming event on Social media for charities – are you getting the best use of this resource?

In recent years, charities across the country have really stepped up their game and regularly use social media to highlight campaigns, reach new donors and start conversations that lead to real-world change.

From successful user-generated campaigns, to innovative ways of engaging supporters, Sushi Juggapah (Digital Content Editor, CharityComms) will showcase some of the best use of social media by charities and look at ways to ensure your organisation is ready to embrace this transformative channel.

Dates & locations

9th May – London (4.30pm – 8pm)

12th May – Norwich (7.45am – 10.30am)

17th May – London (4.30pm – 8pm)

23rd May– Cambridge (4.30pm – 8pm)

Auditors' Reports are changing

This article was written by **Paul Fox**, Senior Manager.

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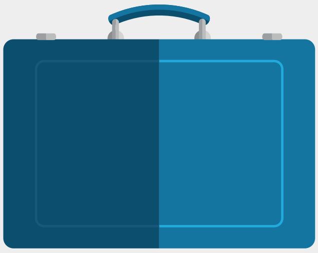
It used to be easy for incorporated charities and their trading subsidiaries. We just had to tell you if the Trustees' report (including the Strategic Report if applicable) was "consistent with the financial statements".



But, for periods commencing on or after 1st January 2016 (i.e. December 2016 year ends and beyond – many of which will be in process as you read this), we now have to conclude whether or not the Trustees' report meets company law requirements.

While we would always highlight areas where your reports were deficient, it wouldn't necessarily affect our audit opinion if you ignored our advice; but now it will.

Disclosures in Trustee/Director reports can include items such as key performance indicators, the key risks of the charity, and how the salaries of senior management are determined. As auditors we will therefore need to consider the appropriateness and completeness of such disclosures in the report and whether these are in line with the board minutes, risk registers and internal strategic documents held within the organisation.

Looking forward for years commencing on or after 17th June 2016, we will need to go one step further and consider whether the Trustees' report is materially misstated, if incorporated or otherwise. Although the full meaning of the word 'material' within this context is still to be confirmed, there are specific areas of the SORP which must be included.

So what does this mean for you?

The auditor's obligation will be to describe the areas of the report that are not considered to be compliant, and therefore it is important to consider whether the key internal considerations are being appropriately disclosed and reflected in the reports.

Our advice? Act now; perhaps it's time for that review of your external reporting that you've been putting off, and review the requirements of the SORP to ensure compliance; don't wait for us to tell you it's wrong.

New fundraising requirements in the new Charities Bill

This article was written by **Suzanne Goldsmith**, Charities Manager.

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The Charities (Protection and Social Investment) Bill (the 'Charities Bill') finished its passage through Parliament and received Royal Assent on 16 March 2016 and as a result, new rules for charity fundraising started on 1 November 2016.

They affect the Trustees' Annual Reports of larger charities that fundraise from the public, as well as the contents of the agreements that must be in place when professional fundraisers or other businesses ('commercial participators') raise money for charities. The changes will help charities to demonstrate their commitment to protecting donors and the public, including vulnerable people, from poor fundraising practices. There are two new requirements:

The first requirement applies where a charity, registered or unregistered, uses a professional fundraiser or commercial participator to raise funds. In these circumstances written agreements between charities and third parties must include extra information covering:

- The scheme for regulating fundraising or recognised fundraising standards that will apply to the professional fundraiser or commercial participator in carrying out the agreement
- How the professional fundraiser or commercial participator will protect the public, including vulnerable people, from unreasonably intrusive or persistent fundraising approaches and undue pressure to donate
- How charities will monitor the professional fundraiser or commercial participator's compliance with these requirements.

The second requirement applies to registered charities that must have their accounts audited. These charities have to include extra information about fundraising in their Trustees' Annual Report including the following:

- Approach to fundraising
- Work with, and oversight of, any commercial participators/professional fundraisers
- Fundraising conforming to recognised standards
- Monitoring of fundraising carried out on its behalf
- Number of fundraising complaints
- Protection of the public, including vulnerable people, from unreasonably intrusive or persistent fundraising approaches, and undue pressure to donate.

Various guidance documents have been produced by the Charity Commission and the Fundraising Regulator to assist organisations in understanding their responsibilities. You should review CC20 - Charity fundraising: a guide to trustee duties and CC15d Charity reporting and accounting: the essentials November 2016 which have been updated to reflect these new requirements.

However up until 31st March 2017, the Fundraising Regulator will take a flexible approach in its expectations of updated agreements between charities, professional fundraisers and commercial participators (which can include arrangements with corporates and are possibly being overlooked as falling into the remit of the Act) to take into account reasonable contingency arrangements which may be required as a consequence of the new duty. Time is running out to get these new agreements in place.

Launch of the new fundraising regulator and levies

This article was written by **Suzanne Goldsmith**, Charities Manager.

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In September 2015, Sir Stuart Etherington, the Chairman of NCVO, led a Government prompted review into the regulation of charity fundraising.

Many high profile media cases, including the death of Olive Cooke prompted the review and as a result the establishment of a new fundraising regulator was recommended, taking over the role of the Institute of Fundraising and the Fundraising Standards Board. The Fundraising Regulator officially launched on 7th July 2016 and details of its strategy, aims and objectives are posted on its website www.fundraisingregulator.org.uk.

In summary, the new Fundraising Regulator will:

- Set and promote the standards for fundraising practice ('the code' and associated rulebooks) in consultation with the public, fundraising stakeholders and legislators
- Investigate cases where fundraising practices have led to significant public concern
- Adjudicate complaints from the public about fundraising practice, where these cannot be resolved by the charities themselves
- Operate a fundraising preference service to enable individuals to manage their contact with charities
- Where poor fundraising practice is judged to have taken place, recommend best practice guidance and take proportionate remedial action.

Initially the costs of setting up the regulator were met by one-off payments from some (but not all) of the 50 biggest UK charities. Starting from September 2016, the Fundraising Regulator has begun charging a levy on any charity that is spending more than £100,000 a year on fundraising.

The levy is payable on a graded basis starting at £150 a year for charities spending between £100,000 and £149,999 on raising voluntary income rising to £15,000 for the two charities who spend over £50 million a year. The amount payable is based on figures included in 2014 Charity Commission Annual Returns and will be fixed at that level until September 2019.

Exempt charities in England and Wales are due to pay a fixed amount of £1,500 irrespective of their spend on generating voluntary income. Exempt charities include a wide range of charities such as universities, academy trusts, foundation and voluntary schools, further education corporations, certain museums and galleries and social housing providers operating as Community Benefit or Friendly societies. The rationale for a blanket fee for exempt charities is that, because they are not registered with the Charity Commission, they do not complete annual returns and an independent source of their fundraising spend is therefore not available.

Charities outside the scope of the levy can choose to voluntarily register with the Fundraising Regulator by paying a fixed fee of £50 per year.

Although the Fundraising Regulator is running a self-regulation model, it does however have a statutory 'backstop'. This means that if charities do not pay the government has powers through the Charities Act 2016 to compel a charity to pay with the force of law. And what happens if payment is still not forthcoming? It has been suggested that there might be a published list of charities that do not pay the levy. We wait to see what happens in 2017.

Despite this, all charities, whether they pay the levy or not, can register to use the Fundraising Regulators badge as a kite mark, subject to agreeing to its rules, however this comes with a fee of its own. Letters requesting payments of the levy started to go out in November 2016.

Even if your charity is not contacted to pay the levy and does not itself register to use the kite mark, you will still be bound by the Fundraising Code. Because of this it is very important, if your organisation has not done so already, to make sure that you are aware of the code and keep an eye on any changes.

The Fundraising Preference Service

Overall, the introduction of the Fundraising Regulator and Fundraising Preference Service (FPS) has caused considerable apprehension in the sector. Small charities have raised concerns that they will be unfairly hit by these new arrangements, arguing that many people will exercise their option to block all charity communications out of frustration as the volume of mail they get from large 'brand' charities, without considering the effect on smaller, local organisations.

In November 2016, the Fundraising Regulator issued its final response regarding how the FPS will work and this will is likely to take effect between spring and summer 2017. In summary the FPS will be run on the following basis:

- Individuals will be able to specify the charities they no longer want to hear from
- The opt-out will cover all charities and all forms of communication with a named individual (email, text, telephone and addressed mail)
- The process will be IT based but with a telephone service available to support those who might be vulnerable, or without IT
- The Fundraising Regulator will ensure charities are notified of suppressions (those people opting out) and that they comply, through a largely automated process
- Signposting to the Telephone and Mail Preference Services would be available
- Accompanying guidance for the public will explain how best to manage contact with charities and what the FPS will and will not do
- FPS will apply to charities based in England and Wales.

There are still quite a few unknown outcomes here though, we do not know how much this new system is likely to cost and how successful the new levy scheme will be to cover such costs. All will start to be revealed as we move into 2017.

For advice about charity regulations speak to our Charities team to see how we can help you. **Click here** to see our contacts page or you can visit **pricebailey.co.uk.**

Person with Significant Control (PSC) register update

This article was written by **Paul Fox**, Senior Manager.

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Let's start by considering control, as the PSC register is about disclosure around control.

In a 'normal' commercial entity those with significant control would be the shareholders (who are not necessarily the Directors). With an incorporated charity obviously the Trustees assume the role of Director (for the purposes of the Companies Act) but it is the Members who assume the role of shareholders, from a control perspective (in the absence of issued share capital and actual shareholders). Members may be the same as your Trustees of course.

For trading subsidiaries of charities, control (for the purposes of the PSC register) lies with the parent charity, not individual directors.

Therefore below is a useful summary as to what you might expect to see on a PSC register:

- Unincorporated charity – no PSC required as not required to follow company law
- Incorporated charity – details of all Members assuming three or fewer (i.e. all have more than 25% deemed control); and no overall control for those with four or more so no individual entries on the PSC
- Trading subsidiaries of incorporated charities – details of the parent charity as an RLE (assuming the parent is UK based and therefore required to file it's own PSC)
- Trading subsidiaries of unincorporated charities – details of the Members of the parent (subject to the same requirements above, +/- 3 Members), as the parent itself will not have a publically available PSC of it's own.

As always though this is in the absence of any other indicators of control (such as having actual shareholders in a charity or subsidiary, which is rare, but not impossible, or such issues as a highly influential Trustee or Member among the four or more, or an influential CEO perhaps, that has effective control of more than 25% on their own).

New charity fraud website launched

This article was written by **Helena Wilkinson**, Head of Charities.

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The Charity Commission have launched a new website: www.charitiesagainstfraud.org.uk.

It is a tool to help charities tackle and prevent fraud in their organisations. It has example policies such as whistle blowing and anti fraud which can be downloaded and adapted to your organisations; advice on how to deal with a fraud that has occurred including investigative interview tips as well as general advice and guidance contained in Charity Finance Group's '**Countering Fraud Manual**'.

In the '**Tackling Abuse and Mismanagement**' report produced by the Charity Commission on 20 December 2016, tackling fraud is identified as a key priority and financial crimes are common. Nearly 75% of frauds are now committed online and charities really need to consider and respond to cyber fraud risks. It is now being seen as 'the crime of our times'.

Cyber-fraud can be complex, is not easy to detect and can involve data breaches and/or identity theft. The Charity Commission guide on protection against cyber crime is a must read - the Cyber Essentials Scheme (https://www.gov.uk/government/publications/cyber-essentials-scheme-overview)

We focused on fraud in our spring edition and reiterate that Trustees need to ensure that the charity is well protected which means ensuring that your charity has:

- Financial controls in place and that these are consistently applied
- Strong financial management and good governance and
- Read the Commission's guidance on Internal Financial Controls for Charities (CC8) – this includes a summary checklist of key controls that you would expect to see in an organisation which you can assess your charity's procedures against as a benchmark.

Finally for advice on protecting your charity from fraud and financial crime, see Chapter 3 of the **Commission's Compliance Toolkit**.

Data protection and the sector – current status and issues.

This article was written by **Simon Craven**, Internal Auditor.

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Under the Data Protection Act (DPA) 1998, charitable organisations are expected to secure data gathered for use within and by their organisation in accordance with the act, which covers everyone about whom they keep personal data.

This includes employees, volunteers, service users and funders. The legislation:

- Requires organisations to register if they keep records
- Governs the processing of personal data including 'personal sensitive data'
- Requires organisations to comply with the eight DPA principles, and
- Allows employees, service users and other contacts to request sight of personal data held on them.

Every organisation should have a written policy and procedure specific to their context about how it handles personal data and enacts privacy principles. The Charities Commission expects that organisations will adhere to the principals of the DPA and also guidance from the Information Commissioner's Office (ICO). The ICO expects organisations to adhere to the eight principles and seeks to protect the rights of data subjects with advice on the principles, the subject access code of practice and the processing of data. Under Section 51 (7) of the DPA, the ICO has the power to assess (i.e. audit) any organisation's processing of personal data for the following of 'good practice', with the agreement of the data controller. This is known as a "consensual audit". Good practice is defined in the DPA as "practices for processing personal data which appear to be desirable". The ICO also issues decision notices following the outcomes of complaints and appeals made by data subjects.

The ICO can take action to change the behaviour of organisations and individuals that collect, use and keep personal information. This includes criminal prosecution, non-criminal enforcement and audit. The ICO also has the power to impose a monetary penalty on a data controller of up to £500,000.

There have been instances recently within the Charity and Not for Profit sector, where data has been inappropriately used, misused and passed on against the principals of the DPA. For example, at the Alzheimer's Society, the ICO found serious failings in the way volunteers' handled sensitive personal data.

In May 2016, it was concluded from a Fundraising Standards Board investigation, that four major charities breached fundraising rules of the Code of Fundraising (produced by the Institute of Fundraising). Two of these, Macmillan and the British Red Cross, breached industry guidelines by failing to make it clear to supporters how their contact data would be used.

Some charities are not required to register but the requirement to protect subject data still remains. Recent figures released by the ICO reveal the charitable and voluntary sector was the sixth most prevalent sector for data security incidents between April and June 2016 with 29 incidents compared with 24 incidents reported between January and March 2016. The ICO is currently undertaking a large body of work in relation to charities, particularly in respect of direct marketing. Penalties imposed in the period April to June 2016 ranged from £80,000 to £185,000.

The fall out from these instances is (and has been) bad publicity and unwarranted attention and scrutiny, potential loss of donor income and key funding streams, and loss of faith in the overall charitable aims of the organisations involved. The most pressing threats at the moment emanate from cyber attacks from unseen but well-organised predators.

In our opinion, in order to protect your organisation, there is a minimum level of attention that should be given to the key controls (environment) expected. These are:

- A sound DP policy to set the organisation's tone for dealing with Data Protection
- Data Protection procedures for staff to adhere to, subject to annual review
- Paying close attention to changes and amendments to the DPA
- Adhering to strong IT security principles within your guidance, such as an effective access protocol with strong password regime, encrypting information held on portable devices and securely deleting record when no longer required
- A regular programme of staff training and updating on how to handle data captured and data subject requests
- Testing the DP regime in order to set a level of preparedness for subject requests, breaches in data security, and ICO visits and audits (ensuring these will pass off without incident or with minimal extra work or disruption)
- Informing data subjects about what you are doing with data captured
- Signing up to the Government Cyber essentials scheme
- Having a process for updating subject information held, say on a customer relationship database
- Checking the data protection policies and credentials of any outsource data storage specialists to ensure they are trustworthy
- Making key information such as policy and procedures, key forms, references and links on how to make a data subject request, easily accessible on the organisation's website.

If you would like assistance and help with your policies or processes then do not hesitate to contact us.

References/resources:

The ICO website: has specific guidance on Data Protection for charitable bodies. It offers advisory visits to organisations for one day, with a short follow up report, as well as a useful privacy toolkit for charities ("Think Privacy for Charities"). Other links include:
ico.org.uk/media/for-organisations/documents/1575/it_security_practical_guide.pdf

ico.org.uk/for-organisations/guide-to-data-protection/it-security-top-tips/

ico.org.uk/action-weve-taken/enforcement/the-alzheimer-s-society/

The Institute of Fundraising: The Code of Fundraising Practice can be found at:
www.institute-of-fundraising.org.uk/code-of-fundraising-practice/

The Charity Commission website: Contains the personal information charter, guidance for data controllers, as well as a specific guide to trustee's duties at: (www.gov.uk/government/publications/charities-and-fundraising-cc20)

The Charity Finance group (CFG): has guidance on "Protecting data, Protecting People - a Guide for Charities" at:
www.cfg.org.uk/~/media/Files/Resources/CFDG%20Publications/Data_Protection2013.ashx

Hot off the Press

The Charity Commission has responded to criticism of not being able to find their publications and advice on their new website by collating them all in one place. If you need to find any such documents in future then go to:

www.gov.uk/government/organisations/charity-commission/about/publication-scheme

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