GEOGHEGANS
CHARTERED
ACCOUNTANTS

6 St Colme Street, Edinburgh EH3 6AD

T +44 (0)131 225 4681 F +44 (0)131 220 1132

E mail@geoghegans.co.uk www.geoghegans.co.uk

CHARITY NEWS 2020

SPRING ISSUE





Our Charity News includes useful guidance on coping with the impact of COVID-19, setting a charity's future strategy and how to report serious incidents to the Charity Regulators. We also consider the impact of recent reporting and tax developments and other pertinent issues giving you the inside track on the sector's current hot topics and latest guidance.

The newsletter is applicable to the whole of the United Kingdom and makes reference to the three UK charity regulators:

- the Charity Commission for Northern Ireland (CCNI)
- the Office of the Scottish Charity Regulator (OSCR) and
- the Charity Commission for England and Wales (CCEW).

All the articles may be of interest however to aid you we have included the following key:

Key

United Kingdom

England

Wales

Scotland

Northern Ireland



Hot topics

Coping with the impact of Covid-19

The coronavirus pandemic has had an extraordinary impact in the UK and across the World, and with charities playing an integral role in UK society they are not immune from the impact of the outbreak, with many seeing a significant drop in income, whether from fundraising or investments, whilst at the same time seeing an increase in the demand for their services. So what do trustees and charity managers need to be thinking about in these unprecedented times?

The UK Regulators

Each of the UK's Charity Regulators has issued guidance for charities on issues raised by the Coronavirus outbreak which is constantly updated as the situation changes. Trustees and charity managers should frequently refer to this to ensure that they are able to effectively manage their charity at this difficult time. This guidance can be found online as follows:

CCEW : **bit.ly/34HdeJ9**

OSCR: **bit.ly/34Epo5k**

CCNI: **bit.ly/2XEohkE**

Keeping people safe

It remains a priority for all UK charities to keep their people safe, whether it is the employees and volunteers that work for them or their beneficiaries dependent upon their services. Safeguarding is as relevant now as it ever has been before. Charities should revisit their

approach to keeping people safe, especially those working with vulnerable members of society who may be self-isolating at the current time. Procedures that enable adequate social distancing should be introduced, and where this is not possible Personal Protective Equipment (PPE) should be provided in order to minimise the risk of infection.

The UK Charity regulators are clear that it remains a requirement to report any matters of significant concern to them, especially where they relate to safeguarding issues.



Charity governance

More now than ever charities require effective management. Fortunately there are a variety of ways in which trustees can keep in contact online to hold the meetings necessary to ensure that standards of governance and oversight are maintained whilst at the same time applying social distancing principles. The holding of virtual meetings may not be in accordance with the charity's constitution, which often set out detailed procedures for the holding of meetings. Given the exceptional circumstances though the regulators have accepted that the need to hold meetings takes priority over the need to follow precise constitutional requirements. Where such an approach is followed the regulators recommend that trustees document the apparent breach and the alternative approach that is being taken as a sign of good governance.

This is true also for the holding of annual general meetings and the need to comply with statutory requirements. Trustees may find guidance recently issued by The Chartered Governance Institute helpful, which although aimed at listed entities is equally relevant for charitable organisations with large memberships. The guidance can be found at **bit.ly/2KaW6So**.

One of the matters trustees will need to consider is how the Coronavirus outbreak impacts upon the charity's strategy and plans for the future, which for many charities will need to be reconsidered in the light of the many issues the outbreak raises. Financial plans will need to be revisited in the light of falling levels of income, implications for the range of services the charity provides that best meet the charity's objectives considered and time scales for implementing changes amended where necessary. In addition the charity's investment and reserves policy may require reassessment following on from the charity's experience of how it has been affected by the outbreak.

Many charities will now be realising the importance of having a sound reserves policy that enables them to continue to meet their financial obligations during exceptional times, and may even have set aside funds using designated reserves for situations such as that which we currently find ourselves in. Trustees should remember that endowments and restricted funds must continue to only be used for the purposes for which they were provided to the charity, and accessing these funds should only be considered if other options are not possible. In such circumstances professional guidance should be sought, and the longer term impact of financial resilience and donor relationships considered.

For those charities that aren't directly affected by the outbreak and with spare resources it may be tempting to offer to assist with the response. When considering this option trustees should ensure that doing so is consistent with their charitable objectives as set out in their governing documents. Operating outside of a charity's objectives can have implications for the trustees personally if there is an apparent breach of trust. In such circumstances it may be possible to obtain a temporary extension to the charity's objectives, but this should be discussed with the appropriate regulator first. Details can be found on each of the UK Regulators' websites.

Financial support

The Government has announced a range of measures to support the UK economy throughout the outbreak, some of which charities will be able to take advantage of. Perhaps the most significant of these is the Coronavirus Job Retention Scheme, which will pay up to 80% of a 'furloughed' employee's wages, not exceeding £2,500 per month. It will also be possible to claim for support in paying the associated employer's national insurance and the employer minimum auto enrolment pension contributions on that qualifying 'furloughed' wage. To be eligible for the scheme an employee when on furlough can not undertake any work for or on behalf of the organisation, those on reduced hours or pay will not be eligible for the subsidy.

An employee must be 'furloughed' for a minimum of three weeks.

It has also been announced that VAT registered businesses will be able to defer any VAT payment due between 20 March and 30 June 2020 if they wish, without any interest or penalties being charged. VAT registered charities and their trading subsidiaries will be able to take advantage of this measure. If they do, the deferred VAT must be paid by 31 March 2021. It is still necessary for the charity to file the VAT return on time.

In addition to these measures charities will be able to take advantage of HMRC's 'Time To Pay' scheme for other tax liabilities they may have incurred if they find themselves in financial distress because of COVID-19.

Details of all of these schemes can be found on the HMRC website: **bit.ly/3eqj3ir**

In addition support specifically designed for the charity sector has also been announced by the Government, with £750 million earmarked for frontline charities across the UK. Of this amount nearly half is being allocated directly by Government departments to charities providing vital services and supporting vulnerable people during the current crisis, including hospices, St Johns Ambulance, victims charities, vulnerable children charities and Citizens Advice. The balance will be available to small and medium-sized charities to support charities at the heart of local communities that are helping to make a big difference during the outbreak, including those delivering food, essential medicines and providing financial advice. In England much of this support will be distributed via the National Lottery Community Fund. Support is also being provided by match funding amounts raised by the BBC's Big Night In charity appeal, with at least £20 million going to the National Emergencies Trust appeal.

Additional support has also been announced by the UK's devolved governments. In Scotland the Third Sector Resilience Fund has been launched to support organisations who are at risk of closure due to a fall in income or are unable to deliver their services due to the outbreak through the provision of grants and interest-free loans. Information on this scheme and other sources of funding in Scotland can be found on the SCVO website: **bit.ly/2Ka7jmd**

In Northern Ireland the Government is supporting the local Community Foundation by providing match funding for community organisations working with older people to help them deliver support at this time, details can be found on the CFNI website: **bit.ly/2RJN9Ue**

Other Community Foundations across the UK are also looking to support charitable organisations that are currently experiencing financial difficulty, details can be found on your local Community Foundation's website.

Accounting guidance

The Coronavirus outbreak has a number of reporting issues for charities when it comes to preparing their annual report and accounts. This is true both for past accounting periods that have already ended but for which the accounts have not yet been approved by the trustees, and for accounting periods that have not yet ended. In response the SORP Committee has produced a helpful guide to the various reporting issues that trustees will need to consider.

The guidance sets out how to reflect the impact of the outbreak in the trustees' report for issues such as a fall in fundraising income or changes in demand for the charity's services, and how the charity is responding. It also addresses the accounts themselves, covering issues such as going concern, the impact on the measurement of provisions and the disclosure of post balance sheet events. A copy of the guidance can be found using the link below: **bit.ly/2RDSLzq**

All of the UK Charity Regulators, and Companies House, have stated that they are taking a more relaxed approach to accounts filing deadlines at present, as well as with other filing requirements such as the annual return. You will need to notify the relevant regulator(s) though before your accounts filing deadline in order to take advantage of this. Details can be found on each regulator's website.

Looking forward

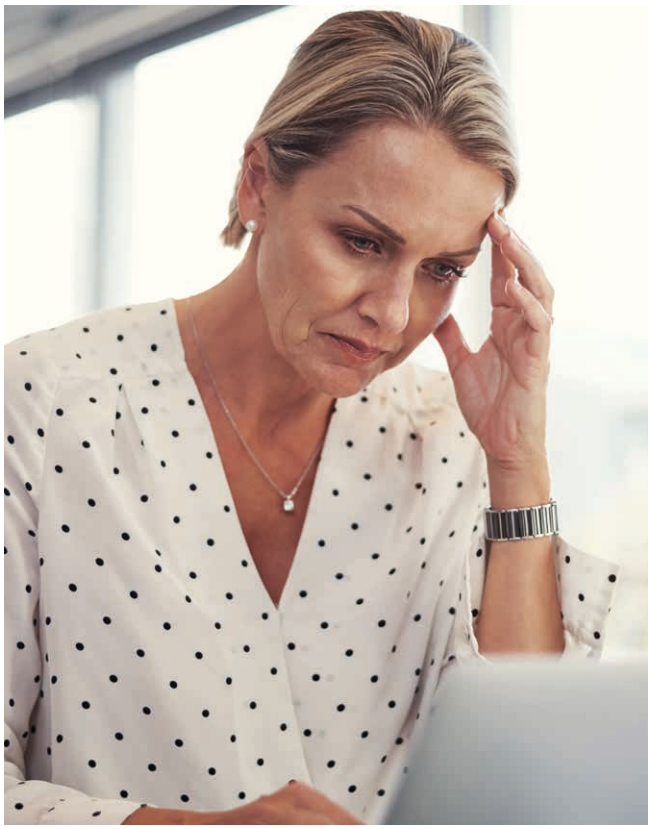


A key part of the role of the board of trustees is to set the charity's strategy, to plan what the charity will do and what it will achieve. With the start of a new decade many charities will currently be re-evaluating their strategies, yet planning has never been more difficult in these uncertain times. Prior to the Coronavirus outbreak the political situation in the UK may have appeared to have become more settled, with last year's general election and with Brexit achieved. The nature of the UK's ongoing relationship with the EU remains to be seen, and ongoing global issues such as the coronavirus outbreak and the climate emergency continue to dominate the headlines. One thing is certain though, the need for an effective charitable sector remains.

To help trustees plan for the future the National Council for Voluntary Organisations (NCVO) has recently published 'The Road Ahead', an analysis of the changing operating environment for anyone working in the voluntary sector. Using a PEST analysis, the report highlights the key issues impacting on the sector in four areas - political, economic, social and technological, as well as an overall commentary setting out how these areas might combine to shape the future of the sector.

A useful tool for charities that may not have the skills to undertake a PEST analysis themselves, or maybe just a timesaving device for others, charities can use the report and tailor it to their own circumstances, highlighting the issues of greatest relevance or even adding additional bespoke issues that the report does not refer to, such as local factors specific to the charity's work. This can then help the trustees' formulate their plans for the charity, identifying both the challenges and potential opportunities that will help enable the charity to prosper over the coming months and years.

Guidance: **bit.ly/2Qi0rXB**



Serious incidents involving a partner

Trustees are required to report serious incidents to their regulator which materially affects the charity, its staff, operations, finances or reputation. The CCEW has now published new guidance to help charity trustees determine when to report incidents involving the charity's partners as a serious incident. In this context partners includes the following:

- a delivery partner or sub-contractor of the charity
- a subsidiary trading company of the charity
- an organisation that receives funding from the charity or
- another charity or organisation that is linked to your charity, for example as part of a federated structure.

The guidance makes clear that the need to report will be most likely when there is a close link between the charity and the incident due to the incident involving the charity's funds, brand, people or an activity that the charity funds or is responsible for. Trustees will still need to consider how significant the impact of the incident is before they make a report, and the starting point will be consideration of whether the incident would need to be reported if it had arisen in the charity itself. Where the charity and the partner share the same branding, the public may be unable to distinguish between the two, and thus a report may be more likely due to the impact on the charity's reputation, for example, even if there is little financial impact on the charity itself.

Other incidents are less likely to need to be reported, but if there is a significant impact on the charity a report could be required if it may cause serious reputational damage to the charity, or raises material issues of whether it remains appropriate to continue to work with the partner. Less significant incidents, even though they may not need to be reported to the regulator, may still require the charity to consider whether there are areas for improvement or changes needed to policies or procedures.

Guidance: **bit.ly/2INanEc**

How to report serious incidents

For some time, the charity regulators across the UK have been concerned that not enough serious incidents are being reported to them, despite there being a legal obligation placed on trustees and a number of other persons to do so. To help trustees meet their duty to report serious incidents, both CCEW and OSCR have now introduced an online reporting process. This should make it easier for charities to report serious incidents in future.

Although there is no online form available, charities in Northern Ireland are still required to report serious incidents to CCNI which can be done via email.

Guidance: CCEW **bit.ly/3d5vcZi**

OSCR **bit.ly/2Wj50oq**

Preventing charity fraud

The CCEW has commissioned a major study of fraud in the charitable sector, ten years after the last similar survey took place. The study shows that whilst over two thirds of charities consider fraud to be a major risk, only 30% of charities have a whistleblowing policy and less than 9% have a fraud awareness training programme in place.

The report sets out the actions charities should undertake in order to minimise the possibility of fraud taking place, but acknowledges that no matter how good a charity's systems are there is always a risk that fraud can occur, particularly where those in a position of trust have the ability to override any procedures in place. In order to maintain public trust and confidence in the charitable sector, the report sets out eight principles of good counter-fraud practice that charities can employ to demonstrate their commitment to tackling fraud:

- fraud will always happen - being a charity is no defence
- fraud threats change constantly
- prevention is far better than cure
- trust is exploited by fraudsters
- discovering fraud is a good thing
- report every individual fraud
- anti-fraud responses should be proportionate to the charity's size, activities and fraud risks
- fighting fraud is a job for everyone.

The report includes a series of case studies that demonstrate some of the types of fraudulent activity a charity can experience, and what can be done to help stop them arising. Trustees of charities may find this helpful in developing their charity's own policies and procedures.

Guidance: **bit.ly/2IRN78c**

Safeguarding update

A new safeguarding portal has been launched by the Office for Civil Society which is aimed at helping charities across England and Wales handle the reporting of safeguarding allegations about the behaviour or actions of a person involved with the charity. The portal also provides links to guidance from a number of sources about safeguarding issues, including CCEW, the NCVO and NSPCC.

The NCVO has recently launched a range of safeguarding resources that are available free of charge on its website that will enable charities to implement procedures designed to create a safer organisation, as well as providing guidance on reporting and whistleblowing.

The CCEW has also updated its own guidance on safeguarding and protecting people for charities and trustees. It now includes guidance on when to consider obtaining Disclosure and Barring Service (DBS) checks and how to put into practice policies and procedures, as well as including new sector resource signposting.

Guidance: Safeguarding portal
safeguarding.culture.gov.uk

NCVO **bit.ly/2TRBNz9**

CCEW **bit.ly/2TToBK3**

Charitable companies and the PSC Register



Like all other limited companies, charitable companies and the trading subsidiary companies of charities are required to maintain a Register of Persons with Significant Control (PSC Register) at Companies House. Following the implementation of the Fifth Anti-Money Laundering Directive on 10 January 2020, all obliged entities must inform Companies House if the information they hold about the ownership of a company differs from that contained on the PSC Register. This obligation extends to financial institutions, auditors and external accountants, and legal advisers, as well as a number of other persons.

To be reportable, a discrepancy needs to be material in that it clearly indicates a factual error rather than say a simple spelling mistake. Reports should be made to Companies House as soon as reasonably possible.

Guidance: **bit.ly/38SB4Sv**

Documenting decisions made by trustees

A recent investigation by the CCEW has highlighted the need for trustees to ensure that adequate records are maintained of the key decisions made by trustees that demonstrate not just the decision that was reached but also the factors that were taken into account in arriving at that decision.

The investigation into Marie Stopes International and the process for determining how the remuneration of its chief executive was set was opened following concerns being raised about the amount and structure of the remuneration package for 2018. This amounted to £434,000 including a significant bonus element.

The charity's trustees accepted that the written documentation in support of the decisions made regarding the CEO's pay package was inadequate and did not demonstrate the application of the principles that trustees should follow in such situations, although they maintain that robust discussions did take place.



Trustees should ensure that they do not make the same mistakes that took place at Marie Stopes International and ensure that all decisions are adequately documented that demonstrate how they have fulfilled their responsibilities as trustees in reaching those decisions.

Guidance: **bit.ly/2wajfB7**

Benchmarking

The NCVO has launched a free online tool designed to enable small charities to undertake a basic 'health check' on how they are doing, assess the impact they have, and determine whether they are making the best use of resources. The Trusted Charity Essentials tool benchmarks the charity across ten key areas such as leadership, financial planning and communications.

Guidance: **bit.ly/2Qh4rHS**

Information for new trustees

OSCR is trialling an information and guidance pack for trustees to enable them to understand the requirements of the role and provide them with the knowledge they need to be able to run a charity effectively. The pack involves answering a few questions about the nature of the charity concerned so that it can be tailored to the specific circumstances of the role for any particular trustee, for example in response to the legal nature of the charity, or how it undertakes its charitable activity.

Guidance: **bit.ly/38VL1ys**

Accountancy and tax update

Charity SORP - Second edition

All charities across the UK not preparing receipts and payments accounts should adopt the accounting principles set out in the Statement of Recommended Practice for Accounting and Reporting by Charities ('The SORP') when preparing their financial statements. The SORP is based upon FRS102, The Financial Reporting Standard applicable in the UK and Republic of Ireland, being the underlying reporting framework that underpins Generally Accepted Accounting Practice in the UK. Regular updates are required to ensure that The SORP remains consistent with FRS102 and any changing legislative requirements, and since The SORP's initial release in 2014 there have been two Update Bulletins doing so.

There are no changes to The SORP to report in this edition of Charity News, although two new Information Sheets have been published which are considered below. A new second edition of The SORP has been published though that combines all of the past guidance into one updated document. This should make it easier for the preparers of charity accounts to find the guidance they need to ensure that they are complying with the latest requirements as they apply for accounting periods beginning on or after 1 January 2019. Copies of the second edition of The SORP can be downloaded free of charge from the SORP website.

Guidance: **bit.ly/2U7tmyF**

Charity SORP Information Sheets

Information Sheets are published by the joint SORP-making body and seek to clarify the application of the SORP, or cover matters not addressed in the SORP but are relevant to charity reporting. Two new Information Sheets have recently been published which are likely to be of use to larger charities, although all preparers of charity accounts should read them to see if there are any matters of relevance to them.

Information Sheet 3 will be of relevance to charitable companies and addresses the implications of The Companies (Miscellaneous Reporting) Regulations 2018. These new regulations require companies to include additional content on governance issues in their annual reports under certain qualifying conditions for accounting periods beginning on or after 1 January 2019, although early adoption is permitted. Most of the changes only affect those charitable companies which are considered to be large in size, so very few charities are likely to be affected by these changes, although there are also some new requirements for charitable companies that have more than 250 employees. The joint SORP-making body concluded that the changes did not give rise to any fundamental issues of principle which would require amendments to the SORP, but that some additional guidance on applying the requirements to charitable companies was required. What may be of more use for all charitable companies is the guidance on the interpretation of 'turnover' when determining a charitable company's size and the company law reporting requirements that will apply.

Information Sheet 4 will only be of relevance to those charities that participate in multi-employer defined benefit pension schemes, in relation to a recent amendment to FRS102. Again, the joint SORP-making body concluded that the amendments did not require any changes to the SORP, but some additional guidance was required. The amendments are applicable for accounting periods beginning on or after 1 January 2020, although early application is permitted. The information sheet provides some detailed guidance to those charities participating in multi-employer defined benefit plans where the current treatment of the plan is that of a defined contribution plan in the absence of detailed information for the specific charity. Where sufficient information becomes available to account for the plan as a defined benefit scheme, there will be a transition from one basis of accounting to the other; the information sheet explains the accounting requirements and associated disclosures required and includes illustrative examples.

Guidance: **bit.ly/3d4CtIU**

Future charity SORP developments

In 2019, new plans were announced that changed the way the SORP would be developed in the future. This included changes to the governance of the SORP making committee with a view to making the SORP more relevant to the needs of the charitable sector following criticism that charity accounts were becoming increasingly complex and difficult to prepare and comprehend. In February, fourteen members were appointed to a new look SORP Committee that oversees the development of the standard, and for the first time, there are representatives from organisations that work closely with charities, and there is also greater membership from smaller charities. This move is part of an attempt to make charity accounts more user friendly for the public, funders and others, as well as making their preparation easier for smaller charities. With the new committee now in place, we expect to hear more over the coming months on how the SORP will evolve to meet the needs of the users of charity accounts.

Fundraising activities

Registered charities in England and Wales that are required by law to have their accounts audited, which is generally those with incoming resources of over £1 million, are required to include disclosure on their fundraising activities as part of the annual trustees' report. A review undertaken by the Fundraising Regulator has shown that less than half of the annual reports they examined fully complied with these disclosure requirements, with common problems including limited detail on how fundraising campaigns are managed, a failure to demonstrate how the Code of Fundraising Practice is being utilised and limited explanation of how vulnerable people are protected in the organisation's fundraising work.



In a move designed to improve compliance with the existing rules, the Fundraising Regulator has now published good practice guidance for trustees of charities to enable them to better meet their reporting obligations in this area. As well as providing an explanation of what is expected in six key areas of disclosure, the guidance sets out what a good annual report would look like, including an example disclosure which can be adapted and expanded upon by charities to aid trustees in reporting on their charity's own fundraising activities.

The Fundraising Regulator has also recently published how it defines fundraising expenditure used to calculate the annual Fundraising levy payable by larger charities to support the activity of the Regulator. The definition refers to the costs incurred by a charity when individuals or third parties make contributions to the charity for its charitable purposes. It also includes any other costs related to charitable fundraising, including the cost of staging events, seeking donations and grants, operating membership schemes, advertising campaigns and contracting agents to raise funds on behalf of a charity. The definition of fundraising expenditure also includes a relevant proportion of overhead expenditure, but excludes costs related to trading activities or the management of investments.

Guidance: **bit.ly/2IOqWPY**

Reporting poor accounting practice



We have previously reported on areas of poor accounting practice identified by the CCEW when reviewing accounts submitted by them, as part of a move by them to drive up the quality of charity accounts. The CCEW has now entered into an agreement with the Association of Chartered Certified Accountants (ACCA) to refer cases of poor professional practice by accountants and finance professionals that are ACCA members which could result in disciplinary action being taken, although the aim is to raise the standard of external scrutiny work undertaken by ACCA members, as auditors and independent examiners, and to help charities comply with their accounting and legal obligations.

Guidance: **bit.ly/3b5kzUR**

Off payroll working

The rollout of the off payroll rules to the private sector, set to come in on 6 April 2020, is now on hold until 6 April 2021. This is to help organisations cope with the impact of the coronavirus (COVID-19), and the government emphasises that it is a 'deferral, not a cancellation' of the policy.

The off-payroll rules, often called the IR35 rules, were introduced because of concern about loss of tax revenue, particularly national insurance contributions (NICs), arising through the use of intermediaries in the labour chain. Intermediaries are most often a worker's personal service company (PSC), though they can also be an individual, partnership or unincorporated association. The government believes many off-payroll workers are wrongly classified for tax purposes, and should be treated as employees.

The off payroll changes will impact charities where they engage with PSCs for the provision of services, should they exceed the size criteria for a small entity. The size criteria is based upon the Companies Act definition, so to be small, and exempt from these new requirements, a charity must meet two of the following criteria:

- Annual turnover, which does not include grants and donations income, of not more than £10.2 million
- Gross assets of not more than £5.1 million
- Average number of employees of not more than 50.

From 6 April 2021, as part of these requirements, medium and large charities will be required to issue a Status Determination Statement to the worker and agency setting out the reasons for the determination, in order to avoid any misclassification and to maintain an audit trail to show that this has been done.

To help with questions around employment status, HMRC has enhanced its online Employment Status Checker Tool (CEST), although there are still reservations about its ability to cope with the nuances of real life.

Guidance: **bit.ly/2VdiFes**

Cultural tax reliefs

HMRC has published new guidance for bodies seeking to claim theatre tax relief, museums and galleries exhibition tax relief or orchestra tax relief for corporation tax. Charities providing services such as these as part of their core charitable activity are unlikely to be subject to tax in any case, but this guidance may be of use where fully-taxable trading subsidiaries are involved in providing these services.

Guidance: Theatre **bit.ly/3aRvAsG**

Museums and galleries **bit.ly/2wW4YYW**

Orchestra **bit.ly/2U8ByyB**



Gift Aid process for charities using text donations

New guidance has been published by the Association for Interactive Media and Micropayments that sets out the process for claiming Gift Aid on charitable donations made by text. Historically, Gift Aid take up on text donations has been lower than other means of fundraising, due in part to the practical issues surrounding the associated compliance requirements. By following this guidance, which has been agreed with HMRC, charities that use text donations as a way to generate income should be able to improve the amount of associated Gift Aid they will be able to claim.

Guidance: **bit.ly/2KOaiRz**

Legislative update

Employment law update

From 1 April 2020, the following changes apply:

- an increase in the National Living Wage, which for workers aged 25 and over becomes £8.72 from £8.21 (other National Minimum Wage rates apply to younger workers).

From 6 April 2020, the following changes apply:

- an increase in the standard rate of statutory pay for maternity, paternity, adoption and shared parental leave to £151.20 from £148.68 per week
- an increase in Statutory Sick Pay (SSP) to £95.85 from £94.25 per week.

Consultations

Responsible investment

Trustees have a duty to maximise the financial returns generated from investing their charity's assets, but increasingly trustees are being encouraged to do so in a manner consistent with their charity's aims. Many charities now have a policy that seeks to reconcile financial return with responsible investment, and the CCEW wants to understand what is preventing other charities from following a similar path. The CCEW note that there are clear indications of shifting public expectations on the behaviour of charities in this area, as well as evidence that responsible investment does not have to have any negative impact on the financial return.

Views on this subject are being sought from charities, investment managers and others, and should be submitted to CCEW by 30 April 2020.

Guidance: **bit.ly/2TUsKh2**

