UK200Group news
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Charity Commission updates key guidance for trustees

A new version of The Essential Trustee (CC3), the key guidance document for charity trustees in England and Wales, has been published by the Charity Commission. The updated guidance is intended to make it easier for trustees to comply with their legal duties and avoid making mistakes that could harm their charity. An overview of the guidance (Charity Trustee: What's Involved (CC3a)) has also been made available. The Essential Trustee is meant to be the first piece of guidance that trustees read. However, a recent consultation exercise suggests that at least 10% of charity trustees have not read it either within the last couple of years or at all.

Like its predecessor, the new version of The Essential Trustee uses 'must' and 'should' to distinguish between different types of requirement. 'Must' means that something is 'a legal or regulatory requirement or duty that trustees must comply with'. 'Should' means that something is 'good practice' and that trustees are expected to 'follow it and apply it to their charity'. It also makes it clear that the Commission expects trustees to be able to explain and justify their actions, 'particularly' if they decide not to follow good practice requirements. This is intended to address misconceptions among some trustees that such requirements are 'merely optional'.

The new version of The Essential Trustee is provided in a web friendly format that includes links to further guidance and uses simpler language than its predecessor. For example, rather than being informed that they have a 'duty of prudence' trustees are instructed that they have 'a duty to manage their charity's resources responsibly'.

The preliminary draft of The Essential Trustee, which was put out to consultation in 2014, defined 'should' to mean that something is good practice and that it may, if not complied with, 'constitute a breach of duty'. It also warned trustees that the Commission may ask them to explain and justify deviations from good practice and treat any inability to do so as 'evidence of misconduct or mismanagement'. This wording was criticised by the National Council for Voluntary Organisations (NVCO), the Charity Finance Group and the Association of Charitable Foundations. In a joint consultation response, these umbrella bodies said that the suggested definition of 'should' was not 'consistent with basic charity law' and claimed it could lead to good practice being 'elevated to and treated as [a] legal requirement'.

Read more about the new version of The Essential Trustee at: http://bit.ly/1Mjv326

The guidance documents can be downloaded in full at: http://bit.ly/1VaLHaQ

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public trust in third sector decreasing steadily

The UK public's trust in charities has decreased for a second consecutive year, research by nfpSynergy has indicated. Just 53% of 1,000 adults questioned by the consultancy firm earlier in April 2015 said they had 'quite a lot' or 'a great deal' of trust in charities. This is 3% less than the proportion of survey respondents who felt this way in 2014 and represents a 13% decrease compared to 2013. The lowest 'trust level' reported was in 2007, when just 42% of survey respondents had 'quite a lot' or 'a great deal' of trust in the sector. Adults in England and Wales are less likely to trust charities than their counterparts in other parts of the UK. Around two thirds of people in Scotland questioned on this subject said they trust charities, rising to nearly seven in ten people in Northern Ireland.

Commenting on the research, nfpSynergy founder Joe Saxton said that the research emphasises that charities cannot take public confidence for granted. He called for "all parts" of the third sector to work together to build trust and for organisations and individuals to listen to the public and donors. He concluded: *"We can't just tell the public how modern charities are, we also have to listen to how they would like them to be."*

The nfpSynergy research referenced above was carried out before the collapse of Kids' Company and the death of charity donor Olive Cooke. Both of these events were widely reported by the media, and nfpSynergy has promised to carry out further research in autumn 2015 to gauge the impact.

Read more about the research at: http://bit.ly/1jdJvhH And: http://bit.ly/1JrqBJh

third sector bodies amend guidance after pressure from the Information Commissioner's Office

Charity trustees in England and Wales must now ensure that any telephone fundraising for their charity complies with data protection law, following amendments to Charity Commission guidance. This includes telephone fundraising carried out by a fundraising agency or another third party on behalf of the charity. The amendments were made in August 2015 and, according to professional journal 'Third Sector', reflect changes made by the Institute of Fundraising (IoF) to its own guidance.

The IoF guidance now prohibits charities from telephoning individuals registered with the Telephone Preference Service (TPS), including former donors, unless that individual has specifically consented to receive fundraising calls. Firms registered with the corporate TPS must also have provided consent before they can be targeted by telephone fundraisers.

According to an IoF press statement, the changes to the guidance were 'specifically requested by the Information Commissioner's Office' (ICO). The statement advises all charities to make any necessary changes to their fundraising methods as soon as possible, but also expresses the IoF's concern that the ability of charities to maintain relationships with their supporters could be 'unduly' restricted.

The IoF is working with other sector bodies such as the National Council for Voluntary Organisations (NCVO) to produce new guidance for trustees and chief executives on managing and governing charity fundraising. This should be available by the end of 2015.

In September 2015, the ICO also announced that it was to investigate allegations against various charities and fundraising agencies. It described reports of illegal data sharing in the third sector as 'clearly concerning' and promised to take action if it discovered the law had been broken. However, it also warned against 'blackening a whole sector' unfairly.

Read more about the amended guidance at: http://bit.ly/1L81QJx

Read more about the ICO investigation at: http://bit.ly/1YD3SVP

in brief...

Apprenticeship levy will be payable by education charities

Large educational charities such as academy chains will not be exempt from paying the apprenticeship levy, the Department for Business (BIS) has confirmed. The levy will only apply to organisations above a certain size and will represent a percentage of their payroll costs. The threshold has not been confirmed but the Confederation of British Industry (CBI) has predicted the levy payments will be payable by organisations with 250 or more employees and could represent around 0.5% of payroll costs. A consultation on the levy opened in August and closed on 2nd October 2015. Levy payments will be used to support the Department for Business' target of three million apprenticeships by 2020.
Read more at: http://bit.ly/1NOBH1e

'Inadequate' schools more likely to improve under local authority control

Failing schools are more likely to improve if they remain under local authority control instead of becoming sponsored academies, a freedom of information request has revealed. According to official figures collected by the Department for Education (DfE) in 2015, 27% of secondary schools and 8% of primary schools that had become sponsored academies after being rated 'inadequate' by Ofsted received the same rating when inspected as an academy for the first time. In contrast, just 7% of secondary schools and less than 1% of primary schools that had been rated inadequate but remained under local authority control received the same rating when next inspected.
Read more at: http://bit.ly/1QAw5a4

DfE considering bids to help develop academies and free schools

The Department for Education (DfE) is considering bids for a £12 million contract to help develop the Academies and Free Schools Programme and support the eight Regional Schools Commissioners (RSCs). The contract details were made available in early August 2015. At the same time Prime Minister David Cameron said he wanted 'every school in the country to have the opportunity to become an academy'. Bids were accepted until 21st September and contract delivery will start on 2nd November 2015.
Read more at: http://bit.ly/1iNVgvx

Charity specific guidance issued by The Pensions Regulator

The Pensions Regulator has issued new guidance on how to assess and monitor an employer's covenant, which is their legal duty and financial ability to support their defined benefit pension scheme. The guidance will assist scheme providers to apply the Defined Benefit Funding Code. For the first time, the guidance includes a specific section relating to the not-for-profit sector. The guidance also specifies that the employers covenant will apply to pension schemes in the not-for-profit sector. However, due to the nature of some not-for-profit activities, some parts of the guidance may apply differently. The way in which organisations apply the guidance will vary depending upon the proportion of the income that is derived from donations.
For further information about the guidance, go to:
http://bit.ly/1Kzg6Yv

New digital service to connect charities to volunteers

Volunteering support charity Reach Volunteering has established a new online directory to connect skilled volunteers with charities from around the UK. The service has been set up with financial assistance from the Cabinet Office and Nesta Innovation and technical assistance from IBM. The new service allows charities and volunteers to search for each other, manage their contacts and communicate directly. Public volunteer profiles, containing the individuals' personal details such as skills and interests will be searchable to allow charities to find the specific type of volunteer they are looking for. Volunteering opportunities posted on the directory will automatically be posted on LinkedIn to enable charities to attract interest from a wider pool of volunteers.
Go to: http://bit.ly/1VfabdQ

Charity Commission plans for the 2016 annual return

The Charity Commission has announced that there will be small changes to the compulsory annual return that all charities in England and Wales are required to complete. All charities with an income of £500,000 and over will be required to disclose additional financial information reflecting changes in the new charities FRS SORP 102. There was a consultation in 2014 about whether to include a question in the annual return asking how much each charity has spent on campaigning. The Charity Commission has acknowledged that although this question would be in the public interest, it would place an unfair administrative burden on charities.
For further information go to:
http://bit.ly/1YFmlkJ

fundraising expenditure directly proportional to funds raised

The amount charities spend on fundraising is directly proportional to the amount of funds it raises, research by nfpSynergy has revealed. This is particularly true for healthcare and environmental charities, although the link between fundraising expenditure and fundraising income is weaker for religious and arts charities. nfpSynergy founder Joe Saxton cautioned charities against "simply spending more money and expecting their incomes to rise".

According to Mr Saxton, a "compelling brand proposition and strong team" are also needed to increase fundraising income.

nfpSynergy also analysed what impact changes to fundraising expenditure between 2008 and 2013 had on the amount of funds generated. Although the majority of charities increased fundraising expenditure over this six year period, some spent less or made no change. In general charities which spent more on fundraising generated more fundraising income and charities that cut down on fundraising spend generated less. However, some charities that increased fundraising expenditure actually saw their fundraising income decrease, and vice versa. When asked to explain how some charities had managed to raise more fundraising income without increasing fundraising expenditure, Mr Saxton said they may have a large number of "major donors" or a high number of volunteer fundraisers. He also suggested that charities which had increased fundraising expenditure but not experienced an increase in fundraising income might be waiting for investments to "yield results at a later date", or they might simply have made bad investments.

Read more about the research at: http://bit.ly/1MKHzdf

knilljames
chartered accountants

One Bell Lane
Lewes
East Sussex
BN7 1JU
Tel 01273 480480
Fax 01273 476941
info@knilljames.co.uk
www.knilljames.co.uk

If you would like further information on any of the articles in this newsletter, please contact Susan Foster or David Martin at the above telephone number or email sue@knilljames.co.uk or david@knilljames.co.uk

'basic errors' in annual reports

The Charity Commission has expressed concern about 'basic errors' in annual returns, after a review of nearly 450 charities' returns revealed mistakes in one in ten. Each of the charities selected for the review had reported 'unusually low' annual expenditure of less than 10% during 2011/12. Information about annual expenditure is included in Part B of charities' annual return, which is in turn only mandatory for charities with an income of £500,000 or more.

In the majority of cases (53%), the low annual expenditure could be reasonably explained by, for example, the receipt of a large one off income payment or the purchase of assets. However, in 27% of cases the annual return had been completed incorrectly as 'all or almost all' of charitable expenditure had been included in another expenditure category. Similarly, 15% of charities had underestimated their annual expenditure by including 'significant amounts' of spending that appeared to be charitable as, for example, expenditure related to raising funds. The remaining 2% had failed to report annual expenditure completely.

Michelle Russell, Director of Investigations at the Charity Commission, described the number of charities making 'basic errors in their annual reporting' as concerning. She warned readers of professional journal 'Civil Society' that this could undermine public trust and impact on how they are perceived by donors, as well as being 'a regulatory concern'.

Read more about the review at: http://bit.ly/1KSUBmS

The review document is available at: http://bit.ly/1WkGt9G