

## NFP eNews 07 SEPTEMBER 2023

Welcome to haysmacintyre's regular 'e-news alert' for charities and not for profit organisations.

### The Charity Commission updates guidance for trustees on investment policy

The Charity Commission has updated its guidance on charities and investments following its call for information and consultation on financial investments. The updated guidance reflects the judgment of the Chancery Division in *Butler-Sloss & Ors v The Charity Commission for England and Wales & Anor*, and is known as CC14.

As a reminder, the verdict clarifies that where trustees are of the reasonable view that particular investments (or classes of investments) potentially conflict with the charitable purposes, the trustees have the discretion to exclude such investments. They should exercise that discretion by reasonably balancing all relevant factors including the likelihood and seriousness of the potential conflict, and the likelihood and seriousness of any potential financial effect from the exclusion of such investments.

Lexology has published two helpful articles, one regarding the law for charities, formally known as "ethical investment," and another on the environmental, social, and corporate governance issues in light of the judgment. A full link to each article can be found below.

- [Charity trustees' powers of investment: does the Butler-Sloss decision change the law?](#)
- [New guidance on investing charity money: what part can ESG considerations play?](#)



### Fundraising: An increasing number of charities continue to ignore opt out marketing requests

Following years of strict conditions and reporting around fundraising regulations and compliance, the Fundraising Regulator has reported that there has been twice as many charities failing to action marketing opt out requests.

The regulator reported that because more charities have received a suppression for the first time this year, they have taken much longer to collect their suppressions, consequently resulting in non-compliance of responses to opt out marketing requests.

## IR35: Is HMRC operating a blanket ban on contractors?

IR35 has consistently attracted controversy since it was introduced in 2000. We have shared various updates and insights on IR35, as the complexities surrounding its application are still ongoing.

Recently, HMRC published its 2022-23 annual accounts. This showed that HMRC engaged 1,096 temporary off-payroll workers – 89% of these workers were engaged by HMRC, 10% by its agency, the Revenue & Customs Digital Technology Services (RCDS), and the last 1% by the Valuation Office Agency (VOA). Interestingly, 95% of workers were listed as not subject to IR35 off-payroll working (OPW) rules, while the rest were deemed to be within.

So, what conclusion can be drawn from the above data? It does seem to indicate that HMRC is adopting a blanket ban on contractors outside of IR35, something that is considered as 'not taking reasonable care' in determining a contractor's employment status, according to HMRC's own guidance.

For our comments and insight on the above, please see [here](#).



## Charities urged to support staff wellbeing as annual leave days decline

In what we are seeing as a consistent trend, on the backdrop of recent recruitment challenges, charities have been encouraged to focus on their employees' wellbeing, after a reported reduction in annual leave taken by sector workers.

According to [Access PeopleHR's report](#), although the average leave allowance within the charity sector has increased from 37.4 to 41.4 days (including bank holidays), an increase of 11%, the average number of annual leave days taken by charity workers has decreased. The report indicates that over the last two years, charity workers have taken 4% less annual leave days per year on average of 43.2 to 41.5 days. In comparison, staff across all sectors are entitled to an average of 34 days of leave per year, including bank holidays, which is an increase of five days a year since 2020.

## Fundraising: Meta to stop covering payment processing fees for charities

Unfortunately, from November 2023 social media giant Meta have agreed to stop covering payment processing fees for charities fundraising through its platforms. Instead, Meta will partner with PayPal Giving Fund (PPGF), who charge 30p per donation plus 1.4%. Meta advised that donors will have the option to increase their donation amount to cover third party processing fees.

Charities enrolled with Facebook Payments must accept the updated charitable donation terms by 1 November 2023 and switch to PPGF to receive donations.



## The increase in Charity Commission inquiries continues

As intimated in our last Quarterly Charities Update, the Commission has continued its recent focus on investigating individual non-compliant charities. Key themes that have been identified from these inquiries include safeguarding, financial management, administrative mismanagement, compliance failure from previous warnings, and trustee misconduct/mismanagement.

We would highly recommend taking the time to explore the key themes from these inquiries signposted below:

- [Watchdog reports on investigation into Watch Tower Bible and Tract Society of Britain](#)
- [Inquiry launched into heart disease charity](#)
- [Charity Commission opens inquiry into Dalaid](#)
- [Charity Commission opens inquiry into The Schwarzschild Foundation](#)
- [Drama school investigated by charity regulator](#)
- [Regulator's inquiry into Care4Calais](#)

## Dr Helen Stephenson announces she will step down from her position as Chief Executive at the Charity Commission

As the longest serving Chief Executive for the Charity Commission, beginning her term in July 2017, Dr Helen Stephenson has announced that she will step down from her seven year role at the end of her term in 2024. In their [announcement](#), the Charity Commission praised Helen for ensuring “meaningful change” in response to safeguarding scandals, and throughout the global pandemic and cost of living crisis. They stated further that “under her leadership, the Commission has become a better, more professional organisation and ever more effective regulator”. Whilst Helen reported experiencing some sadness leaving her role, she noted that “there is plenty still to do, and I look forward to continuing to work closely with the Board and our staff”. I’m sure we will see much more from Helen in the future.



## And finally... move over ChatGPT – here comes JustGiving...

[JustGiving](#) has started offering generative artificial intelligence (AI) technology to its users, and says it is the first major fundraising platform to do so in the UK. The platform introduced a function last week to allow fundraisers to use AI to generate a personal story as part of their pages, to encourage donations. It launched the service after finding that many fundraisers felt the task of writing their own personal stories was too daunting.

## Upcoming events

### Bi-annual School Update

Thursday 28 September 2023

15:30 - 17:00

Online

### NFP Tax and VAT Exchange

10 October 2023

Online

### Trustee Training - Charity Trustees: Roles and Responsibilities

Tuesday 17 October 2023

09:30 - 13:00

Online

### Quarterly Charities Update

Wednesday 6 December 2023

15:30 - 17:30

Online

### Trustee Training: Introduction to Charity Finance and Reporting

Tuesday 20 February 2024

09:30 - 13:00

Online

For further details on our not for profit upcoming events and to register, visit [www.haysmacintyre.com/events](http://www.haysmacintyre.com/events).

We welcome your feedback on this update and would be pleased to hear about any areas you would like to see covered in future editions. Please email [Vikram Sandhu](mailto:Vikram.Sandhu), Director, with any comments.

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