

# Covid-19 Information Sheet – Charities

This information sheet has been produced by students from BPP's Pro Bono Centre under the supervision of legally qualified staff members. The information contained in this document is accurate as of 9<sup>th</sup> April 2020. This guidance is aimed at charities registered and regulated in England and Wales.

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## General Financial Implications for Charities

### ***Can charities use reserves and restricted funds to help them through the COVID-19 crisis?***

Yes, reserves can be spent to help cope with the crisis. In the first instance, trustees should consider:

- the charities' priorities in light of the current situation;
- whether it is possible to amend the charities' financial planning; and
- whether projects, spends or activities can be stopped or delayed, so that the charity can focus on essential spending.

Charities wishing to rely on reserves and restricted funds for support, should identify which of its funds or assets have limits on their use. Depending on the type of fund the charity wishes to use, the advice is as follows:

- **Internal only funds** - *funds which do not have restrictions on their use but may be earmarked for a particular purpose by the charity.*

It may be possible to re-prioritise the use of these funds. Charities should seek professional advice where possible and contact the Charity Commission ("the Commission") for guidance.

- **Restricted funds** - *funds which cannot be spent at the discretion of the charity's trustees and may only be used for a particular and defined purpose. (For example, a fundraising appeal may restrict funds to a specific purpose, or where a charity has a permanent endowment and that endowment has restrictions on selling it to release funds).*

In some instances there may be ways to amend the restrictions. However, accessing or releasing restricted funds should only be considered if other options, such as reserves, are not possible. Before using restricted funds, charity trustees should consider:

- the wider and longer term impacts of making such a decision on the charities' financial resilience; and
- the impact on donor relationships

All decisions on such financial matters should normally be taken collectively, and significant decisions and action points noted in writing.

### ***Do charities need to file annual returns as usual?***

Wherever possible, charities should aim to submit annual returns on time. However, where the COVID-19 situation impacts on the completion of annual returns and accounts, charities with an imminent filing date can contact the Commission (or relevant regulator in their jurisdiction) to request a filing extension.

Whilst the Commission has not provided examples of what circumstances may lead to the grant of an extension, it has sought to reassure charities that its approach to regulation during this period will be as flexible and supportive as possible. The Commission will, where possible, act in a pragmatic way by taking account of the wider public interest during this unprecedented period. The Commission can be contacted in 0300 066 9197.

It should be noted, however, that the body responsible for the Statement of Recommended Practice for accounting and reporting by charities across UK and Ireland (the "Charities SORP") has stated that a disagreement as to the going concern status of their charity between the trustees and their auditor or independent examiner would not be considered a reason for non-submission of the accounts.

### ***What financial reporting duties do charities have during the COVID-19 crisis?***

The Charities SORP has issued advice for charity trustees and preparers of charity accounts on the financial reporting implications that may arise from the measures being put in place to contain the impact of COVID-19. The Charities SORP makes it clear that the advice it has provided is only guidance and is not obligatory.

The key messages of advice are:

- Where a charity is preparing a set of accounts and these have not yet been approved, trustees should consider whether information needs to be included to explain the impact of the COVID-19 crisis on their charity.
- Changes to financial statements may be needed as a result of the COVID-19 crisis and it is important that trustees understand and consider these.
- Charities should keep up to date with developing guidance from the relevant charity regulator in their jurisdiction.

The Charities SORP has also advised that when preparing their annual report, charity trustees may wish to consider:

- in reporting the main achievements of the charity, explaining how the virus control measures affected the charity's activities;
- explaining any financial uncertainties regarding the charity's financial sustainability and consideration of going concern and the steps being taken to address these uncertainties;
- explaining how the contribution of volunteers, where appropriate, assisted the charity in its work in managing in the changed circumstances;
- explaining the impact on the charity's ability to fundraise and how the trustees managed this situation;
- how the outbreak of the virus has affected staff, volunteers and beneficiaries and the implications for the charity's operations and activities for the coming year;
- how the financial and operational effects of the virus and the control measures relating to the virus affected the principal risks and uncertainties facing the charity during the reporting period;

- whether there are any implications for any existing or potential defined benefit pension liability and investments the charity holds;
- any impact on the charity's reserves policy, level of reserves and any change to designated funds set aside for future commitments;
- the likely impact of the virus control measures and potential duration of the control measures on the future aims and activities of the charity; and
- the impact of the virus-related control measures on any wider network of which the charity is a part of and how this affects the charity's operations.

## **Implications for Governance**

### ***Can charities continue with AGMs or other key meetings?***

Unless the governing document of an individual charity specifically prohibits it, key meetings can be held by alternative electronic means. Guidance from the Commission says that: "...a valid meeting normally consists of people who can both **see and hear** each other." Therefore, a telephone conference would not be deemed a 'meeting' for these purposes however platforms such as Zoom, Teams or Skype offer an acceptable solution assuming that both video and audio facilities are enabled.

If such electronic alternatives are not available, the decision may be reached that the AGM or other critical meetings must be postponed. The trustees should record this decision to demonstrate good governance of the charity. This is particularly important in the case of the AGM as it may make it difficult for the charity to finalise its annual reports and accounts.

### ***Can charities continue fundraising?***

Yes. The Fundraising Regulator (the "**Regulator**") has acknowledged that during the COVID-19 outbreak charities still need to be able to raise money. Charity incomes have been drastically hit, and demand for services for many will be increasing. Given this increase, the Regulator has stated that what is key is that fundraising continues to be carried out in a way that is respectful and follows the Code of Fundraising Practice (a link to this can be found in the Further Information section below).

#### **Person-to-person fundraising**

The Regulator has advised that following the government's social-distancing advice, charities stop all person-to-person fundraising if they have not done so already. Failure to comply with these measures may lead to fines for organisations or individuals in breach. These restrictions mean that it is not possible to carry out fundraising on the street, door-to-door, or through private site collections. These measures are in place to protect the public at large, as well as charities' own staff and volunteers.

#### **Cancelled events**

The Regulator has advised that where charities have recently had to cancel or postpone fundraising events they should:

- make sure they contact volunteers and spectators so that they are aware of the changes to the event. Charities should keep databases and communications channels up-to-date so that they can contact people, and broadcast more widely, such as through social media, as appropriate.
- consider if they need to refund donations because of a cancellation of an event. Whether or not the charity will need to, will depend on the conditions under which the donation was made. (For example, if money was donated on the condition that the fundraiser completes a marathon, donors should be asked if they are happy for funds to go to the organisation anyway, or if they want a refund. If there was no such condition attached, then refunds may not need to be made.)

- consider whether permission is needed from the Commission (or relevant regulator) to issue a refund where donations have already reached the charity prior to cancellation or postponement of an event. There is information on this topic in the Code of Fundraising Practice (see the Further Information section below).
- make sure they are clear with participants about the new arrangements for the event where it has been postponed instead of cancelled. Charities will need to have arrangements in place to work with people who cannot attend the new date, including refunding entry fees or offering alternative event entries as necessary.
- review terms and conditions to establish what donors were told about refunds at the time of donating and what expectations they have set if donations were/are received via online fundraising platforms. If charities have any queries about specific platforms they should contact them directly.
- review insurance policies they have for their events to make sure they know where they stand in light of cancellations or postponements.

### Fundraising via direct marketing

Charities may continue to carry out direct marketing by telephone, email, text message and post, however the Regulator has directed that they should:

- remind all fundraisers to keep to the principles set out in the Code of Fundraising Practice. In particular, fundraisers should be mindful that their behaviour is respectful and does not apply undue pressure, as people may be feeling unusually anxious at this time. Many people are responding to fundraising campaigns and are wanting to donate to help at this time of need. If the charity had previous campaigns and activities planned, it is worth checking the wording, images, and messages to ensure they are still appropriate.
- make sure they meet all standards in the Code of Fundraising Practice which relate to processing personal data.
- ensure their data protection officers are up to date with the latest data protection guidance published by the Information Commissioner's Office (linked in the Further Information section below) which seeks to help organisations remain compliant with data requirements.
- observe any communication preferences that individuals have indicated to their organisation.

### ***What duties do charities have to report serious incidents to the Charity Commission during the COVID-19 crisis?***

The Commission has advised that it appreciates the extremely demanding challenges the charity sector will face during the COVID-19 pandemic, and that the primary interests of charities must be looking after the public and the communities that they serve.

The Commission has advised that it is ultimately the responsibility of the charity trustees to continue to report serious incidents using the current guidelines, and that it will continue to ask trustees to use their judgment in deciding whether an incident is significant in the context of their charity and should be reported. The Commission has stated that it will continue to prioritise those incidents that place individuals at risk, or incidents that have had a significant impact on a charity's operations, and therefore serious harm to the charity's work.

### ***How can charities best manage data protection during the COVID-19 crisis?***

Charities may find themselves under pressure in maintaining data protection practices or in providing timely responses to information rights requests. The Information Commissioner's Office ("ICO") has stated that given limited resources of both finances and people, they won't penalise organisations having to adapt to the evolving circumstances. Statutory timescales

cannot be extended but the ICO will communicate the possibility of delays through their own channels during the COVID-19 crisis.

With regard to staff working from home, the ICO states that data protection should not be a barrier to more and different types of homeworking. Staff may work from home more frequently than usual and they can use their own device or communications equipment. Data protection law doesn't prevent that, but a charity will need to consider the same kinds of security measures for homeworking that they would use in normal circumstances.

### ***What is the situation regarding criminal record/DBS checks when recruiting additional volunteers during the COVID-19 crisis?***

The majority of charity voluntary roles do not require DBS certification. However if the charity works in the field of medical, social care or with children, the Home Office and the Disclosure and Barring Service (DBS) are putting temporary arrangements in place, to provide DBS checks and fast-track emergency checks of the Adults' and Children's Barred Lists free-of-charge. This will apply to healthcare and social care workers being recruited in connection with the provision of care and treatment of COVID-19 in England and Wales.

These arrangements will provide charities with the option to appoint new recruits into regulated activity with adults and/or children, as long as the individuals are not barred and appropriate measures are put in place to manage the individual until the full DBS check is received.

These arrangements do therefore allow for some flexibility, but the DBS make it clear that misuse of the fast-track provision will cause delays in deployment of health and social care personnel. See the link below for full details from the Disclosure and Barring Service.

## **Employment Issues**

BPP Pro Bono Centre have produced an additional guidance sheet that looks specifically at how COVID-19 impacts the rights of both employers and employees. That information can be found on the BPP Pro Bono Centre website at <http://probono.bppuniversity.ac.uk/blog/>.

### ***What are the rights of employees to have time off work due to the COVID-19 crisis?***

#### **Employees who need to self-isolate or care for dependants**

Employees of a charity who are unwell or need to self-isolate will be eligible for Statutory Sick Pay. This is payable to employees that are required to self-isolate, even if they are not themselves showing symptoms of COVID-19. More information on this is available in the Information for Employees factsheet.

Employees are entitled to time off work to help someone who depends on them (a 'dependant') in an unexpected event or emergency. In relation to COVID-19 this therefore applies for example if an employee has children to care for due to closure of schools or childcare setting, or a dependant who is unwell, in isolation or in hospital.

Time off for dependants leave is usually unpaid (unless employment contract terms or policies say otherwise). In view of this, employers might consider ways to allow employees to continue working whilst caring for dependants (through agreeing flexible or reduced hours) or allowing forms of paid leave to be taken, such as annual leave.

## ***Can charities get Government support to help pay staff?***

Yes. Under the Coronavirus Job Retention Scheme (“CJRS”) HMRC will reimburse 80% of employee’s wages, up to £2500 per month. As an employer, a charity must have created and started a PAYE payroll scheme on or before 28 February 2020 and have a UK bank account to apply for the scheme. Information on this scheme is covered in more detail in the Information for Employees – COVID-19 Factsheet.

### Who is eligible?

The CJRS only applies to employees or workers paid through PAYE. Furloughed employees must have been on the charity’s PAYE payroll on 28 February 2020. Furloughed employees **cannot** continue to do any ad hoc work or fundraising for the charity during their furlough period.

The following key steps should be taken when considering and designating employees as furloughed:

- employers should discuss and agree with their staff what changes will be made their employment contracts and whether they will be furloughed. When employers are making decisions in relation to the process, including deciding who to offer furlough to, equality and discrimination laws will apply in the usual way.
- once agreed, these employees must be designated as furloughed employees.
- finally, employers should write to the employee confirming they have been furloughed and keep a record of the communication.

### ***What is needed to make a claim?***

HMRC is currently building an online portal through which employers can make a claim. The online service is expected to become available by the end of April 2020.

To claim, the following will be needed:

- the ePAYE reference number;
- the number of employees being furloughed;
- the claim period (start and end date);
- amount claimed (per the minimum length of furloughing of 3 weeks);
- the charity’s bank account number and sort code;
- the charity’s contact name; and
- the charity’s phone number.

An employer will only be able to submit one claim every three weeks, which is the minimum length an employee can be furloughed for.

Once HMRC have received the claim and the charity is deemed eligible for the grant, HMRC will pay it via BACS payment to a UK bank account. HMRC will retain the right to retrospectively audit all aspects of the claim. This means HMRC can in future conduct an examination of any aspect of the claim made under the CJRS, to verify that it was made accurately and properly.

## **Further Information**

BPP Pro Bono Centre has produced a series of Factsheets looking at how COVID-19 impacts on a range of different people. All of our factsheets can be viewed on the Pro Bono Centre Blog here: <http://probono.bppuniversity.ac.uk/blog/>

## **Help and Advice**

The Charities SORP – the SORP has published guidance for trustees and preparers of charity accounts looking at the potential impact of the control measures to contain COVID-19 on financial reporting by charities. This can be found on their website here: <https://www.charitySORP.org/about-the-sorp/covid-19/>

The Charity Commission has published guidance to help advise charities on their operations during the COVID-19 outbreak. This can be found on the UK Government website, here: <https://www.gov.uk/government/news/coronavirus-covid-19-guidance-for-the-charity-sector>

The Fundraising Regulator has issued advice on fundraising during the COVID-19 outbreak which can be found here: <https://www.fundraisingregulator.org.uk/more-from-us/news/coronavirus-covid-19-advice-fundraising>

The Code of Fundraising Practice published by the Fundraising Regulator can be found here: <https://www.fundraisingregulator.org.uk/code>

The Information Commissioner's Office has published new data protection guidance to help organisations remain compliant with data requirements during the COVID-19 Outbreak which can be found here: <https://ico.org.uk/for-organisations/data-protection-and-coronavirus/>

The Charity Finance Group has compiled a guide for charity finance professionals which will be updated with new information and advice as the COVID-19 situation develops. This provides further advice and can be found here: [https://www.cfq.org.uk/coronavirus\\_guide](https://www.cfq.org.uk/coronavirus_guide)

National Council for Voluntary Organisations – the NCVO website has a wide range of advice for charities. This link takes you directly to their page addressing COVID-19: <https://www.ncvo.org.uk/practical-support/information/coronavirus>

## **Information and Updates**

The UK Government publishes a number of documents and updates as part of the ongoing response to COVID-19. These can be found on the UK Government website here: <https://www.gov.uk/coronavirus>

The National Centre for Cyber Security offers guidance on protection against online scams, which have increased during COVID-19 outbreak. This can be found here: <https://www.ncsc.gov.uk/guidance/suspicious-email-actions>

The Disclosure and Barring Service has provided guidance during the COVID-19 outbreak which can be found here: <https://www.gov.uk/government/publications/covid-19-free-of-charge-dbs-applications-and-fast-track-barred-list-check-service/fast-track-service-eligible-roles>