



In this issue we explain what to expect in the Charity Commission's second edition of SORP. We've also shared latest news on the General Data Protection Regulations (GDPR), plus the new VAT position on charities' social media advertising.

And finally, we've highlighted some common tax compliance areas, which are catching some charities out.

### SORP second edition published

The joint SORP-making body for charities has published a second edition of the SORP.

This helpfully brings together all previous updates to the first edition of the SORP into one place, including Update Bulletins 1 and 2. It is effective for periods commencing on or after 1 January 2019.

The latest SORP can be downloaded from [www.charitiessorp.org](http://www.charitiessorp.org). It is uncertain when the next SORP will be issued, but it is likely that it will be in line with any future changes to UK GAAP and so 2022-2023 is the current best guess.

### New information sheets

The SORP-making body have also published two new information sheets to assist charities in complying with the SORP. These supplement the two that have been released since 2017.

You can find the sheets at [www.charitySORP.org/about-the-sorp/helpsheets](http://www.charitySORP.org/about-the-sorp/helpsheets) but here is a helpful overview about what each covers...

#### Information sheet 3: The Companies (Miscellaneous Reporting) Regulations 2018 and UK Company Charities

As a bit of background, the Companies (Miscellaneous Reporting) Regulations 2018 made changes to the reporting

requirements in the Companies Act 2006 (CA2006) and the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008. It was effective for periods beginning on or after 1 January 2019.

Of these requirements, here are ones that particularly affect UK Charitable Companies:

- **UK Charitable Companies qualifying as large companies** – must include a statement of how the directors have complied with their duty under s.172 of the CA2006 to act in the way they consider, in good faith, would achieve the charitable purposes of the charity.

They must also include a statement explaining how the directors have engaged with suppliers, customers and others in a business relationship with the company. Charitable companies should also give consideration to how they engage with service users, beneficiaries, funders and wider community when making this statement.

- **UK Charitable Companies with more than 250 employees** – must include a statement explaining how the directors have engaged with employees and taken account of their interests. Charitable companies should also give consideration to how they engage with volunteers when making this statement.

#### Information sheet 4: Amendments to FRS 102 The Financial Reporting Standard applicable in the UK and Republic of Ireland – Multi-employer defined benefit plans

This information sheet will be useful for those charities who currently account for their pension scheme as if the plan were a defined contribution plan, but now have sufficient information to treat the plan as defined benefit.

An example being the plan administrator is now able to identify the charity's share of assets and liabilities.

The information sheet explains the transition from defined contribution accounting to defined benefit accounting and includes an illustrative example.

#### ICO launches direct marketing consultation to help charities comply with GDPR

The Information Commissioner's Office (ICO), which is responsible for policing the General Data Protection Regulations (GDPR) has published draft guidance to help charities comply with regulation around their use of data in direct marketing. Find it at <http://bit.ly/2RKZjLT>



## Charity Update: Winter 2020



### GDPR enforcement ramps up

Obviously the General Data Protection Regulations (GDPR) impacts on more than just marketing and has implications for many facets of a Charity's operations – HR, IT, Risk Management, Processes and Procedures to name but a few.

Charities often hold a wide range of personal information on employees, volunteers, service users, members, supporters and donors.

In May 2020 the GDPR will have been in force for 2 years and there have been some well publicised breaches which have resulted in large fines.

It is well worth continuing to review your processes to make sure they are fit for purpose. If you haven't already, do read the ICO's GDPR guide at <http://bit.ly/2NWKqoD> - also monitor developments as the ICO enforces GDPR. This will give even further clarification on how to interpret and adhere to the regulation.

As a reminder, here's a checklist of areas which Charities should certainly consider from a GDPR compliance perspective.

### Accountability and governance

You must be able to demonstrate compliance.

### Compliance with the six data processing principles across the organisation

Expect to be able to prove that personal data is being:

1. Processed lawfully, fairly and transparently
2. Collected only for specific legitimate purposes.
3. Adequate, relevant and limited to what is necessary.

4. Accurate and, where necessary, kept up to date.
5. Stored only as long as is necessary.
6. Processed in a manner that ensures appropriate security

### Lawful processing

Personal data can only be processed:

- If the data subject has given their consent.
- To meet contractual obligations.
- To comply with legal obligations.
- To protect the data subject's vital interests.
- For tasks in the public interest.
- For the legitimate interests of the organisation.

### Valid consent

- Consent must be freely given, specific, informed and unambiguous.
- A request for consent must be intelligible and in clear, plain language.
- Silence, pre-ticked boxes and inactivity will no longer suffice as consent.
- Consent can be withdrawn at any time.
- Consent for online services from a child under 13 is only valid with parental authorisation. Note, the Information Commissioner's Office has just published its final Age Appropriate Design Code – a set of 15 standards that online services should meet to protect children's privacy. See <http://bit.ly/36nNp1>
- Organisations must be able to evidence consent.

### Transparency and privacy notices

Organisations must be clear and transparent about how personal data is going to be processed, by whom and why.

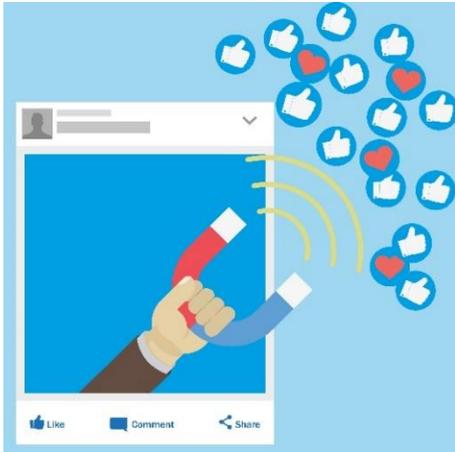
### Data breach notification

A personal data breach is defined as "a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed".

- Data processors are required to report all breaches of personal data to data controllers.
- Data controllers are required to report breaches to the supervisory authority (the Information Commissioner's Office in the UK) within 72 hours of becoming aware of them if there is a risk to data subjects' rights and freedoms.
- Data subjects themselves must be notified without undue delay if there is a high risk to their rights and freedoms.



## Charity Update: Winter 2020



### Change to VAT position on charity social media advertising

Towards the end of last year HMRC announced that they regarded almost all types of social media advertising for charities to be standard rated, not zero rated – as is the case with most other charity advertising.

They argued that the selective nature of social media advertising (the ability to target individuals on certain demographics), makes it fall out of the scope of the zero-rate. The zero-rate requires ads to be available to the public.

Since making this announcement, HMRC has issued a number of assessments of advertising and marketing agencies with the intention of collecting unpaid VAT from the past 4 years.

Charities may find their marketing agencies will now be looking to reinvoice the VAT for past social media advertising work.

As most charities cannot recover a great deal of the VAT they incur, this will increase their costs for both past and future social media advertising expenditure.

There are also concerns that while HMRC is currently concentrating on social media advertising, they may widen this in time to other digital advertising

If you or your agency would like advice in light of this development, contact one of our team.

### Are you tax compliant?

For a lot of charities, tax on income is not a major issue. However, that doesn't mean that all income is automatically exempt from VAT and corporation tax. Here are a few common tax areas where charities are not aware that tax implications exist:

**Sponsorship income** - some sponsorship income is effectively a donation and so there are no tax implications, but that isn't the case for all sponsorship income. If the sponsor is getting a benefit in return, for example use of their logos, the income could be subject to VAT and corporation tax.

**Sale of goods** - selling goods, for example T-Shirts or wristbands, is a trading activity and could be subject to VAT and corporation tax depending on the level of income.

### Sponsored events (eg walks, swims etc):

- **Entry & Registration fees** - fees that participants have to pay to gain entry to a sponsored event could be subject to VAT and corporation tax.
- **Minimum sponsorship** - some charities require participants to raise a minimum donation before they can take part in a sponsored event. This is effectively an entry fee and could be subject to VAT and corporation tax. Any income above the minimum donation would be a straightforward donation and therefore would likely not be subject to tax.

**Tax returns** - a charity usually won't be required to submit a tax return to HMRC every year, but HMRC will periodically request one. Keep an eye out for those HMRC notifications to ensure your tax returns are filed promptly.

### Small trading tax exemptions limit

The small trading tax exemption applies to trading that does not relate to the charity's primary purpose. This allows charities to engage in low levels of trading activities before they are required to pay corporation tax.

These limits increased with effect from 1 April 2019 to:

Annual charity income	Maximum non-primary purpose trading
<b>Under £32,000</b>	£8,000
<b>£32,000 - £320,000</b>	25% of income
<b>Over £320,000</b>	£80,000

### Don't forget

Whilst we're on the subject of tax, it's important not to forget the VAT Registration Threshold for 2019/20 is £85,000.

It is calculated on a rolling basis so you need to think about your taxable income over the last 12 months and not just for your accounting period or tax year.

Contact one of our specialist team for more information and help:



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# Briefing

## Charity Update: Winter 2020

### Are you making the most of tax reliefs available?

To make the most of a tax relief, charities have to comply with its qualifying criteria. Here's an overview of some helpful reliefs sometimes missed or misunderstood when trying to comply.

**Bank interest** - you can claim back tax paid on bank interest in the previous tax year by making a claim to HMRC. For the current and future years, ask your bank if you can receive your bank interest without tax deducted. You will need to show your bank your charity's letter of recognition from HMRC.

**Gift Aid** - Gift Aid allows you to claim back 25p on every £1 qualifying donation received from an individual. The donor must complete a gift aid declaration giving you permission to claim back the tax.

The donor must also have paid as much income tax or capital gains tax in that tax year as you want to claim in Gift Aid.

**Gift Aid Small donations scheme (GASDS)** - if you have a clean history with HMRC and are making a gift aid claim in the current tax year, you may be eligible for the small donations scheme.

You may be able to claim back 25% on cash donations of £30 or less and contactless card donations of £30 or less collected on or after 6 April 2019 without the need to request a gift aid declaration. From 6 April 2016, you can claim up to £2,000 in a tax year.

Your GASDS claim cannot be more than 10 times your Gift Aid claim.

If your charity is engaged in any of the activities we have outlined, or you are thinking about generating a new income stream, we'd be very happy to discuss the tax consequences with you.

Don't pay more tax than you need to and do check that your activities don't breach the criteria for tax or tax relief.

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Can we help? Contact one of our specialist team for more information:



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