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Bridge House Estates

Report to the Audit and Risk Committee

Year ended 31 March 2022

Presented to the Audit and Risk Committee on 16 January 2023

Audit / Tax / Advisory / Risk

Strictly Private and Confidential

The Audit and Risk Committee
City of London
PO Box 270
Guildhall
London
EC2P 2EJ

Dear Members of the Audit and Risk Committee

I have pleasure in submitting our audit findings report for the year ended 31 March 2022. The primary purpose of this report is to communicate to the Audit and Risk Committee and the Trustee the significant findings arising from our audit that we believe are relevant to those charged with governance.

I look forward to discussing our report with you, as well as any further matters you may wish to raise with us, and I shall be attending the Audit and Risk Committee meeting with James Hay.

I would like to take this opportunity to express our appreciation for the assistance provided to us by the finance team and the other staff at the charity during this year's audit.

Yours sincerely

Tina Allison
Partner

Contents

1. Executive summary

Our report to you

We are pleased to present our Audit Findings Report to the Audit and Risk Committee and we welcome the opportunity to discuss our findings with you at your meeting on 16 January 2023.

The primary purpose of this report is to communicate to the Audit and Risk Committee and the Trustee the significant findings arising from our audit that we believe are relevant to those charged with governance.

In accordance with International Standards on Auditing (UK) the matters in this report include

- the results of our work on areas of significant audit risk
- our views about significant qualitative aspects of the charity's accounting practices, including accounting policies, accounting estimates and financial statement disclosures
- significant difficulties, if any, encountered during the audit
- any significant matters arising during the audit and written representations we are requesting
- unadjusted misstatement identified during the audit
- circumstances that affect the form and content of our auditor's report, if any
- any other significant matters arising during the audit that, in our professional judgment, are relevant to the oversight of the financial reporting process

We have included comments in relation to the above where relevant in the subsequent sections of this report.

We also report to you any significant deficiencies in internal control identified during our audit which, in our professional judgment, are of sufficient importance to merit your attention. We have reported a number of matters relating to the charity's systems and controls in Appendix 2.

Conclusions in relation to the areas of significant audit risk

In line with our audit plan we focussed our work on the significant audit risks related to:

- Revenue recognition – investment property income
- Revenue recognition – financial investment income
- Revenue recognition – tourism income
- Grants to voluntary organisations
- Estimates and judgements – financial investment valuation
- Estimates and judgements – investment property valuation
- Estimates and judgements – pension liability
- Management override of controls

Further details on each of these risks is included in Section 2 of this report.

Other audit findings

Section 3 sets out various comments on other important matters which we have identified from our audit.

Fraud and irregularities

Section 4 sets out the Trustee and our responsibilities in respect of fraud and irregularities.

Audit materiality

The audit materiality for the financial statements set as part of our audit planning took account of the level of funds held by BHE and was set at 2% of investments. In addition, we determined a materiality amount lower than this materiality level is applicable for any particular classes of transactions, account balances or disclosures. At planning we determined a lower materiality of 1.5% of expenditure will be applied to auditing transactions in the statement of financial activities and other balance sheet items.

We have reviewed this level of materiality based on the draft financial statements for the year ended 31 March 2022 and are satisfied that these levels continue to be appropriate being £33.4m and £0.7m respectively.

Unadjusted misstatements

We report to you any unadjusted individual errors other than where we consider the amounts to be trivial, and for this purpose we have determined trivial to be 5% of our audit materiality.

We have listed in Appendix 1 the misstatements we have identified which have not been adjusted by management. The unadjusted errors would result in no change in the net income recorded in the Statement of Financial Activities and management have concluded that this is not material. We will be requesting confirmation from the Trustee in our audit representation letter that you do not wish to adjust for these misstatements.

Audit completion and our Audit Report

We have substantially completed our audit in accordance with our Audit Planning Report which was sent to you and the senior management team in May 2022, subject to the matters below.

- Resolution of the work outstanding detailed in this report in Section 2 and 3 relating to central audit work
- Receipt of bank and investment confirmations outstanding
- Completion of Manager, Partner and EQCR review and any subsequent audit work required following finalisation of the above items.
- Completion of the going concern and post-Balance Sheet events reviews.
- Review of the final financial statements.
- Receipt of the signed letter of representation (Appendix 3).

We will report to you orally in respect of any modifications to the findings or opinions contained in this report that arise from progressing these outstanding matters.

On the satisfactory completion of these matters, we anticipate issuing an unmodified audit opinion on the truth and fairness of the 2022 financial statements.

Responsibilities and ethical standards

We have prepared this report taking account of the responsibilities of the Trustee and ourselves set out in Appendix 4 of this report.

The matters included in this report have been discussed with the charity's management during our audit and at our closing meeting on 4 August 2022. Karen Atkinson, BHE & Charities Finance Director. and Nathan Omane, Head of Finance BHE, have seen a draft of this report and we have incorporated their comments and/or proposed actions where relevant.

2. Significant audit risks

We reported in our Audit Planning Report a number of areas we identified as having specific audit risk including the potential risk from management override of controls. Significant risk is considered in the context of how, and the degree to which, inherent risk factors affect the likelihood and magnitude of a misstatement occurring. Such factors may be qualitative or quantitative, and include complexity, subjectivity, change, uncertainty or susceptibility to misstatement due to management bias or other fraud risk factors. We have commented below on the results of our work in these areas as well as on any additional significant risks, judgements or other matters in relation to the financial statements of BHE identified during our audit.

To assist in the understanding of these risks we have identified one or more of six potential reasons, as defined by ISA 315, for the increased audit risk. In addition, we also consider other factors which may give rise to significant risks, such as a history of previous issues or the matter involves significant judgement.

1. Fraud risk
2. Recent significant economic, accounting or other developments
3. Complexity of the transactions
4. Financial information involves a wide range of measurement uncertainty
5. Involves significant transactions with related parties
6. Significant transactions that are unusual / outside the normal course of business for the entity
7. Other specific factors

Significant risk identified	Risks	Key related judgements	Crowe response	Our conclusions / other comments
Revenue recognition – Investment property income	**3**	Investment property income is the largest revenue stream for Bridge House Estates, totalling £26.2m in 2022. Whilst comprising mostly of routinely invoiced income, the Covid-19 pandemic has led to the introduction of rent-free periods and rent holidays requiring more complex accounting. In addition, the quarterly invoicing pattern usually followed leads to the need to partially defer invoiced income at year-end. Given the relative size of this revenue stream and complexities arising over cut-off and lease accounting, we	As part of our audit work have included the following tests: • We have reviewed the income recognition policy, ensuring it is in line with SORP requirements and is being appropriately applied and disclosed; • Documented and reviewed the systems and controls in place over investment property income. This is a key area of control to ensure that you are recognising all income that is due and closely manage and monitor the debtor ledger; • We have carried out analytical procedures and substantive testing on all income streams including	Our testing of investment property income did not highlight any material issues in relation to the recognition of this income stream.

Significant risk identified	Risks	Key related judgements	Crowe response	Our conclusions / other comments
		consider there to be a significant risk over this revenue stream.	reconciliations to the relevant systems and other records; • Reviewed a sample of transactions and bank receipts either side of the year end date to ensure these have been recognised in the appropriate period; • Obtained a breakdown of investment property income for the year and reconcile to the trial balance. • Verified a sample of property receipts to supporting tenancy agreements and invoices: • Reviewed the year-end deferred income balances, testing a sample to support and re-calculating the split of any invoices as appropriate; and • Reviewed the long term lease premium accounting treatments to ensure they have been accounted for in accordance with the relevant accounting standards, and that they are being released correctly.	
Revenue recognition – Financial Investment income	**4**	Investment income is derived from the various investment holdings of BHE, including listed investments, private equity and hedge fund holdings and bank deposits. BHE co-invests with the City of London Pension Fund and City's Cash into a number of holdings, with a portion of the value and investment income then apportioned to the charity from this central pool.	Our audit work included the following: • Agreeing the income reported in the investment managers' reports and bank interest to the nominal ledger and reviewing cut off to check that the income has been appropriately recognised; • Reviewing the relevant AAF01/06 controls reports for the investment managers and custodians to gain	Our testing of investment income remains in progress. We are awaiting a breakdown of investment income receipts to agree to the confirmations received. We will provide a verbal update at the Committee.

Significant risk identified	Risks	Key related judgements	Crowe response	Our conclusions / other comments
		The primary risk for this revenue stream is over the accuracy of the central split of the income allocated to BHE, as well as the completeness of the investment income reported for the year, where it might be necessary to accrue for income not yet received.	assurance that income is being reported accurately to the Corporation; and • Review the allocation of investment income to BHE, ensuring it is in line with the proportion of the investment holdings allocated to the charity.	
Revenue recognition – Tourism income	**4**	BHE operates the tourist attraction at Tower Bridge, which generates income for the charity through both ticket sales and through the gift shop. The primary risk for this revenue stream being over the completeness of the revenue recognised. This revenue stream has also traditionally involved a greater degree of cash handling than others due to its nature, increasing the risk of fraud or diversion of funds.	Our audit work included the following: • Gaining an understanding of the systems and controls in place around tourism income, including how the risk of fraud through diversion of cash is mitigated; • Tracing a sample of ticket sales per the EPOS system through to its ultimate receipt in bank; • Reviewing a sample of reconciliations that are completed for sales, tracing total cash and card income per the EPOS system to receipt in bank, and • Performing cut-off testing around the year end to ensure income has been recognised in the correct years.	Our testing of tourism income did not highlight any material issues in relation to the recognition of this income stream.
Revenue recognition – non-significant risks		Our consideration and approach to income streams that are not considered to be significant risks is set out in Section 3.		
Grants to voluntary organisations	**1**	This is the largest single expenditure item for BHE. Our audit work will focus on ensuring that grant awards and	We have used as our start point a schedule of grants, prepared by management, which reconciles the opening liability for grants to	Our testing of grant expenditure did not highlight any material issues in

Significant risk identified	Risks	Key related judgements	Crowe response	Our conclusions / other comments
		payments have been appropriately approved and that liabilities have been captured in the appropriate period.	the closing creditor and the expense in the financial statements taking into account payments and awards in the year. We tested the completeness and accuracy of this schedule by confirming, on a sample basis, that awards approved have been included in the schedule and allocated to the appropriate period. We were provided with copies of minutes and decision letters for this purpose.	relation to the recognition of this income stream.
Estimates and judgements – Financial investment valuation	**1,3,4**	The financial investments portfolio represented £915m as at 31 March 2022. There is a risk with regard to the existence / ownership of the assets in the investment portfolio and their correct valuation. As the investments are held and managed by third party service providers it is important that: • the Charity has sufficient controls in place to mitigate the risks associated with outsourcing services; and • the controls in operation by the third party service provider over the ownership and management of the Charity's assets and their associated income streams are sufficiently robust.	Our focus included a review of your internal procedures to manage and control the investments as well as the controls being operated by both the investment managers and the custodian. It also included consideration of the relevant AAF01/06 controls reports. We obtained valuations directly from the investment managers. We reviewed the reconciliations between the reports from the investment managers and the custodian's report and the records independently maintained to confirm ownership and to identify potential anomalies or significant movements in the year (particularly in relation to purchases and disposals). We also reviewed the cash flows to, from and between the investment managers and the tracking of these movements.	We have obtained direct confirmations from the investment managers of both unlisted and listed investments with no issues noted. We are currently awaiting direct confirmations from a number of the underlying custodians and are working with management to obtain these. For listed investments, we have corroborated the year-end valuations per the investment manager reports to third party sources. This work has been completed pending the resolution of a query to one of the investment managers. For unlisted investments, we have completed a review for potential indicators of impairment including discussing performance with the funds and reviewing post year-end information. Our review has not

Significant risk identified	Risks	Key related judgements	Crowe response	Our conclusions / other comments
				identified the need for impairment of these holdings. Where available, we have reviewed the AAF 01/06 or equivalent controls reports for these investment managers and custodians, with no notable exceptions noted that may materially impact the management of Bridge House Estate's financial investments. Our work remains in progress over the initial subscriptions to unlisted investments. A small number of investment holdings are apportioned between City's Cash, Bridge House Estates and the Pension Fund; for these investments, discussion over the basis of this split remains ongoing. In addition to our valuations testing, we have completed substantive tests of detail over additions and disposals of financial investments, and are in the process of testing the management fees charged. We will provide a verbal update on the remaining work in progress at the committee.
Estimates and judgements – Investment Property Valuation	**1,3,4**	Investment properties held by the Charity totalled £888.1m as at 31 March 2022. It is our understanding that these properties are valued independently by two firms registered as valuers with the Royal Institution of Chartered	Our testing in this area included; We reviewed the investment property valuation report with consideration to judgements and estimates used by the valuer with reference to market data. We also engaged an external valuation firm as	Our external expert is completing their review of the Cushman & Wakefield and Savills valuation reports. We will provide a verbal update at the committee meeting.

Significant risk identified	Risks	Key related judgements	Crowe response	Our conclusions / other comments
		Surveyors ("RICS") as at 31 March each year. Investment properties are carried in the financial statements at fair value. FRS102 requires revaluation to be made with sufficient regularity to ensure that the carrying value does not differ materiality from that which would be determined using fair value at the reporting date.	an auditor's expert to review the valuation methodology and on a selection basis, specific properties. We also tested the inputs provided to the valuer and the ownership status via land registry Finally, we reviewed the valuation adjustment and ensured any gains/losses on revaluation were appropriately recognised in the Statement of Comprehensive Income.	
Estimates and judgements – pension liability	**1,3,4**	The assumptions surrounding the FRS102 pension liability calculations performed by the actuaries can make a significant difference to the result disclosed in the financial statements. The City Corporation operates a funded defined benefit pension scheme, The City of London Pension Fund, for its staff employed on activities relating predominantly to the three principal funds for which it is responsible (City Fund, City's Cash and Bridge House Estates). At present, BHE includes the pension scheme liability in the accounts as reported under IAS19, with a conversion not made to FRS102 on the grounds of the difference not being material. There is a risk that this difference may in fact be material or otherwise significant.	Our audit testing includes the following: • Benchmarking the assumptions used by the actuary in calculating the FRS102 pension liability; • Assess the difference in calculating the liability between IAS19 and FRS102 to determine whether it is material or otherwise significant; • Verifying scheme assets to third party documentation and testing their valuation; • Verifying (on a sample basis) the input data provided to the actuary to HR and payroll records; and Verifying the apportionment of the pension liability across the 3 City of London funds.	Our work is complete is this area except for; - Verification of the input data provided to the actuary; - Clarification of the allocation between entities, specifically in relation to Guildhall admin staff - As the pension audit has not been completed we have therefore engaged, in consultation with management, our pension team to complete a review of the assets within the pension scheme. We will provide a verbal update on these items at the committee meeting. As part of our testing we have reviewed the use of the IAS19 vs FRS102, while the overall balances remain the same this variation from FRS102 has resulted in a £0.2m

Significant risk identified	Risks	Key related judgements	Crowe response	Our conclusions / other comments
		Estimates and judgements that are not considered to be significant risks are set out in Section 3.		variance on the statement of comprehensive income between expenditure and gains / loss. This amount is trivial and therefore not reported in Appendix 1.
Management override of controls, including through journal adjustments	1	Although the level of risk of management override of controls varies from entity to entity, Auditing Standards recognise that this risk is nevertheless present in all entities because of management's ability to manipulate accounting records and prepare fraudulent financial statements by overriding controls that otherwise appear to be operating effectively. Due to the unpredictable way in which such override could occur, including to mask fraud, the override of controls is a significant risk for all audits. The Trustee must satisfy themselves that the control environment present within the entity together with the trustee controls and controls over the posting of journals are adequate to deter any inappropriate override of controls from management.	Our audit work included the following: • Understanding and evaluating the financial reporting process and the controls over journal entries and other adjustments made in the preparation of the financial statements and testing the appropriateness of a sample of such entries and adjustments; • Reviewing accounting estimates for biases that could result in material misstatement due to fraud; and Obtaining an understanding of the business rationale of significant transactions that we become aware of that are outside the normal course of business or that otherwise appear to be unusual given our understanding of BHE and its environment.	Our work on journals is complete pending the completion of the work detailed earlier. We will provide a verbal update at the committee meeting. Our work on estimates is detailed in Section 2 and 3 of this report.

3. Other audit findings

In addition to matters relating to the significant audit risks as reported in Section 2, we have also noted the following matters from our audit work which we should bring to your attention.

3.1 Report and Financial Statements

As noted in the Statement of Trustee' Responsibilities, the Trustee are responsible for preparing the Trustee' Annual Report and the financial statements in accordance with applicable law and United Kingdom Generally Accepted Accounting Practice.

We have provided commentary to management on the financial statements which has been incorporated into the following version of the financial statements as appropriate.

3.2 Going concern

We explained in our Audit Planning Report that in preparing the financial statements to comply with Financial Reporting Standard 102 the Trustee and management are required to assess the charity's ability to continue as a going concern. In assessing whether the going concern assumption is appropriate, the Trustee and management are required to consider all available information about the future of the charity in the period of at least, but not limited to, twelve months from the date when the financial statements are approved and authorised for issue.

The trustee' going concern assessment is a key area of emphasis and importance for our audit and, in accordance with the requirements of ISAs (UK), our audit report includes a specific reference to going concern.

Where trustee identify possible events or scenarios, other than those with a remote probability of occurring, that could lead to failure, then these should be disclosed in the financial statements.

Trustee may consider and take account of realistic mitigating responses open to them, considering the likely success of any response.

We have discussed this with the BHE management and explained that our work on going concern included the following:

- reviewing the period used by Trustee to assess the ability of BHE to continue as a going concern,
- examining budgets and forecasts prepared by management covering the period of the going concern assessment to ensure that these appropriately support the trustee' conclusion,
- reviewing the accuracy of past budgets and forecasts by comparing the budget for the current year against actual results for the year, and
- reviewing any other information or documentation which the Trustee have used in their going concern assessment.

Our conclusions and other comments

As at 31 March 2022 BHE is reporting total funds of £1,720.2m, of which unrestricted funds totalling £194.8m. BHE's net income for the year is £72m.

BHE also had balance at year end of cash at £4.1m, financial investments at £879.5, social investments £8,6m and short-term investments £26.9m. BHE also own investment properties totalling £888.1m.

We need to finalise our work in this area however at the time of writing we have nothing to note that would bring the going concern assumption into question.

We will be seeking representations that the Trustee and BHE Board has considered the forecasts and is satisfied that the going concern basis is appropriate.

We have included as Appendix 7 some further guidance on going concern which may be of help to the trustee.

Income

International Standards on Auditing (ISA 240) presumes there is always a significant risk of material misstatement due to fraud in revenue recognition, unless this is rebutted.

Whilst we deem Investment Property Income, Investment Income and Tourism Income to be significant (see Section 2) we do not consider other income streams to be significant due to their immaterial nature.

Across all income streams the key risks remain the same:

- Completeness (has all income due been appropriately recognised in the period?).
- Benefit (has income been recognised in the appropriate period?).
- Fund allocation (have donor restrictions on the use of the income been appropriately captured in the financial statements?).
- Accuracy (where income is owed at year end, is it likely to be received or should it be provided against?).

We have completed our testing of other income for BHE with no issues noted.

Judgements and estimates

ISA (UK) 540 Auditing Accounting Estimates and Related Disclosures requires additional audit focus over management's estimates, including undertaking separate risk assessments for both inherent and control risks. In respect of the former, consideration is required of the estimation uncertainty, the subjectivity and the complexity of the estimate. We are also required to consider whether the disclosures made in the financial statements are reasonable.

We have paid careful attention to areas of the financial statements affected by management judgement and estimation. We have considered the following for specific review which are not outlined in the significant audit risks detailed in the previous section.

- Assessment of impairment of assets.
- Assessment of the remaining useful life of assets.
- The split of recharged expenditure between the various entities of the City of London Corporation.

Our work on the above estimates is complete pending internal review processes with no material issues noted except for our work on recharges which remains in progress at the time of writing. We will provide a verbal update at the Committee.

Payroll

Payroll is one of the largest single expenditure items for BHE totalling £7.1m in 2022.

As payroll is processed centrally and allocated to the various organisations within the Corporation we have taken a holistic approach to the testing.

As part of our audit we reviewed the controls in place over monthly processing including the reconciliation of the payroll to the nominal ledger. We performed analytical procedures that consider gross pay, deductions and staff numbers year on year to ensure that all trends and relationships appear reasonable and that the totals agree with the ledger, and have verified a sample of staff between the payroll and other HR records and agreed their costs to supporting documentation on a sample basis.

At the time of writing we have queries in relation to the detailed sample test in progress and subsequent manager and partner reviews are continuing. We will provide a verbal update at the committee.

Funds

BHE operates a number of different funds subject to various restrictions and designations. You must ensure that all movements on funds are correctly identified and accounted for. This requires careful consideration of the various terms and conditions which may be applied to income.

As part of our audit work we

- Traced restricted contributions and grants found in our income testing to the relevant fund account.
- Reviewed a sample of expenses allocated to restricted funds to ensure that the expenditure was spent in accordance with the objects of the fund.
- Reviewed the analysis of net assets to ensure that it has been correctly allocated across the funds.
- Reviewed the processes in place to ensure that restricted transactions are completely and accurately captured and reported within the organisation and review year end balances to ensure that they appropriately reflect the restrictions that should be in force.

Our audit work is complete pending the finalisation of our other testing detailed within this report which may have an impact on the funds movements. We will provide a verbal update at the committee meeting.

4. Fraud and irregularities and our audit reporting

Audit reporting on detecting irregularities, including fraud

In line with ISA (UK) 700 our audit report includes an additional comment to explain to what extent the audit was considered capable of detecting irregularities, including fraud.

Irregularities are acts of omission or commission which are contrary to the prevailing laws or regulations. Fraud includes both fraudulent financial reporting and misstatements resulting from misappropriation of assets.

Our responsibility is to obtain reasonable assurance that the financial statements taken as a whole are free from material misstatement, whether caused by fraud or error. The additional reporting requirements this year placed increased emphasis on our understanding of the risks to BHE from fraud and irregularities. Our audit included discussions with management to obtain their assessment of the risk that fraud may cause a significant account balance to be materially misstated as well as other procedures to obtain sufficient appropriate audit evidence.

We obtained an understanding of the legal and regulatory frameworks within which the charity operates, focusing on those laws and regulations that have a direct effect on the determination of material amounts and disclosures in the financial statements. The laws and regulations we considered in this context were the Charities Act 2011 together with the Charities SORP (FRS102). We assessed the required compliance with these laws and regulations as part of our audit procedures on the related financial statement items.

In addition, we considered provisions of other laws and regulations that do not have a direct effect on the financial statements but compliance with which might be fundamental to the charity's ability to operate or to avoid a material penalty. We also considered the opportunities and incentives that may exist within the charity for fraud. The laws and regulations we considered in this context for the UK operations were General Data Protection Regulation, employment law and health and safety legislation.

We identified the greatest risk of material impact on the financial statements from irregularities, including fraud, to be within the timing of recognition of income and the override of controls by management. Our audit procedures to respond to these risks included enquiries of management, internal audit, and the Audit and Risk Committee about their own identification and assessment of the risks of irregularities, sample testing on income, sample testing on the posting of journals, reviewing accounting estimates for biases, reviewing regulatory correspondence with the Charity Commission, and reading minutes of meetings of those charged with governance.

In accordance with International Auditing Standards, we planned our audit so that we have a reasonable expectation of detecting material misstatements in the financial statements or accounting records including any material misstatements resulting from fraud, error or non-compliance with law or regulations.

However, owing to the inherent limitations of an audit, there is an unavoidable risk that some material misstatements of the financial statements may not be detected even though the audit is properly planned and performed in accordance with the ISAs (UK). No internal control structure, no matter how effective, can eliminate the possibility that errors or irregularities may occur and remain undetected. In addition, because we use selective testing in our audit, we cannot guarantee that errors or irregularities, if present, will be detected. Accordingly, our audit should not be relied upon to disclose all such misstatements or frauds, errors or instances of non-compliance as may exist.

We have also included in Appendix 6 some fraud risks that Trustee and management should be aware of.

Trustee responsibilities

The primary responsibility for safeguarding the charity's assets and for the prevention and detection of both irregularities and fraud rests with the trustee and management of the organisation. It is important that management, with oversight of those charged with governance, place a strong emphasis on fraud prevention and fraud deterrence. This involves a commitment to creating a culture of honest and ethical behaviours which can be reinforced by an active oversight by those charged with governance.

As in past years, the following statements will be included in the letter of representation which we require from the trustee when the financial statements are approved.

- The trustee acknowledge their responsibility for the design and implementation of internal control to prevent and detect fraud and errors.
- The trustee have assessed that there is no significant risk that the financial statements are materially misstated as a result of fraud.
- The trustee are not aware of any fraud or suspected fraud affecting the charity involving management, those charged with governance or employees who have a significant role in internal control or who could have a material effect on the financial statements.
- The trustee are not aware of any allegations by employees, former employees, regulators or others of fraud, or suspected fraud, affecting the charity's financial statements.

We draw your attention to bullet point 2 above which presupposes that an assessment has been made. We have not been made aware of any actual or potential frauds which could affect the 2022 financial statements, or in the period since the previous year end.

Appendix 1 - Reporting audit adjustments

Unadjusted misstatements

International Standards on Auditing (UK) require that we report to you all misstatements which we identified as a result of the audit process but which were not adjusted by management, unless those matters are clearly trivial in size or nature.

The following misstatements were identified during our audit work and up to the date of this report have not been adjusted in the draft financial statements. We have summarised below the potential overall impact of these items on the financial statements.

Adjustment description	**Debit/credit net income £m**	**Debit/(credit) net assets £m**	**Debit/(credit) opening reserves £m**
Reclassification of grant liabilities between short-term and long-term liabilities (extrapolated) – timing variance between when financial statements are produced and when audit completed our testing. Dr Short-term £0.2m Cr Long-term £0.2m		Nil change	

Adjusted misstatements

The following misstatements, which have been corrected by management, were also identified during our audit work and up to the date of this report. No further adjustments to the financial statements are required for these items and this information is provided to assist you in understanding the financial statements completion process and to fulfil your governance responsibilities.

Adjustment description	**Debit/credit net income £m**	**Debit/(credit) net assets £m**	**Debit/(credit) opening reserves £m**
Reclassify Rental Debtors unallocated cash balances against the debtor to Creditors Dr Creditors £0.5m Cr Debtors £0.5m		Nil change	

Appendix 2 - Systems and controls

We have set out below certain potential improvements to the charity's processes and controls which we noted during our audit work and which we believe merit being reported to you.

Our evaluation of the systems of control at BHE was carried out for the purposes of our audit and accordingly it is not intended to be a comprehensive review of your business processes. It would not necessarily reveal all weaknesses in accounting practice or internal controls which a special investigation might highlight, nor irregularities or errors not material in relation to the financial statements.

In order to provide you with a clearer picture of the significance of issues raised, we have graded the issues raised by significance/priority before any corrective actions are taken:

High	These findings are significant and require urgent action.	(nil comments in this category)
Medium	These findings are of a less urgent nature, but still require reasonably prompt action.	(1 comment in this category)
Low	These findings merit attention within an agreed timescale.	(nil comments in this category)

Audit finding and recommendation	Priority	Management response
1. Related party declarations As part of normal processes at the City of London Corporation all members are expected to complete a declaration of interests each year. We noted from our audit work that 26 members did not complete a declaration this year. This is a control breakdown and limits the ability to produce accurate information for the related parties disclosures. We recommend the importance of these declarations is stressed to Members and procedures put in place to ensure they are all completed		Due to a number of changes in Members, despite putting in place controls to ensure related party declarations were completed on departure, this has fallen down. Chamberlains have been working with Town Clerks to ensure this does not occur again.

Appendix 3 - Draft Representation Letter

Draft Representation Letter

This letter must be typed on your official letterhead. It should be considered by the Trustee and the BHE Board at the same time as the Annual Report and Financial Statements and the Minutes should record the Board's approval of the letter.

The letter should be dated at the date of the approval of the financial statements.

Crowe U.K. LLP

55 Ludgate Hill

London

EC4M 7JW

Dear Sirs

We provide this letter in connection with your audit of the financial statements of Bridge House Estates for the year ended 31 March 2022 for the purpose of expressing an opinion as to whether the financial statements give a true and fair view of the financial position of the charity as at 31 March 2022 and of the results of its operations for the year then ended in accordance with UK Generally Accepted Accounting Practice ("UK GAAP").

We confirm that the following representations are made on the basis of sufficient enquiries of management and staff with relevant knowledge and experience and, where appropriate, of inspection of supporting documentation and that, to the best of our knowledge and belief, we can properly make each of these representations to you. If completion of the audit is delayed we authorise Karen Atkinson to provide an update to all representations sought.

1. We have fulfilled our responsibility for the fair presentation of the financial statements in accordance with UK GAAP.

2. We acknowledge as trustee our responsibility for making accurate representations to you.

3. We acknowledge our responsibility for the design and implementation of internal control to prevent and detect fraud and errors.

4. We have provided you with all accounting records and relevant information, and granted you unrestricted access to persons within the entity, for the purposes of your audit.

5. All the transactions undertaken by the charity have been properly reflected and recorded in the accounting records or other information provided to you.

6. The methods, the data, and the significant assumptions used by us in making accounting estimates and their related disclosures are appropriate to achieve recognition, measurement or disclosure that is reasonable in the context of the applicable financial reporting standards.

7. We have considered the adjustment in Appendix 1, proposed by you. In our judgement, this adjustment is appropriate given the information available to us. We further confirm that we have now made this adjustment to the financial statements.

8. We do not wish to adjust the financial statements for the actual error set out in Appendix 1 as we believe that the error is immaterial to the financial statements as a whole.

9. We have disclosed to you any known actual or possible litigation or claims against the company whose effects should be considered when preparing the financial statements.

10. All grants, donations and other incoming resources, the receipt of which is subject to specific terms and conditions, have been notified to you.

There have been no breaches of terms or conditions in the application of such incoming resources.

11. We are not aware of any breaches of our charitable trusts and have advised you of the existence of all endowments and funds maintained by us.

12. There have been no events since the balance sheet date which require disclosure or which would materially affect the amounts in the financial statements other than those already disclosed or included in the financial statements. Should any material events occur which may necessitate revision of the figures in the financial statements, or inclusion in a note thereto, we will advise you accordingly. We specifically authorise Karen Atkinson, BHE & Charities Finance Director, to provide an update for you to cover the time period between the signing of this letter and the date of your audit report.

13. We have assessed that there is no significant risk that the financial statements are materially misstated as a result of fraud.

14. We are not aware of any fraud or suspected fraud affecting the charity involving those charged with governance, management or other employees who have a significant role in internal control or who could have a material effect on the financial statements

15. We are not aware of any allegations by employees, former employees, regulators or others of fraud, or suspected fraud, which would have an impact on the charity's financial statements.

16. We are not aware of any known or suspected instances of non-compliance with those laws and regulations which provide a legal framework within which the charity conducts its business.

17. We confirm that complete information has been provided to you regarding the identification of related parties and that we are not aware of any significant transactions with related parties other than matters that we consider have been appropriately and adequately disclosed.

18. We confirm we have appropriately accounted for and disclosed related party relationships and transactions in accordance with applicable accounting standards and with the recommendations of the applicable charity SORP.

19. In the event that we publish the trustee' report, independent auditor's report and financial statements electronically, we acknowledge our responsibility for ensuring that controls over the maintenance and integrity of the entity's web site are adequate for this purpose.

20. The charity has satisfactory title to all assets and there are no liens or encumbrances on the charity's assets, except for those that are disclosed in the financial statements.

21. We confirm that, having considered our expectations and intentions for the next twelve months and the availability of working capital, the charity is a going concern. We are unaware of any events, conditions, or related business risks beyond the period of assessment that may cast significant doubt on the charity's ability to continue as a going concern.

Yours faithfully

…………………………………….…………

Chair of the Board

Signed on behalf of the board

Date ……………………………………….

Appendix 4 - Responsibilities and ethical standards

Audit purpose and approach

Our audit work has been undertaken for the purposes of forming our audit opinion on the financial statements of BHE prepared by management with the oversight of the trustee and has been carried out in accordance with International Standards on Auditing (UK) ('ISAs').

Our work combined substantive procedures (involving the direct verification of transactions and balances on a test basis and including obtaining confirmations from third parties where we considered this to be necessary) with a review of certain of your financial systems and controls where we considered that these were relevant to our audit.

Financial statements

The Board of BHE are responsible for the preparation of the financial statements on a going concern basis (unless this basis is inappropriate). The Board are also responsible for ensuring that the financial statements give a true and fair view, that the process your management go through to arrive at the necessary estimates or judgements is appropriate, and that any disclosure on going concern is clear, balanced and proportionate.

Legal and regulatory disclosure requirements

In undertaking our audit work we considered compliance with the following legal and regulatory disclosure requirements, where relevant.

- Charities Act 2011
- The Charities (Accounts and Reports) Regulations 2008
- Financial Reporting Standard 102 (FRS 102)
- The Charities SORP (FRS 102)

Ethical Standard

We are required by the Ethical Standard for auditors issued by the Financial Reporting Council ('FRC') to inform you of all significant facts and matters that may bear upon the integrity, objectivity and independence of our firm.

Crowe U.K. LLP has procedures in place to ensure that its partners and professional staff comply with both the relevant Ethical Standard for auditors and the Code of Ethics adopted by The Institute of Chartered Accountants in England and Wales.

As explained in our audit planning report, in our professional judgement there are no relationships between Crowe U.K. LLP and BHE or other matters that would compromise the integrity, objectivity and independence of our firm or of the audit partner and audit staff. We are not aware of any further developments which should be brought to your attention.

Independence

International Standards on Auditing (UK) require that we keep you informed of our assessment of our independence.

We confirm that we have not provided any non-audit services to BHE. We have not identified any other issues with regards to integrity, objectivity and independence and, accordingly, we remain independent for audit purposes.

The matters in this report are as understood by us as at 9 January 2023. We will advise you of any changes in our understanding, if any, during our meeting prior to the financial statements being approved.

Use of this report

This report has been provided to the Audit and Risk Committee to consider and ratify on behalf of the BHE Board, in line with your governance structure. We accept no duty, responsibility or liability to any other parties, since this report has not been prepared, and is not intended, for any other purpose. It should not be made available to any other parties without our prior written consent.

Appendix 5 - Fraud risks

As part of our audit procedures we make enquiries of management to obtain their assessment of the risk that fraud may cause a significant account balance to contain a material misstatement. However, we emphasise that the responsibility to make and consider your own assessment rests with yourselves and that the BHE Board, Audit and Risk Committee and management should ensure that these matters are considered and reviewed on a regular basis.

Usually fraud in the charity sector is not carried out by falsifying the financial statements. Falsifying statutory financial statements usually provides little financial benefit, as compared to say a plc where showing a higher profit could lead to artificial share prices or unearned bonuses. However, falsifying financial statements can be used to permit a fraud or to avoid detection. As a generality, charities represented by its management and its trustee do not actively try to falsify financial statements as there are not the same incentives to do so. In the charity world fraud is usually carried out through misappropriation or theft.

The trustee should be aware that the Charity Commission provides guidance (updated in October 2019) on how to protect your charity from fraud including information about fraud, how to spot it and what you can do to protect against it.

The Charity Commission's first guiding principle recognises that fraud will always happen. It is therefore important that, as part of setting their overall risk appetite, the Trustee and BHE Board consider fraud within their tolerance for the risks associated with the management of the organisation's (and group's) funds. The development and continued assurance of a robust counter fraud control framework should then contribute to the organisation matching the risk appetite and tolerance agreed by the Trustee / BHE Board.

A fraud risk assessment is an objective review of the fraud risks facing an organisation to ensure they are fully identified and understood. This includes ensuring:

- fit for purpose counter fraud controls are in place to prevent and deter fraud and minimise opportunity, and
- action plans are in place to deliver an effective and proportionate response when suspected fraud occurs including the recovery of losses and lessons learnt.

Good practice suggests that to be most effective the risk assessment should be undertaken at a number of levels within the organisation:

- Organisational – to assess the key policy, awareness raising and behavioural (including leadership commitment) requirements that need to be in place to build organisational resilience to counter fraud.
- Operational – a detailed analysis of the fraud risk and counter fraud control framework at the operational level – by function (activity) or individual business unit (including programmes and projects).

Any fraud risk assessment should not be seen as a standalone exercise but rather an ongoing process that is refreshed on a regular basis. Carrying out the fraud risk assessment may reveal instances of actual or suspected fraud. Should this happen next steps will be determined on circumstances, the existing control framework (including any response plan(s)), and in consultation with the key members of the organisation's management team.

Considering risks of fraud

There is evidence that during times of economic instability there is an increased risk of fraud. This may be because resource constraints can reduce internal controls and over sight and also because individuals facing hardship may be more likely to consider fraudulent practices.

The following provides further information on the three kinds of fraud that charities such as BHE should consider.

a) Frauds of extraction

This is where funds or assets in possession of the charity are misappropriated. Such frauds can involve own staff, intermediaries or partner organisations since they require assets that are already in the possession of the entity being extracted fraudulently. This could be by false invoices, overcharging or making unauthorised grant payments.

Essentially such frauds are carried out due to weaknesses in physical controls over assets and system weaknesses in the purchases, creditors and payments cycle. The cycle can be evaluated by considering questions such as who authorises incurring a liability and making a payment. On what evidence? Who records liabilities and payments? Who pays them and who checks them?

The close monitoring of management accounts, ledger entries and strict budgetary controls are also generally seen as an effective way of detecting and deterring frauds in this area.

Staff should be made aware of the increasing use of mandate fraud. This is where when the fraudster gets the organisation to change a direct debit, standing order or bank transfer mandate by purporting to be a supplier or organisation to which the charity makes regular payments.

Insufficient due diligence around requests to amend supplier or payroll details has led to payments to unauthorised individuals so sufficient checks in these areas is of increasing importance.

Some charities have also been victims of what is being termed CEO fraud, although it does not involve the CEO. In this case cyber criminals spoof company email accounts and impersonate executives to try and fool an employee in accounting or HR into executing unauthorised wire transfers or sending out confidential information.

This type of phishing scam is a sophisticated scam targeting businesses working with foreign suppliers and/or businesses that regularly perform wire transfer payments. The scam is carried out by compromising legitimate business e-mail accounts through social engineering or computer intrusion techniques to conduct unauthorised transfers of funds. Action Fraud, the UK's national fraud and cyber-crime reporting centre has reported an increase in fraud and scams, including a rise in phishing emails where the fraudster attempts to trick people into opening malicious attachments which could lead to fraudsters stealing people's personal information, email logins and passwords, and banking details.

Charities should therefore ensure that they reiterate their procedures to employees and raise awareness of fraud preventions across their organisations. All employees should exercise real scepticism and not make any payments which are not properly supported and outside the normal payment mechanisms. To paraphrase Action Fraud's recommendations, which are particularly significant as staff are working remotely and some working different hours in order to manage the challenges of working from home:

- Ensure all staff, not just finance teams, know about current frauds and scams.
- Have a system in place which allows staff to properly verify contact from their CEO or senior members of staff; for example, having two points of contact so that the staff can check that the instruction which they have received from their CEO is legitimate.
- Always review financial transactions to check for inconsistencies/errors, such as a misspelt company name.
- Consider what information is publicly available about the business and whether it needs to be public.
- Ensure computer systems are secure and that antivirus software is up to date.

All employees should exercise real scepticism and not make any payments which are not properly supported and / or outside the normal payment mechanisms.

b) Backhanders and inducements

There is also an inherent risk that individuals who are able to authorise expenditure or influence the selection of suppliers can receive inducements to select one supplier over the other. This risk can be mitigated by robust supplier selection and tendering procedures.

c) Frauds of diversion

This is where income or other assets due to BHE are diverted before they are entered into the accounting records or control data. Essentially, it is easy to check what is there but very difficult to establish that it is all there. Therefore, ensuring the completeness of income provided to a charity becomes difficult.

It is important to consider the different income streams and when and how they are received. So income received directly into the charity's bank account will be a lower risk than income being received by home based fundraisers.

Appendix 6 - External developments

We have summarised below some of the developments and changes in the charity sector over the recent period which we believe may be of interest and relevant to you. The governing documents specific to BHE should be referred to as some of these changes may not be applicable as stated to the charity. Please note that this information is provided as a summary only and that you should seek further advice if you believe that you have any specific related issues or intend to take or not take action based on any of the comments below.

We believe it is important to keep our clients up to date on the issues that affect them and, as a part of our ongoing communication, we regularly hold webinars and therefore encourage you to visit our website (https://www.crowe.com/uk/croweuk/industries/webinars).or register to our mailing list (nonprofits@crowe.co.uk) to stay updated on these. Any webinars which you have missed remain available on demand on our website.

Governance

The Charities Bill: 5 key changes to charity law

The Charities Act 2022 (the Act) received Royal Assent on 24 February 2022 and brings into force a number of key changes to the Charities Act 2011, aimed at simplifying a number of processes.

We have set out some of the key changes that apply to England and Wales.

Governing document amendments

Amendments have been made to the Act to more closely align the rules for charities amending their constitution irrespective of the legal structure. Whilst the Commission will still need to approve any regulated amendments (e.g. changes to the charity's objects), they will now apply the same consistent criteria to approve these.

Permanent endowments

The definition of permanent endowments has been updated with a simplified definition where property is considered to be a permanent endowment if it is 'subject to a restriction on being expended which distinguishes between income and capital'. The Charities Act has also been updated to increase the maximum value of a permanent endowment that Trustee can resolve to release restrictions on spending capital from £10,000 to £25,000. This power has also been extended to incorporated entities.

In addition, a new provision in the Act will allow Trustee to borrow up to 25% of the value of a charity's permanent endowment subject to the amount being repaid within 20 years of being borrowed.

Mergers

A key amendment to the Act allows for legacies to be transferred to a merged charity. This change will remove the need for 'shell charities' to be maintained and therefore reduce administration costs.

Failed appeals

The Act introduces new rules granting the power for trustee to apply cy-près, allowing charities more flexibility in response to a charity appeal that has failed, allowing *donations* to be applied for another charitable purposes rather than having to be returned to donors under certain conditions:

i) The donation is a single gift of £120 or less; and the Trustee reasonably believe that during the financial year the total amount received from the donor for the specific charitable purpose is £120 or less (unless the donor states in writing that the gift must be returned if the charitable purposes fail); or
ii) The donor, after all agreed actions have been taken, cannot be identified or found; or
iii) The donor cannot be identified (for example cash collections)

Payments to Trustee

Trustee (or a person connected to the trustee) may receive payment for the provision of services to a charity under certain conditions. The Act extends this provision to allow payment for the provision of goods to a charity.

Ex Gratia Payments

Amendments to the act allow for ex gratia payments to be made without the Commission's consent, up to a maximum of £20,000 depending on the charity's income. In addition, the amendments allow this decision to be delegated to staff.

Full details of all the changes can be found **here** and **here**.

Guidance on hybrid working launch by ACAS

ACAS recently published guidance for employers on hybrid working, following the extended period of remote working as a result of the coronavirus pandemic.

The guidance is broken down into the following five sections:

- Considering hybrid working for your organisation
- Consulting and preparing to introduce hybrid working
- Creating a hybrid working policy
- Treating staff fairly in hybrid working; and
- Supporting and managing staff in hybrid working

The guidance also considers other legal matters that employers should consider, including data and privacy issues, health and safety issues and working time requirements.

The guidance can be found **here**.

Charity Commission: 'Take action on fraud'

As part of Charity Fraud Awareness Week, the Charity Commission issued a press release in October 2022 warning charity trustee and management to 'take action on fraud' as new figures show £8million reported lost to crime last year.

The latest data from Action Fraud also shows 1,059 separate incidents of fraud were reported by charities in just one year from April 2020 to March 2022. Together with the Fraud Advisory Panel, the regulator is urging all trustee to sign up to a new Stop Fraud Pledge, which commits charities to taking six practical actions to reduce the chances of falling victim to fraud.

The pledge includes the following measures:

- Appoint a suitable person (staff member, volunteer or trustee) to champion counter fraud work throughout the organisation
- Ensure that all trustee are aware of their legal duty to protect the charity's assets.
- Consult with staff, volunteers and trustee to identify the types of fraud that threaten the organization and the ways they can be prevented.
- Assess annually how well the fraud controls are working, taking into account new risks and making improvements as needed.

Our Fraud Risk Assessment guidance can be used to help you assess fraud risk appropriately, it incudes:

- key questions for Boards to ask as a starting point in considering fraud risk
- detailed organisational counter fraud checklist which lists key questions for Boards on areas of organisational resilience
- checklist of potential fraud risks by function and activity
- set of questions from the National Cyber Security Centre (NCSC) publication "10 Steps to Cyber Security" to assist Boards with their existing strategic-level risk discussions.

Remote meetings

It has been possible for many charities to move back to face-to-face meetings and hold any outstanding AGMs or other meetings in person where required. On 21 April 2022 the more flexible approach to charities holding meetings outside of the terms of their governing documents came to an end.

Meetings

All charities should check that their governing document allows them to hold meetings in the way they want to, whether that's online, by telephone, remotely or in person.

Holding meetings online or by telephone

Trustee should check if their charity's governing document allows them to hold meetings online, by telephone or on a hybrid basis.

If your governing document does not allow online, telephone or hybrid meetings you should consider if you can use any power (usually in your governing document) to amend the rules to allow these types of meetings.

The Charity Commission's guidance on meetings explains:

"Charity trustee may choose to conduct some trustee meetings by electronic means, unless the governing document specifically prohibits it, and provided that the means used allows them to both see and hear each other, for example, by using video conferencing or internet video facilities."

In contrast, as telephone conferencing only permits the participants to hear but not see each other it does not constitute a 'meeting' within the meaning of the decision in the Byng case. However, it is still possible for meetings to be arranged in the form of a telephone conference if there is a specific provision in the charity's governing document.

If there is no power in the governing document to hold meetings by telephone the trustee can alter the governing document to adopt such a power. This alteration can be made if there is a suitable power of amendment in the charity's governing document.

In the absence of a specific power to conduct business by telephone conferencing, such a method may only be used for preliminary discussions, etc, relating to business which has to be transacted at a meeting.

Any decisions taken in the course of a telephone conference where the business concerned has to be transacted at a meeting in the strict sense could become the subject of a potential legal challenge

Compliance

Government procurement: carbon reduction plans

The Government has introduced new measures which will require businesses to commit to net zero by 2050 and publish clear and credible reductions plans before they can bid for major government contracts.

Under the new measures, for procurements advertised on or after 30 September 2022, suppliers bidding for contracts above £5million a year will need to have committed to the government's target of net zero by 2050 and have published a carbon reduction plan.

Carbon Reduction Plans ('CRP') must meet the required standard, and includes (but is not limited to):

- Confirming the bidding supplier's commitment to achieving Net Zero by 2050 for their UK operations.
- Providing the supplier's current emissions for the sources included in Scope 1 and 2 of the GHG Protocol, and a defined subset of Scope 3 emissions.
- Providing emissions reporting in CO2e (Carbon Dioxide Equivalent) for the six greenhouse gases covered by the Kyoto Protocol4
- Setting out the environmental management measures in effect, including certification schemes or specific carbon reduction measures you have adopted, and that you will be able to apply when performing the contract and that support achieving Net Zero by 2050.
- Publication of the CRP on the supplier's website

Further details can be found here along with the Procurement Policy Note issued by the Cabinet Office here**.**

Fundraising Regulator: Annual complaints report

There has been a sharp increase in fundraising complaints since February 2022, according to the Fundraising Regulator's annual report.

The type of complaints received does reflect the operational changes made during the pandemic. As the sector was forced to move from face-to-face fundraising and embrace more digital techniques, there was inevitably an increase in complaints regarding digital fundraising.

Charity collection bags remains the fundraising method receiving the most complaints, this was followed by digital fundraising in the latest report.

There was a 252% increase in the number of complaints received during the period of 1st April 2020 to 31st March 2022, compared to data from the previous year. This includes complaints about:

- Social media
- Charity website
- Advertising banners

You can see the full report here.

Changes to the Fundraising Preference Service

A number of changes to the Fundraising Preference Service (FPS) have been announced by the Fundraising Regulator, following an independent review of the FPS.

The review noted that the service continues to be an important tool that allows individuals to control the direct marketing communications they receive from charities, and recommended a number of actions to further strengthen this service.

9 recommendations were made as a result of the review, including increasing the number of suppressions that can be made in a single online transaction and the provision of additional guidance to charities of actions to take when suppression requests are received.

Previously in one online transaction members of the public could request that a maximum of 3 charities stop sending marketing materials. This has now been increased to 10 for online transactions, and 20 where the regulator is contacted by telephone.

Full details of the review and changes can be found **here.**

The Procurement Bill

In May 2022 The Government published the Procurement Bill, intended to improve the regulation of public procurement.

Charities delivering public services for local and central government will be impacted by changes in the Bill. This is an important income stream for many in the sector, amendments that improve transparency and fairness will be welcomed and long due.

The Bill also seeks to support businesses by making public procurement more accessible to small businesses, including social purpose and non profits.

Although there are many positives included in the Bill, there may be unintended consequences for local Government making it harder to meet procurement objectives.

Charities can get involved with influencing the Bill as it moves through Parliament. If you would like to discuss thus further please do get in touch.

Changes to classification codes

The Charity Commission has proposed changes to how it classifies charities for more effective and accurate reporting.

The current classification is broad and therefore does not provide enough information for details segmentation.

52% of charities select education and training to describe what they do, but there is no way to delve deeper into what this means.

The proposed changes will provide more details data on the 'what', 'why' and 'who' classifications.

The Commission has undertaken user testing and will publish updates in due course. You can read more about the changes here.

Understanding Money Laundering risks: Arts & Antiques

From 10 June 2022 all art market participants (AMPs) dealing in transactions of €10,000 or above were required to register, as part of the EU's Money Laundering Directive.

Charities in these markets will need to ensure they are aware of the latest guidance. As traditional monetary transactions become harder for criminal activity to penetrate due to tighter controls and regulation, the arts market may be more vulnerable.

Risks common to all AMPs:

- Unusual sales or purchase activity
- Anonymity
- Face-to-face sales compared to other sales
- Off record sales

Risks relating to the Money Laundering Regulations:

- Reliance
- Linked transactions
- Data protection
- Online verification
- Unregistered AMPs
- Online sales
- Rental of art and interior designs

Charities involved in the arts and antiques market can access the Government risk assessment below.

Understanding money laundering risks and taking action for art market participants - GOV.UK (www.gov.uk)

Cash couriers – Charity Commission alert

Following changes to the law on carrying cash and continued cases involving the seizure of charitable funds held as cash by the police and officers of UK ports, the Charity Commission has published this updated alert on cash couriering in partnership with SO15 Counter Terrorism Command, Metropolitan Police Service.

The Commission have reiterated their advice that charities should not use cash couriers as a method to transfer charitable cash due to the significant risks involved. Where there are no suitable alternatives, Trustee should ensure appropriate safeguards are put in place against these risks.

The full alert can be read here - https://www.gov.uk/government/news/regulator-renews-its-message-warning-charities-against-the-use-of-cash-couriers

Financial and other reporting

COVID-19-related rent concessions beyond 30 June 2022

In June 2022, the Financial Reporting Council updated the amendment to FRS 102 in respect of Covid-19 related rent concessions, extending the period to which the amendments apply to 30 June 2022.

Under the amendments, any reduction in lease payments are recognised over the period that the change in lease payments is intended to compensate. For example, if a lessee is offered a rent holiday such that the rent due for July 2022 to December 2022 is waived, no lease expense would be recognized in that period.

The lessee will also need to disclose the change in lease payments recognised in profit or loss in accordance with the amendments, unless the entity is a small entity applying Section 1A of FRS 102, in which case such a disclosure is recommended.

The effective date for these amendments is accounting periods beginning on or after 1 January 2022, with early application permitted.

A copy of the updated amendment to FRS 102 can be obtained here.

Sustainability Reporting and the Charity SORP

Sustainability and environmental issues continue to be high priority for all sectors. The Charity SORP Committee produced a briefing note reflecting on the current approach to sustainability reporting.

The Committee sought to identify whether elements of sustainability reporting should be introduced into the trustee' annual report, and discuss preferred options should this be the case.

The current SORP ask charities to identify the difference their work has made to society as a whole.

The Committee noted that additional support would likely be required to enable charities to comply with additional reporting requirements, and the need to address the scope of the sector. The current requirements are different for large charities, this would need to remain consistent in order to avoid burdening smaller charities.

The full briefing can be found here.

Our guidance on climate change can be accessed here.

We will be publishing our latest guidance on Streamlined Energy Carbon Reporting (SECR) soon, keep an eye on our website to download this guidance report.

Taxation

Advertising vs Marketing: An update for charities

Charities are allowed to acquire advertising services from suppliers with the zero-rate of VAT but one condition for the relief to apply is that the advertising is made to the general public.

After consultation with the charity and advertising sector, HMRC released its Revenue and Customs Brief 13 in September 2020. The brief indicated that some supplies that are made by suppliers like Facebook could be treated as zero-rated, e.g. audience targeting and location targeting. However, the notice goes on to state that the standard rate of VAT applies to social media accounts because "when individuals log in to their personal pages, sites use tools to apply advertisements to them when they are signed in. The content will be related to the individual's known likes, dislikes, interests or location, as a signed in member of the website."

We have a number of charity clients that are affected by this as they use suppliers like Facebook for a number of fundraising campaigns. As Facebook is based outside the UK it is up to the UK based charity to account for any VAT due and this is often to a large extent irrecoverable. Therefore, we have written to HMRC to seek clarification of its position.

HMRC has been provided with numerous examples of services and the terms and conditions applicable.

HMRC's response states that all supplies of Facebook advertising fall outside of zero-rated advertising. Consequently, 20% VAT must be accounted for by charities on such supplies received from suppliers based outside the UK.

HMRC's position is now clear and unless it is successfully challenged reverse charge VAT should be applied to services received from suppliers such as Facebook.

If VAT has not been applied to these services, HMRC should be notified of the amount of tax due in order that any penalties applicable can be mitigated.

Business and non-business activities

In June 2022 HMRC published a policy paper setting out its approach to determining whether or not an activity is a business activity for VAT purposes.

In light of a number of recent cases, HMRC will no longer apply the business test based on the 6 indicators from Lord Fisher and Morrison's Academy in determining whether an activity is business. The 6 indicators were -

- is the activity a serious undertaking earnestly pursued?
- is the activity an occupation or function that is actively pursued with reasonable or recognisable continuity?
- is the activity have a certain measure of substance in terms of the quarterly or annual value of taxable supplies made?
- is the activity conducted in a regular manner and on sound and recognised business principles?
- is the activity predominately concerned with the making of taxable supplies for a consideration?
- are the taxable supplies that are being made of a kind which, subject to differences of detail, are commonly made by those who seek to profit from them?

Consideration for whether activities were business activities for VAT purposes will now be based on a 2-stage test –

- The activity results in a supply of goods or services for consideration; and
- The supply is made for the purpose of obtaining income therefrom

The full policy paper can be read here - https://www.gov.uk/government/publications/revenue-and-customs-brief-10-2022-vat-business-and-non-business-activities/vat-business-and-non-business-activities

Grant Funding: Business or non-business

Our Insight in January 2022 informed you of the decision of the Upper Tier Tribunal in Colchester Institute and the potential adverse effects it could have upon institutions other than those in the Further Education (FE) sector.

Subsequently there has been a further unsuccessful attempt by a FE College to exploit the decision made by the upper Tier Tribunal (read the transcript) and HMRC has also responded with its guidance in its business brief 08/21.

The decision has a direct application to those in the Further Education sector that receive grant income. However, in theory the conclusion arrived at by the UTT could be applied to any entity that has received grant income that has treated this as 'non-business'.

The decision in Colchester Institute reversed the common opinion that grant income is used to support non-business activities as the court opined that funding from The Skill Funding Agency (SFA) and the Education Funding Agency (EFA) was in fact consideration for supplies of educational services. In theory this could have wide reaching application in relation to the zero-rating of buildings used for charitable purposes, the application of reduce rate VAT to Fuel and Power and recovery of VAT on costs using both the standard method and special methods of partial exemption.

Many VAT commentators have seen the decision by the Tribunal as a threat to common well-founded VAT treatments applied by charities.

HMRC's brief 08/21 does give comfort to the charities' sector as well as the education sector since it essentially confirms that it disagrees with the Tribunal's decision and states that whilst it will not appeal, its policy on grant funded education will not change. Therefore, it appears that HMRC has no motivation to use the decision to serve a wider purpose and disturb well established VAT treatments for the charities' sector. Furthermore, it is willing to retain the status quo in relation to SFA and EFA funding (i.e. treat the income as non-business).

Three common trading activity VAT issues for charities in 2022

Donated Goods Retail Gift Aid Scheme and VAT

The Retail Gift Aid scheme is used by many charities in order to treat what would have been the sale of donated goods as donations of cash by acting as agent for the owners in selling their goods. This enables the charity to be able to claim Gift Aid.

It is important to note, that from a VAT perspective, this changes the nature of the transaction entirely. If donated goods are sold the shop is making a zero-rated taxable business activity which enables VAT recovery on associated costs. Whereas, if a charity is selling goods on behalf of someone in return for a donation, this is a 'non-business activity' and so while there is no VAT due on the donation, VAT cannot be recovered on the associated costs.

This can result in the shop being required to apply an apportionment to arrive at the correct amount of VAT recoverable in relation to the shop costs so VAT administration increases and VAT recovery is reduced.

Solution: To properly operate the scheme, the charity should charge a VAT bearing commission to the donor of the goods. This does mean a small amount of VAT being paid to HMRC but VAT on associated costs incurred on the shops can be recovered in full.

Lottery ticket sales from shops

Most charities that operate a lottery sell tickets by entering into monthly agreements with customers who buy directly from a head-office. In addition, some tickets may also be sold in charity shops.

Lottery tickets are exempt from VAT, and therefore, no VAT is due on the sales but VAT cannot be recovered on associated costs. This again results in less VAT being recovered by the charity within the shops. It also adds an extra layer of administration as overhead costs of the shop would need to be apportioned.

Solution: In reality, the VAT bearing costs used by the shop to make the lottery/raffle ticket sales is minimal and so application should be made to HMRC to apply a fairer apportionment on shop costs where these sales exist.

Effect of COVID-19 on VAT recovery rates

The COVID-19 pandemic has resulted in many charity shops, cafes and social enterprise activities to close temporarily. This could have an impact on the amount of VAT recoverable on overhead costs, particularly where the charity uses an income-based apportionment as the proxy for recovery (e.g. the standard method of partial exemption). This is because taxable income has been reduced while exempt income may have remained constant. For example, care services in general will have continued during lockdown, while shops/cafes and conference venues have remained closed.

Solution: Apply to HMRC to agree an alternative recovery method for the year. HMRC has released an information sheet which states it will look at these requests sympathetically and has set up a purpose-built inbox to review these applications. We would suggest that charities review their recovery rates to see if there has been, or will be (using a forecast), a heavy reduction input tax recovery so this can be addressed. HMRC's release can be accessed here.

Corporation tax returns – Hybrid entity reporting

The corporation tax return was updated in April 2022 to include new questions in supplementary pages CT600B (2022) which require a UK company to disclose whether it is a hybrid entity and whether it transacts with a hybrid entity in the same control group.

While it is unlikely that a UK charity would itself be a hybrid entity, there will be some charity-owned groups that include an entity that is treated as transparent for tax purposes in one territory but not in another, and any transactions with such entities may require disclosure.

Full details can be read here – https://www.gov.uk/government/publications/corporation-tax-controlled-foreign-companies-and-foreign-permanent-establishment-exemptions-ct600b-2015-version-3

Health and Social Care Levy

The government has announced on 8 September 2022 a new Health and Social Care Levy to pay for reforms to the care sector and NHS funding in England.

The levy will apply from April 2022, although will operate slightly differently in 2022–23 compared to future tax years.

From April 2022, the levy will see an increase of 1.25% on the rates of:

- Class 1 Primary and Secondary National Insurance Contributions – paid by employees and employers on gross wages, respectively
- Class 1A and Class 1B Contributions – paid by employers on benefits provided to employees
- Class 4 National Insurance Contributions – paid by the self-employed on profits.

In 2022–23, this will operate as a simple increase of the National Insurance Contributions rates, so only those liable to pay National Insurance Contributions will be subject to the levy.

From 2023–24 onwards, once HMRC have developed new systems, the levy will operate as a separate payment to National Insurance Contributions, and it will also apply to those above the State Pension age, which is currently not the case for Class 1 Primary and Class 4 National Insurance Contributions. However, existing reliefs for Class 1 Secondary National Insurance Contributions will also apply to the new levy for employers of apprentices under the age of 25, all employees under the age of 21, veterans, and new employees in Freeports (from April 2022). The levy deduction will appear separately on employee payslips.

From an employer perspective, the effective increase in Class 1 Secondary National Insurance Contributions means that employment costs will increase. It is important that employers assess the impact of this increase on their employment costs and assess how it can be funded. Alternatively, employers may wish to consider other means of remunerating their employees, for example, through tax-efficient benefits, which would not be subject to the levy.

12.5% VAT rate applied to hospitality

From 1 October 2022 the VAT rate applied to hospitality changed from 5% to 12.5%. From 15 July 2020 VAT had been chargeable at 5% on:

- on-premises catering and non-alcoholic drinks sold with catering
- hot takeaway food and drinks
- admissions to attractions including theatres and amusement parks
- hotel and holiday accommodation.

This was always intended to be a temporary measure to boost the hospitality sector at this difficult time. Rather than return to 20% VAT in one go, the VAT rate applicable to these goods and services changed to 12.5% where these are supplied between 1 October 2022 and 31 March 2023.

It should be noted that none of the above affects situations where no VAT is chargeable, such as cold takeaway food.

We have produced guidance on actions both suppliers and customers should take here https://www.crowe.com/uk/insights/preparing-for-the-new-vat-rate.

VAT and Covid-19 Testing

HMRC has recently released its policy, Revenue and Customs Brief 11, in relation to the VAT treatment of COVID-19 tests, and is relevant to any organisation who is involved in the provision of tests for COVID-19 or receives these services from suppliers.

HMRC's recent brief has confirmed its policy on the VAT treatment of COVID-19 testing and the requirements for VAT exemption to apply. These should be followed to avoid HMRC issuing VAT assessments and penalties.

HMRC has stated that the medical care exemption will apply in instances where:

- the service incorporates the administration of the test to the patient; and
- the provision of the results,
- by a medical professional or somebody supervised by a medical professional such as a qualified registered nurse, doctor or a state regulated institution.

Exemption can still apply where the service is supplied by a non-registered person but the services are 'wholly performed' by a medical professional.

Exemption does not apply where:

- the service is provided by UK Accredited Service or the Care Quality Commission as HMRC does not consider these as being state regulation
- the service is administered by the patient themselves. Therefore, lateral flow tests are standard rated
- tests are supplied by manufacturers to hospitals. pharmacies.

HMRC's policy may be challenged as the application to some scenarios could be complicated and provide results that will appear inequitable.

However, if your organisation's treatment is not in line with the policy corrective action should be taken both retrospectively and going forward.

Furthermore, if a supplier has been applying standard rate VAT where exemption applies, the over-charged VAT can be recovered by seeking a credit from the supplier.

Tax on Covid-19 Grants for charities

Over the last couple of years many charities and/or their trading subsidiaries have claimed payments under the coronavirus job retention scheme (CJRS). The CJRS scheme ended on 30 September 2022 and was replaced by the Job Support Scheme (JSS).

Charities may also have claimed the following Covid grants, or 'coronavirus support payments' (CSP), which include:

- the self-employment income support scheme (SEISS),
- the small business grant fund,
- the retail, hospitality and leisure grant fund, the local authority discretionary grants fund,
- the coronavirus statutory sick pay (SSP) rebate scheme,
- the equivalent grant funds in Scotland, Wales and Northern Ireland
- amounts paid under the test and trace support payment scheme and its equivalent in Scotland and Wales, called self-isolation support payments
- Eat Out to Help Out (EOTHO)

CJRS and other CSP payments are generally stated to be taxable for income or corporation tax – is that the case for charities?

If the payments are to support a charitable (ie a non-taxable) activity of a charity, they are not taxable. If they are to support a non-charitable trade, then they will be included in the profits from that trade, as the expenditure covered will be tax-deductible. If the turnover from the trade is below the de minimis limit for income or corporation tax (currently £80,000 in a tax year, or less if the charity's total income is below £320,000) then the grant payments will not be counted when calculating whether the turnover goes over that limit. However, once the turnover is over that limit, then the CJRS/CSP receipts become taxable income.

If the CJRS or CSP grant relates to two different activities, one charitable and the other non-charitable, then it needs to be apportioned between the two on a reasonable basis.

EOTHO was implemented separately from other CSPs. HMRC guidance for EOTHO states that "You must include the payments you receive as income when you calculate your taxable profits for Income Tax and Corporation Tax purposes".

Reporting CJRS payments

However, when it comes to reporting grant payments to HMRC, there are additional tax return reporting requirements for CJRS, JSS, JRB and EOTHO. The JRB, or Job Retention Bonus, is not yet in operation. The Eat Out To Help Out scheme (EOTHO) applied in August 2020.

Whether or not the amounts received are taxable, they need to be reported on the charity's tax return (if it needs to complete one). On the Corporation tax return there are three boxes for CJRS receipts, boxes 471-473. Box 471 records CJRS payments actually received in the period, Box 472 records entitlement over the same period. If the total in Box 471 is larger than the total in Box 472, then clearly there is an overpayment that must be returned, less any overpayments that have already been reported to HMRC or already assessed (Box 473).

Box 474 relates only to JRB and EOTHO overpayments. EOTHO claims need to be reported in Box 647.

The amount owed to HMRC for CJRS is recorded in Box 526. However, this amount is not added to the total of any corporation tax due. It is treated as income tax, and a separate assessment will be issued to collect it.

For trust and estate returns the reporting requirements are contained in Boxes 21.6A and 21.6B. Amounts entered in box 21.6B will be added to the income tax liability of the Trust or Estate, so it is important that if any overclaimed amounts have already been assessed, they are not included in the amount in this box. The individual amounts claimed need to be reported on the relevant boxes of the supplementary pages.

CJRS claims made by trading subsidiaries

If a subsidiary has made its own CJRS (or other CSP grant) claim then clearly this needs to be recorded on its tax return. However, many charities have claimed CJRS for their employees, and then recharged a portion relating to the employees' work for the trading subsidiary. It is important that the company that has actually claimed the CJRS reports the full amount on its tax return, before any recharges, otherwise confusion will result

Gift Aid: Extension to gift aid claims on debt waivers

HMRC have now amended their detailed guidance notes to confirm that the donations made from a waiver of a right to either a refund or loan repayment are eligible for gift aid.

This could be useful for a theatre which cancels a show and asks patrons if they will donate the price paid for the tickets instead of claiming a refund. Or a school which receives fee deposits. A child leaves and the School asks the parents if they will donate any remaining fee deposit to the school. They can now claim gift aid on the amount waived by the donor.

As ever there are conditions. There needs to be a record of a formal waiver held by the charity. For a small amount (HMRC give the example of tickets to a fundraising events) an exchange of emails confirming that no refund is required and that the amount is to be treated as a donation should be enough. The charity then needs to keep the emails in case HMRC want to check the donation.

For larger amounts HMRC expect there to be a legally enforceable document in place which makes clear: 1) how much is being waived 2) that the donor is giving up all legal rights to any future repayment and 3) confirmation that the amount waived is to be treated as a donation for gift aid purposes. This means putting in place a deed of waiver or release, which will require legal input.

Other gift aid rules still all need to be met, such as having a gift aid declaration, and the donor not receiving any significant benefits in return for the donation.

The guidance can be found here: https://www.gov.uk/government/publications/charities-detailed-guidance-notes/chapter-3-gift-aid.

Gift Aid: naming rights

HMRC have issued revised Gift Aid guidance to clarify that the naming of a building or part of a building after a donor will not usually constitute a benefit for Gift Aid purposes.

The updated wording, in HMRC's Chapter 3 guidance, amends a previous update in August 2019 which gave an unclear position on naming rights and implied that the naming of a building would either have to be unsolicited or it would be considered a benefit which would potentially render the donation ineligible for Gift Aid.

The new guidance states that, as long as the naming does not act as an advertisement or sponsorship for a business, then it will not be considered a benefit. This revised wording brings greater clarity to the position and is better aligned with HMRC's equivalent guidance on the direct tax treatment of charity sponsorship arrangements.

Trust Registration Service

Under current UK anti-money laundering regulations, most UK trusts (including non-taxable trusts) as well as some non-UK trusts are required to register with the Trust Registration Service (TRS) by 1 September 2022. A trust is required to register with the TRS if it is either a registrable express trust or a registrable taxable trust.

The current regulations exclude from the definition of a registrable express trust all trusts that are set up for charitable purposes and that are either:

- registered with the Charity Commission in England and Wales (or with the appropriate regulators in Scotland or Northern Ireland);
- not required to register by virtue of section 30(2) of the Charities Act 2011. This includes exempt charities, excepted charities and charities with income of less than £5,000 per year.

Additionally, ‘special trusts’ that hold funds on behalf of a charity for the purposes of that charity are not required to register with the TRS, provided that they are accounted for as part of the accounts of a charity that is either a registered charity or excluded from registration under section 30(2) of the Charities Act 2011.

For charitable trusts pending approval of their charity registration, HM Revenue and Customs have stated in their guidance that they will not require such trusts to register on the TRS so long as the trustee have a genuine expectation that the trust will be accepted for registration as a charity.

A charitable trust may also be required to register with the TRS if it is a registrable taxable trust. This is the case where the trust is liable to pay any of the following taxes in relation to its UK assets or UK-sourced income:

- Income tax.
- Capital Gains Tax.
- Inheritance Tax.
- Stamp Duty Land Tax (SDLT).
- Stamp Duty Reserve Tax (SDRT).
- Land and Buildings Transaction Tax (in Scotland).
- Land Transaction Tax (in Wales).

Any charitable trusts that are set up or become registrable after 1 September 2022 will be required to register within 90 days of becoming registrable.

Appendix 7 - Going concern

The Charity Commission guidance “Managing financial difficulties & insolvency in charities” (CC12) stresses the importance for “a trustee body to have a good knowledge and understanding of the charity and its finances so that, as far as possible, the continued viability of the charity and its charitable activities can be assured.”.

This is a theme that runs through the Charity Commission’s updates and alerts including its guidance on whether charities can use reserves and restricted funds to help the charity through the crisis.

The Charity Commission guidance highlights a number of factors the trustee needs to consider.

- Trustee should review what are their short, medium and longer-term priorities, including whether or not certain projects, spends or activities can be stopped or delayed.
- The guidance recognises that reserves can be used to help cope with unexpected events like those unfolding at present.
- If the trustee have previously decided to earmark certain funds for a particular purpose they may be able to re-prioritise these.
- Restricted funds which cannot be spent at the trustee’ discretion may only be used for a particular and defined purpose. In some instances, there may be ways to amend these restrictions, but accessing or releasing restricted funds should only be considered if other options such as reserves are not possible.
- All decisions on such financial matters should normally be taken collectively, and significant decisions and action points noted in writing.

d) Liquidity and resilience

The Charity Commission guidance goes on to explain that “*The overall responsibility for effective governance and the implementation of proper financial management rests with the trustee, but may well involve all staff members whether paid or volunteers*.”

As well as the level of available reserves the trustee will also need to understand and consider the charity’s liquidity.

- Proper consideration needs to be given to cash flow forecasts and debt and project management based on realistic assumptions set. There should be a budget including cash projections and business plans produced at least annually and monthly monitoring against the plans.
- There is a need to extend cash flow forecasts to evaluate issues that may arise after the end of the period covered by existing cash flow forecasts.
- There should be processes in place to ensure that appropriate procedures and controls have been applied to models used to generate cash flow and valuation information, including the choice and consistent use of key assumptions.
- Appropriate sensitivity analysis needs to be applied to address the potential impact of reasonably possible events. Sources of income and expenditure should be analysed with consideration of uncertainties around grant funding, voluntary or earned income.
- The sensitivity analysis should properly flex assumptions to identify how robust the model outputs are in practice and that the assumptions are free from bias.

In April 2016 the FRC issued its guidance on the Going Concern Basis of Accounting and Reporting on Solvency and Liquidity Risks for companies that do not apply the UK Corporate Governance Code. Whilst this guidance refers to “directors” and “companies”, the report makes it clear that it is designed to relate to all other entities preparing accounts under the going concern basis and it will therefore be applicable to charities and charity trustee.

The guidance defines Solvency Risk as “*the risk that a company will be unable to meet its liabilities in full” and Liquidity Risk as “the risk that a company will be unable to meet its liabilities as they fall due*”.

The guidance sets out some of the factors which directors should consider as part of their assessment process but also explains that it is the directors that need to determine the relevance of these factors considering the size, complexity and the particular circumstances of the organisation, its industry and the general economic conditions.

In addition, there may be charity specific issues to consider including ensuring that there are no breaches of trust with respect to any restricted income or endowed funds and that the charity is able to meet its obligations in relation to these funds. Trustee may be held liable for a breach of trust if they apply restricted funds for purposes outside of the relevant restriction.

CC25: "Charity finances: trustee essentials" – issued in March 2017 emphasises the need for charities to be resilient. This is a key theme for much of the Commission's guidance is also discussed in the updated CC19 guidance entitled "Charity reserves: building resilience".

In the section on 'managing financial difficulties and insolvency, CC25 explains that if charities face financial difficulties then the trustee must:

- "*have the appropriate skills and time to ensure the proper running of the charity and lead or manage it through difficulties,*
- *ensure that they regularly receive and consider robust and up-to-date financial management information to enable them to recognise at an early stage when the charity is facing financial difficulties,*
- *find out which charity funds are restricted in their use by their donors and which can be used for any of its aims - this is crucial to the proper understanding of the charity's overall financial position,*
- *take prompt action when they think insolvency is a possibility – professional advice in writing should be taken at an early stage because any corrective action needs to be carefully planned,*
- *consider changing, cutting or restricting the charity's activities, reviewing funding sources and commitments or refinancing,*
- *think about merging or collaborating with another charity,*
- *have an understanding of (and if necessary take advice about) insolvency law and how it applies to charitable companies, and what voluntary options there are for other types of charity,*
- *recognise that once the charity has reached the stage of liquidation or winding up their primary duty is to pay the charity's debts, and*
- *tell the Commission if the charity closes or is no longer active so that it can be removed from the register of charities (legal requirement).*"

e) *Insolvency*

There are normally two tests of insolvency – the balance sheet test (positive net assets) and the cashflow test. The key issue is, can the organisation pay its debts as they fall due? The cash flow test is of particular importance and a charity can be insolvent even if it has positive net assets. Careful consideration is required of many factors, such as what values can be realised in time to meet debts and what assets can be used to meet liabilities. Understanding is needed of the implications of the different restricted and endowed funds held by the charity. The position for trustee of an unincorporated charity is different and the risks are usually higher.

Directors and shadow directors can be guilty of wrongful trading if they continue to trade and incur liabilities they knew or ought to have known that there was no reasonable prospect of avoiding insolvent liquidation.

Fraudulent trading is also a risk. Section 213 of the Insolvency Act provides that on the application of the liquidator of a company the Court may order that any persons who were knowingly party to carrying on the business of the company with intent to defraud creditors must make a contribution to the company's assets. For a fraudulent trading action, intent to defraud creditors must be proved and the onus of proof is on the liquidator. There must be evidence of actual dishonesty. For an insolvent charitable company, senior management, and not just the trustee, could also be made liable for fraudulent trading. The charity should avoid entering into preferential transactions which put another party in a better position to the detriment of other creditors. The court will recognise mitigating circumstances. For example, if the directors took proper steps to minimise the potential loss to the company's creditors.

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