Charity News

Spring 2022

Introduction

We are delighted to bring you our Spring edition of Charity News, in which we look at a number of matters currently of interest to charities and not-for-profit organisations.

While there are green shoots emerging in respect of COVID-19, it continues to challenge many charities both from an operational perspective as well as from a financial perspective, and in this edition we consider its continuing impact.

Our first article provider a quick reminder of the cyber issues facing charities and how to reduce the risk of your organisation being impacted.

With the environment and sustainability getting much attention particularly in recent months, our next article considers the role of charities and how a charity can enhance their sustainability.

Following on from this we consider from a financial accounting perspective the pressures and demands on reserves, and the age old question of 'how much is enough', along with considering the type and use of reserves, which could potentially include sustainability projects for the future.

Our forth article provides a detailed roundup of tax developments. This includes tax administration matters introduced under the Finance Act 2021, COVID-19 matters relating to EWSS and BIK, and changes in income tax deductions for remote working.

Our article 'Charities, COVID and the Code', gives you an update on the impact of COVID-19 to charities from a operational perspective and also outlines the key elements to consider for charities who are still working towards full compliance with the Charities Governance Code.

Our final article looks at Religious Orders and the importance of ensuring there are sufficient resources to meet the needs of members, and provides a summary of the the key steps typically required in order to carry out such an assessment.

We hope that this issue is helpful in reminding you of recent developments, as well as highlighting ways to ensure your organisation is up to date with sectoral issues.

If you would like to discuss any of the issues discussed in this newsletter, or any other challenges that your organisation may be facing, please contact your regular PwC contact or any of our not-for-profit team noted on page 14.

We would also like to take the opportunity to wish you and your organisation positive times ahead.

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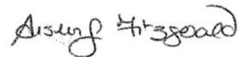

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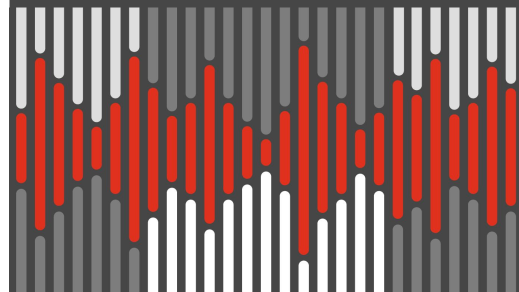
Contents

Cyber Security considerations for charities	3
Charities' contribution to a more sustainable world	4
Reserves Policy - Are there new demands on reserves post pandemic?	6
Tax developments roundup - Finance Act 2021	8
Charities, COVID and the Code	12
Providing for members of Religious Orders throughout their lifetimes	10
Our PwC not-for-profit team	14



Cyber Security considerations for charities

In the 24th PwC Annual Global CEO Survey, cyberthreats was the second highest risk perceived by CEOs just after pandemics and other health crises. Furthermore, we have seen a growing number a cyber incidents occurring within Ireland. Cyber threats are equally as impactful to charities as they are to large corporate organisations.

Amongst charities, cyber risk is a very big concern. We have seen high-visibility cyberattacks during 2020 and 2021 such as the cyber attack on the Health Service Executive which affected the whole country for a number of weeks. As a result of the increasing number of cyber incidents occurring, the majority of organisations plan to improve their cybersecurity by increasing their long-term investments into cybersecurity over the next three years.

Charities carry a range of sensitive data that is considered valuable for criminals. Personal data, customer data, bank details and employee details are assets that can make charities an attractive target for criminals.

The following is a reminder of the main types of cybersecurity threats facing your organisation.

Phishing/SMishing

Phishing is a social engineering attack used by cyber criminals to gather sensitive information from the victim such as their login information. The usual method utilised by these criminals is to send an email to the victim masquerading as a trusted entity however in recent times, other methods such as SMS messages are also being utilised. The recipient is then tricked into clicking a malicious link, which can lead to the installation of malware, or the revealing of sensitive information. Furthermore, these types of attacks are used to gain a foothold in the network before performing other types of attacks such as a ransomware attack. This could result in potential donors being unwilling to give personal information when donating. In addition, regulatory fines may also be applicable.

At a minimum the following should be considered to reduce the chance of your charity being affected by a phishing attack:

- Raise awareness against these attacks by conducting trainings and regular phishing campaigns;
- Ensure that your systems and applications are up-to-date with the latest security patches;
- Install protective technologies such as antivirus solutions, spam filters;
- Utilise two factor authentication where possible.

Ransomware

Ransomware is a form of malware designed to encrypt files on a device, rendering any files and the systems that rely on them unusable. Malicious actors then demand ransom in exchange for decryption. For example, in 2021, the Salvation Army UK was hit by a ransomware attack on its corporate systems.

The ransomware attacks could result in charities finding it significantly difficult to provide services to the people that depend on them until the systems are able to be recovered.

In order to prevent or reduce the impact of the attacks, the following should be considered:

- Ensure that all systems and applications are up-to-date with the latest security patches,
- Ensure that regular backups are performed and that these backups are tested;
- Raise employee awareness as ransomware attacks are usually the second stage of a phishing attack; and
- Have an incident response plan in place.

Third parties

Focusing on what's inside your organisation is only part of the challenge when trying to prevent cyber attacks. Any organisation's security posture is only as strong as its weakest link. And very often, the weakest link exists outside your organisation.

Our Global Economic Crime and Fraud Survey 2020 highlights that one in five respondents identified vendors and suppliers as the source of their most disruptive external fraud. We have seen a growing number of cyber attacks originating from the third parties.

To reduce this risk, a third-party risk management role/team should be defined. They would then be responsible for ensuring that security requirements are listed in the contracts, ensuring that those requirement are being met and performing risk assessments on the third party.

Overall, charities need to focus on preventing cyber risks such as phishing, ransomware and third party risks. Having effective measures as mentioned above will reduce the probability of a successful cyber attack.

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Charities' contribution to a more sustainable world

As we can see in the media, our world is faced with many environmental degradation issues as well as social and human rights violations. The COVID pandemic has been a catalyst in making us all think about our impact on the natural environment and how dependent we are on mother nature for everything. We are all vulnerable to the changes in our natural environment. It is essential that we all take time to understand these sustainability challenges in the world and try to make a difference in any way that we can to contribute towards a more sustainable society.

Increased global focus on sustainability

Over the last few years, there has been an increased focus from government, regulators, investors, and companies to encourage action in committing to greener, low carbon and more sustainable economies. COP 26 was a prime example of the world coming together to discuss and commit to national decarbonisation targets.

At the United Nations Sustainable Development Summit in September 2015, the 2030 Agenda for Sustainable Development was adopted by all United Nations Member states. At the heart of the Agenda for Sustainable Development is a set of 17 Sustainable Development Goals (SDGs) with 169 targets and 232 Indicators to end poverty, fight inequality and injustice, and tackle climate change by 2030. To achieve the SDGs, it is imperative that there is ownership and strong commitment by all stakeholders.

Another key global driver is the Paris Agreement which is an international treaty on climate change. It was adopted by 196 Parties at COP 21 in Paris, in December 2015 and entered into force in November 2016. Its goal is to limit global warming to well below 2 degrees Celsius, preferably to 1.5 degrees Celsius, compared to pre-industrial levels.

Due to widespread acceptance of the SDGs and the Paris Agreement, nearly all countries have committed to achieve the SDGs, reduce their carbon emissions, work jointly to adapt to the impacts of climate change and to strengthen their commitments over time.

In the European Union, policymakers have started an ambitious legislative push towards a more sustainable economy.The EU Green Deal is a new growth strategy that aims for the EU to become the first climate neutral continent by 2050, resulting in a cleaner environment, more affordable energy, smarter transport, new jobs, and an overall better quality of life. Sustainable finance has a key role to play in delivering on the policy objectives under the European green deal as well as the EU's international commitments on climate and sustainability objectives.

The European Commission has adopted the new sustainable finance strategy to help improve the flow of money towards financing the transition to a sustainable economy. To be able to achieve sustainability targets, it is vital that investors re-orient investments towards more sustainable technologies and businesses. There is therefore an increasing regulatory focus on asset managers and the wider financial ecosystem to embed sustainability within their own corporate structure and with the financial products which are on offer. Investors are required to disclose the Environmental, Social and Governance (ESG) principal adverse impacts of their investments and therefore companies will have to ensure that their disclosures are comprehensive to support this. This will have particular impact for charities who hold some of their reserves in the form of an investment portfolio.

Role and focus of Charities regarding sustainability

Charities play a key role for this transformation as they are able to raise awareness, build capacity, mobilize actions and projects as well as both support and hold governments and companies accountable to their sustainability commitments. It is therefore integral that Charities create a culture of sustainability leadership and ensure that they also understand what their sustainability risks and impacts are and that they are managed and reported accordingly.

With the enhanced focus on sustainability, there will be added pressure for Charities to have more streamlined processes for enhanced focus on sustainability issues, measuring its progress on strategic objectives and mobilising resources as well as additional sustainability reporting requirements from its stakeholders and investors. Charities will need to remain attentive to the changing stakeholder expectations as part of the transition to more sustainable financial investments.

What can Charities do to enhance their focus on sustainability?

1. Alignment with the 17 SDGs

By aligning your goals and projects to the SDGs, this will highlight the Charities' commitment to contribute towards the SDGs and will improve the understanding of their projects as they will be speaking a universal 'SDG Agenda' to their stakeholders, thus gaining more support from them. This will also enhance their overall impact to be more long term. SDG 17 focuses on partnerships for the goals and many public and private sector organisations will be looking for more partners to assist them with achieving their SDG goals.

2. Integrating sustainability into your strategy and management of risks

As part of their strategic planning process, Charities should understand how sustainability relates to their organisation, the work that they do and how they can include this focus as part of their strategy. Discussions with all stakeholders to assess their needs and expectations should provide the direction of focus. Strategic goals and targets should be established within the sustainability pillars of ESG. It is also important for ESG risks to be identified, assessed and managed as part of the risk management process. All this leads to good business practices which will enhance the reputation and credibility of Charities.

3. Greening your operations and commitment to decreasing carbon emissions

It is important for Charities to demonstrate their commitment towards being more environmentally responsible and protecting the environment. They can do this by adopting more green practices which will enhance their credibility as well as gain more support from stakeholders. Some of the green initiatives can include reduced consumption of all resources (e.g. water, paper, electricity), reuse and recycling where possible, implement green procurement policies, commit to net zero carbon emissions and/or implement carbon reduction targets, as well as conduct environmental education and advocacy campaigns around 'protecting our environment'.

4. Reporting on your sustainability commitments and goals

Organisations are coming under increasing pressure to comply with expectations from their stakeholders, as well as the push from regulators and funders to focus on sustainability issues with regard to Environmental, Social and Governance (ESG) commitments. It is therefore important for Charities as part of their reporting to include focus on their sustainability commitments and goals so that they gain the support of their stakeholders; investors, regulators and funders.

Currently there are many voluntary sustainability reporting frameworks in the world that are being used by organisations to report on their sustainability commitments. Recently there has been a great deal of dialogue around the need for comparable, consistent, mandatory and independently assured sustainability information to enable stakeholders to make informed decisions on organisations and assess their performance in relation to others. Due to this, legal frameworks and rules around reporting of sustainability information are rapidly evolving. It is therefore important for Charities to remain attentive and ensure that they are reporting in line with their stakeholder requirements with the accuracy and credibility of this reporting being front of mind. Over time we expect to see more disclosure by Charities as part of their trustee report on their sustainability commitments and goals and we will expect to see KPIs being developed and disclosed to measure and report progress against these goals. We also expect that in planning for meeting these Environmental, Social and Governance (ESG) commitments that charities will need to have regard to their existing reserve policies, and that some charities will start designating some of their reserves to specifically address these future commitments.

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Reserves Policy - Are there new demands on reserves post pandemic?

Changing perspectives on reserves post COVID-19

I have had a huge amount of queries and interest from clients on the whole topic of reserves and "how much is enough" particularly over the last 12 months. Many charities have been re-thinking their reserves policies in the context of the COVID-19 global pandemic and in the context of other changing priorities, such as ESG (Environmental, Social and Governance) commitments.

Charities Regulatory Authority views on reserves

The Charities Regulatory Authority has recently produced a very useful guidance document on Charity Reserves. I have replicated a short extract from this guidance document, which I believe is very useful in setting the scene for how the Charity Regulator views reserves, and clearly articulates the view of the Regulator that her expectation is that Charities should not build surplus funds without appropriate explanation or justification:

"Generally, a charity is expected to spend its income on advancing its charitable purposes, unless there is a specific reason for keeping it. Accumulating a high level of reserves without a clear explanation or justification may adversely affect the public's perception of a charity. Unjustifiable stockpiling of reserves may also cause concern that charitable assets are not being used for a charitable purpose. In general, reasons why charities hold reserves can be summarised as follows:

1. to meet a charity's commitments when expenditure overruns or unplanned events occur;
2. to fund shortfalls in income, for example when income is delayed or does not reach expected levels;
3. to fund unexpected events calling on the charity's service (such as a natural disaster requiring extra services with little warning);
4. to fund a future specified commitment or project;
5. to respond to unexpected difficulties or crisis."

Important distinction between "Restricted" and "Designated" Funds

All of the above are forms of "designated reserves" from an accounting perspective. Readers of accounts, and often even charities themselves can get confused about the distinction between restricted charity funds, and designated charity funds. The Charity SORP clearly defines restricted funds and designated funds.

Restricted funds

Para 2.8 of the Charities SORP (2019 version) notes that: "Funds held on specific trusts under charity law are classed as restricted funds. The specific trusts may be declared by the donor when making the gift or may result from the terms of an appeal for funds. The specific trusts establish the purpose for which a charity can lawfully use the restricted funds. It is possible that a charity may have several individual restricted funds, each for a particular purpose of the charity."

Unrestricted and designated funds

On the other hand then, unrestricted funds are funds which are spent or applied at the discretion of the trustees to further any of the charity's purposes. Para 2.7 of the Charities SORP (2019) goes on to say that: "Trustees may choose during the reporting period to set aside a part of their unrestricted funds to be used for a particular future project or commitment. By earmarking funds in this way, the trustees set up a designated fund that remains part of the unrestricted funds of the charity. This is because the designation has an administrative purpose only and does not legally restrict the trustees' discretion in how to apply the unrestricted funds that they have earmarked. Identifying designated funds may be helpful when explaining the charity's reserve policy and the level of reserves it holds."

Key differentiator

The key differentiator between “restricted funds” and “designated funds” is that restricted funds are restricted at the discretion of the donor, whereas designated funds are restricted/ designated at the discretion of the Trustees, and can be re-designated or re-deployed to a different designated fund at a later stage at the discretion of the trustees without the need to go back to the donor for approval.

So while the board of trustees in every charity has a huge amount of discretion in relation to the unrestricted and designated funds of the charity, they must also have regard to the guidance from the Charities Regulatory Authority on the need to ensure that reserves are not built up without appropriate regard to future needs or commitments.

Two main types of post COVID reserve - “Operational Reserve” and “Sustainability Reserve”

In the period post COVID, my experience is that charities have been placing particular focus on two main types of designated reserves. The first of these is what many charities are calling a “resilience fund” or an “operational reserve” and the second of these is what charities are calling a “sustainability fund”.

With regard to the resilience fund or operational reserve, this is where charities are effectively setting aside enough funds to provide themselves with enough operational cash to ensure the charity can continue to provide its activities in the event of another pandemic or natural disaster. For some charities this means setting aside 2-3 months of operating costs as a reserve, and for others depending on the nature of their funding and where it comes from, and their capacity or ability to generate surplus reserves, it can mean setting aside between 6 and 12 months of operating spend. While many charities have asked me - “how many months should we hold”, my answer has always been that this can only be decided by individual charities based on their own personal circumstances. It is important to recognise that there is no formula or one size fits all approach to reserves and you need to consider what is relevant for your charity. However, once you have agreed on your reserves policy you should review the level of required reserves regularly to make sure it is still fit for purpose.

The second type of reserve which I have seen some charities start to put in place recently, depending on availability of unrestricted funds, is a sustainability type fund or reserve which they have created with a view to funding the various commitments they have made as part of their organisations policies and commitments on Environmental, Social and Governance (ESG).

You will have seen in our previous article ‘Charities’ contribution to a more sustainable world’, that charity organisations will need to assess their direction of focus in relation to ESG, and in particular will need to assess what is required by their funders or donors in the context of meeting ESG targets and commitments. Strategic goals and targets should be established within the sustainability pillars of ESG by all charities, and costings should be prepared on the anticipated cost of delivering on these targets. Depending on the availability of reserves to the charity, it may be appropriate to put aside a particular designated reserve in order to prepare for the future funding requirements associated with meeting these targets. In line with the guidance from the Charities Regulatory Authority there should be a clear rationale and justification for any amounts being set aside in reserves for this purpose.

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Tax developments roundup - Finance Act 2021

The Finance Act 2021 was signed into law in late December 2021. Whilst many not-for-profit organisations enjoy charitable status and accordingly may not pay corporation tax or capital gains tax, there are still plenty of developments in the recent Act that are worth being aware of.

A number of the amendments introduced in the Finance Act relate to the administration of tax. Whilst many of the changes are broadly welcome, they do signal Revenue's renewed focus on compliance interventions. This is particularly so in the context of the proposed changes to its Compliance Intervention Framework (currently referred to as the Code of Practice on Revenue Audits and Other Compliance Interventions) which is to be implemented this year.

I have set out the details of these administrative changes below, followed by a round-up of amendments of more general interest for the not-for-profit sector.

Tax administration

The key tax administration measures introduced in Finance Act 2021 are as follows:

Publication

The Finance Act has introduced a number of changes in relation to the publication regime.

A settlement is now only publishable when it exceeds €50,000, which is an increase from the current publication threshold of €35,000. The legislation has also been updated to clarify that tax repayments that have been overstated by more than €50,000 are publishable.

It is important to note that the €50,000 threshold introduced by the Act relates only to tax and not to tax, interest and penalties, which had previously been the case. Also, a settlement need only contain tax and a penalty to be publishable, whereas previously it had to feature tax, interest and a penalty.

However, where the settlement is publishable, the tax, interest, surcharge and penalty will be published. The details in respect of a tax defaulter's name have also been expanded to ensure that a defaulter cannot avoid recognition by using an alternate name.

Penalties

The Act has introduced some positive changes in relation to the statutory penalties which apply in cases where tax has been underpaid.

- The penalty mitigation provisions of Technical Adjustments and Innocent Error have now been put on a statutory footing. These mechanisms had previously only been referenced in Revenue's Code of Practice.
- Similarly, the Act also provides a legislative basis for the non imposition of a tax-geared penalty in cases where the total tax default is careless and below €6,000.

Retention of records

The Finance Act inserts a provision which clarifies that records and linking documents must be kept where they relate to any allowance, deduction, relief or credit taken into account in computing the amount of tax payable. Furthermore, records should be kept for the six-year period from the end of the year of assessment or accounting period in which the return has been delivered.

Analysis of the key measures

As mentioned previously, the amendments introduced in the Finance Act signal Revenue's renewed focus on compliance interventions, particularly in the context of the proposed changes to its Compliance Intervention Framework which will be implemented this year

The increase in the publication threshold to tax settlements in excess of €50,000 is a move in the right direction. However, this threshold is still low in relative terms in the context of the tax liabilities arising where there is a significant multiplier effect (which can arise in income tax/ PREM and VAT audits). The expansion of provisions relating to the tax defaulter's name (so they cannot avoid recognition by using an alternative name) is clear evidence of Revenue's continued commitment to publishing appropriate details on non-compliant taxpayers.

The introduction of the penalty mitigation provisions into legislation is positive and ensures greater alignment with Revenue's Code of Practice for Revenue Audits and Other Compliance Interventions. While overall we have seen some well received amendments in respect of penalties and publication, those within the scope of on any tax head still face serious monetary and reputational risks where they underpay tax. It is important that not-for-profit organisations of all sizes proactively manage these risks, particularly with Revenue audit activity expected to ramp back up to pre-COVID levels in the coming months.

Reorganisations of Charities

For charities, there was an amendment to allow, subject to certain conditions, the successor body that emerges from a reorganisation (rather than an amalgamation) to retain the charitable tax exemption. A key substantive requirement is that the body/bodies held appropriate Revenue authorisation(s) before the reorganisation and met all relevant conditions for a two year period prior to the reorganisation.

A similar provision for amalgamating charities was already included in Finance Act 2020.

COVID-19 measures

Employment Wage Subsidy Scheme ("EWSS")

Finance Act 2021 confirms the extension of the Employment Wage Subsidy Scheme to 30 April 2022. There is no change to the eligibility criteria for the scheme which continues to be a 30% reduction in turnover or customer orders in the period from 1 January to 31 December 2021 compared to 1 January to 31 December 2019.

There was no change to the subsidy rates for October 2021 to January 2022 but for February 2022, a two-rate structure of €151.50 and €203 will apply.

A flat rate subsidy will apply in March and April 2022 and the reduced employer PRSI rate will no longer be available in this period.

The scheme closed to new entrants from 1 January 2022.

On 21 December 2021, in light of the new public health restrictions announced that month, the EWSS was re-opened for certain employers who had previously availed of the scheme at any time between 1 September 2020 and 31 December 2021, but who were not eligible on 31 December 2021. Subject to certain conditions, employers could re-enter the scheme if their business was expected to experience a 30% reduction in turnover or customer orders in the period from 1 December 2021 to 31 January 2022 compared to the period from 1 December 2019 to 31 January 2020. (The comparator period differs where the business commenced trading on or after 1 May 2019). Applications to re-enter the scheme must have been made to Revenue by 15 January 2022.

BIK exemption for employer provided COVID-19 tests

Finance Act 2021 introduces an exemption from a BIK charged in respect of employer provided COVID-19 tests where the test is necessary for the performance of the duties of employment.

It also introduces an exemption for employer provided flu vaccines, where the vaccines are made available to all employees. While this latter BIK exemption was previously available by way of Revenue concession, the introduction of the exemption into legislation brings greater certainty for employers.

Remote working

Employees will be pleased with the increase in the deduction from income tax from 10% to 30% available in relation to light and heat costs which can be claimed for days working from home, and the fact that these tax deductions will now be set out in legislation. This will result in an extra €48 for a higher rate taxpayer who works from home for c.100 days per year and has a heat and electricity costs of €2,250 per annum.

Unfortunately, there is no change in the process for claiming the deduction which is quite burdensome. Nor is there provision to allow workers to claim a tax deduction for expenditure on equipment used for remote work purposes. A wider review of the tax treatment of travel and subsistence reimbursements to employees and how these should apply to hybrid working arrangements would be welcome.

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Charities, COVID and the Code

In a time where almost every facet of life has been and continues to be affected by the COVID-19 pandemic, the not-for-profit sector is no exception.

It is widely acknowledged that the COVID-19 pandemic has had a damaging effect on the not-for-profit sector as a whole. The pandemic has created a time of acute financial pressure for charities where managing going concern issues and insolvency risks have become a serious concern for many charities and their respective Directors and Trustees.

COVID-19 has also presented huge practical difficulties and governance issues for charities in relation to holding required member and Board of Director meetings to effect transactions, approve decisions and/or contracts.

Charities require effective management and governance processes to navigate these challenges.

The 2020 annual report released by the Charities Regulator in July 2021 further highlights the importance of Governance matters noting that there were 103 governance concerns raised to the Charities Regulator in 2020 alone.

2021 saw 91 charities deregistered by the Charities Regulator and again illustrates starkly the severity of the COVID-19 pandemic on funding and the going concern issues faced by charities. The number of charities availing of tax relief increased from 7,184 to 7,314. Due to a decrease in charitable donations and fundraising in 2021, many charities sought to avail of any tax refunds and deductions they could in an attempt to boost funds.

The Charities Regulator issued an online survey to gauge the impact of the pandemic on the sector “Survey Report on the Impact of Coronavirus (COVID-19) on Charities 19 May 2020”. Some key findings from the Survey are that, as a result of the pandemic:

- 55% of respondents said their charity’s finances were uncertain or in difficulty;
- 68% of respondents said that their charity’s services were restricted as a result of the crisis;
- While 29% of respondents indicated that their charity did not fundraise, of the 71% of respondents who said that their charities did fundraise, 90% stated that their charities had to cancel or postpone fundraising for 2020;
- 54% of respondents were concerned that their charity may be unable to continue providing services for more than 6 months. Within this group, approximately 9% of respondents were concerned that they may not be able to provide services for more than 1 month, 28% for more than 3 months and 17% for more than 6 months;
- 73% of respondents said their charity trustees continued to communicate via email or by meeting remotely.

Another key finding of the survey was that 89% of respondents said that due to COVID-19 pandemic they regarded their charity’s annual reporting obligations and maintaining an accurate Register of Charities to be as important as always.

While the Charities Regulatory Authority acknowledges the difficulties faced by the not-for-profit Sector, it also emphasises that ensuring standards of good governance are maintained by charities is even more important at a time of crisis and highlights the vital role played by the Charities Governance Code, (‘the Code’), in this regard.

The Code was launched by the Charity Regulatory Authority in November 2018 with the specific aim of helping charity trustees implement good governance systems and processes, which will assist them in meeting their legal duties under charity law.

The Code contains six principles of governance and each principle has an accompanying core set of standards, which must be met by all charities, on a “comply or explain” basis. The Code also includes additional standards, which should be met by larger or more complex charitable organisations, or those that employ a significant number of employees.

The six principles of Governance are:

1. Advancing charitable purpose
2. Behaving with integrity
3. Leading people
4. Exercising control
5. Working effectively
6. Being accountable and transparent

Key actions for Trustees under the Code

- Read the principles and standards
- Decide what category of charity the charity is for the purposes of the Code
- Decide who will lead the compliance and reporting process
- Decide on actions to meet the standards and the approach to be taken by the charity
- Identify and collate supporting evidence to show the charity meets the requirements of the Code
- Agree and implement project milestones – e.g. completion, review
- Report to the CRA on compliance with the Code

Reporting requirements

Every charity must submit an annual report to the CRA within 10 months of its financial year end.

Beginning in 2021, whenever a charity files its Annual Report, it shall be required to declare if, at the date of filing of the Annual Report, the charity:

- is fully compliant with the Code (Declaration A),
- is partially compliant with the Code (Declaration B), or
- has not started implementing the Code (Declaration C).

Complete a Compliance Record Form (‘CRF’)

A CRF is available from the CRA website and this must be completed every year by the trustees. The CRF requires trustees to consider the core standards of each of the six principles and to demonstrate, for each standard (and additional standards where applicable) the actions that the charity has taken to meet the standards and the evidence that is available to support this.

Trustees should not underestimate the time and effort involved in creating the supporting evidential file, to allow the charity to complete the Compliance Record Form and make the relevant declaration.

The CRF does not need to be filed with the Charities Regulatory Authority, however the Charities Regulator may request sight of the CRF at any time.

Charities were required to begin reporting on their compliance with the Code for the first time in 2021. As mentioned above, while the Charities Regulatory Authority acknowledges and appreciates the myriad of challenges faced by charities due to the COVID-19 pandemic, it also emphasises the central role that good standards of governance can play in assisting charities to navigate the challenges caused by the pandemic. It is therefore imperative for any charities, who have not begun the process of compliance, to now engage with it as a matter of priority as the risks associated with non compliance e.g. reputational risk, impact on funding etc can be incredibly damaging for charities in such uncertain times as these.

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Providing for members of Religious Orders throughout their lifetimes

Members of Religious Orders have dedicated much of their lives to their Order and responding to the needs of others. In return, the Order looks after their members' needs and these needs will change as members age. Ensuring that there are sufficient resources to support the future needs of members requires an assessment of the future income and expenditure associated with the members as well as considering how their needs may change.

Whilst the financial position and the needs of members will differ depending on the Order, the following is a summary of the the key steps typically required in order to carry out such an assessment.

Project the number of members

Most Religious Orders have an ageing population with relatively few new vocations. This ageing of the population has a number of consequences including:

- Fewer members earning an income;
- Ability to carry out the purpose of the Order will decline;
- A reduced ability for members to support each other with day to day living leading to a requirement to engage external service providers;
- Accommodation needs may change - for example, a requirement to have more accessible housing;
- Health care needs increase.

A first step is to examine the age profile of members and estimated life expectancies - this projection will allow an assessment of future needs and associated costs.

Projecting life expectancies tends to be based on general population statistics with some adjustments for the typical characteristics of Religious Orders (who in our experience have a higher life expectancy).

Future expenditure

Most Orders will have a budgeting process typically spanning three to five years and this will give an indication of future income versus expenditure over that period. However, in order to ensure that funds will be available to support the members over their lifetimes, an assessment needs to be made of the estimated expenditure which will be incurred over significantly longer periods.

The per-person cost associated with supporting the needs of members tends to increase with age:

- Increasing health care needs including home care, nursing home care and other medical costs;
- Fewer members able to provide support to other members;
- Fixed costs, such as home maintenance, etc. will be spread across fewer members;
- Inflation.

The most significant factors impacting on the future cost of care are:

- Nursing home costs - this can vary considerably depending on location, public or private, etc;
- The availability of the Nursing Homes Support Scheme (known as the ‘Fair Deal Scheme’) - this Scheme is subject to change in the future and the reliance on this should be quantified, e.g. ‘What if the Fair Deal Scheme were to cease?’

Assumptions will need to be made with regards to the level of care required and at what age - for example, an assumption might be that 1 in 5 individuals will need full time nursing home care from age 85.

Future income

There may also be income attributable to the members which will be available to meet some of the future costs. These sources of income include:

- Social welfare pensions (contributory and non-contributory)
- Occupational pensions and gratuities from employments
- Salaries and other income whilst members continue to work.

Similar to assessing expenditure over members' lifetimes, these sources of income should also be quantified.

Reserving policy

Having assessed the estimated total income and expenditure related to the future care of members of the Order a shortfall in income may be identified. Where this is the case then consideration will need to given as to how this shortfall can be met:

- Is there sufficient cash/investments available to meet the shortfall;
- Are these assets unrestricted;
- What other assets are available - for example, properties may be available but are relatively illiquid;
- Can a higher investment return be achieved bearing in mind the risk appetite of the Order;
- When will the shortfall arise - in the short or long term?

The calculations will be based on a wide range of assumptions about the future and the actual costs can't be known with certainty. Therefore, a range of scenarios should also be considered - for example:

- What if members live longer than expected;
- Changes in the Fair Deal Scheme;
- Inflation higher or lower than expected.

This approach allows an understanding of the variability of the projections where the assumptions prove to be different to actual experience.

As the actual results may differ, it is beneficial to include in your financial statements the detailed basis of the assumptions so the reader of the financial statements understand any volatility in the results. Once a review has been performed and the Order have identified the likely future required cost of providing care to its members, the Order should consider separately reserving this amount in a form of designated reserve. Such a reserve can be created from unrestricted funds, and designated at the discretion of the trustees. A detailed note in your trustees' report could also elaborate on the situation and provide additional background information to provide comfort to the various stakeholders. See the article on Reserves Policy earlier in this newsletter for further considerations.

Summary

It is generally straightforward to identify the financial needs of the members of Religious Orders on a day to day basis, however this may mask a future challenge. It is prudent and appropriate to ensure that there will be sufficient resources to meet changing needs throughout the lifetimes of the members of the Order.

Religious Orders will have many uses for their resources and ensuring that their members are cared for will be a key priority. Quantifying, and reserving for, these costs will then provide the Order with more clarity on what funds are available for other causes. We recommend that the actuarial analysis described above is conducted by external qualified actuaries every 3-4 years.

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