

01 April 2020

# Covid-19: Charity Update Practical Steps for Charities and Not-For-Profits

**The Covid-19 pandemic has placed charities and not-for-profits under extraordinary financial pressure. Yet their role in offering services, support and hope to their beneficiaries is more important than ever.**

This note raises a number of practical points for charities, non-profits and their supporters to consider when carrying on activity and when responding to the crisis.

## Governance

The Charity Commission has indicated that it intends to be 'as flexible as possible in the public interest', recognising that the restrictions on gatherings will force AGMs and other key meetings to be postponed or cancelled. Contact the Commission at [filingextension@charitycommission.gov.uk](mailto:filingextension@charitycommission.gov.uk) if you anticipate that your annual reports or accounts will be delayed, as it is prepared to offer extensions. You should continue to meet your other reporting obligations, such as serious incident reporting, in accordance with the Commission's guidelines.

It may be possible to hold meetings using telephone and video-conferencing facilities. Check your charity's governing documents to see whether meetings can be held virtually. The Commission has said it will be sympathetic if you need to hold such meetings without an enabling clause, but always ensure that all key decisions are

taken at the highest level, and that accurate records are made. You need to be able to show how your actions demonstrate good governance.

Depending on the challenges facing your organisation, and on the need for the trustees to be appraised of the situation in order to take timely action, consider increasing the frequency of your meetings. Many charities are now holding meetings via telephone or video conference every month or even weekly.

## Continuity Planning

Acting in your organisation's best interests could mean pushing forward with its activities, or taking steps to tide it over. [The National Council for Voluntary Organisations \(NCVO\)](#) provides guidance and signposts to help charities to deal with the impact of coronavirus on their operations and finances.

Review your organisation's contracts and licences, in order to determine how flexibly you will be able to respond to changing circumstances. It may be necessary to renegotiate or terminate agreements. Similarly, revisit your charity's insurance policies to see if the present situation is covered.

Consider your charity's financial resilience in light of the potential short, medium and long term implications of the pandemic. Financial challenges could be met by redeploying funds within the charity or, if necessary, by using the charity's reserves. Consider seeking professional advice, particularly if looking to access restricted funds. Additionally, note that your organisation may be eligible for many of the government's financial support packages.

## Employment

Charities have responsibilities towards their workforces, whether they are working from home or on the 'front line' against the virus. Consider reviewing policies, such as those on health and safety, safeguarding and risk in light of changes to working environments and medical imperatives. You will also need to make contingency plans to respond to staff illness and be aware of changes to statutory sick pay.

With staff working remotely, it is particularly important to ensure that you have a data protection policy in place and access to sensitive information is carefully controlled. This might, for example, mean arranging for charity hardware to be sent to staff, password protecting documents, and introducing rules on printing.

Staying in regular communication with staff is also vital, not only to allow the charity to function, but to maintain its culture and morale. A range of software is available to allow for virtual team meetings, training sessions and document sharing. Your teams might also find that they can work remotely with beneficiaries in a similar way.

Where staff are unable to work from home, it may be necessary to furlough some employees; high profile charities such as Barnardo's and Oxfam have already announced plans to do so. Charities are eligible for the government grants intended to help pay employees' wages.

With much of the public unable to go to work, many may now have the time to volunteer for your charity in a new way. Your charity may have needs which could be met by people volunteering remotely; the United Nations' online volunteering service is a good example of how this could work in practice.

## Events

The Institute of Fundraising and the Fundraising Regulator recommend that charities decide whether planned events should go ahead on a case-by-case basis, and that thorough risk assessments should be carried out. The government's current 'stay at home policy' is likely to mean that many upcoming events will have to be cancelled. You should always follow government guidelines intended to restrict the transmission of coronavirus.

It may be possible to postpone a planned event, or to find a creative alternative. Where participants are happy for the cost of their ticket to be transferred to a new event, this will not be considered a donation. If you need to cancel an event, ask participants if you can keep the ticket price as a donation. Be aware, however, that donor benefit rules will affect whether Gift Aid can be claimed. When making refunds, review the terms and conditions of any online platforms used to take payments, and note that you may need the Commission's permission to refund money that has already reached the charity's accounts.

## Funding

It is important to check that you have accurate contact details for all those involved with your charity, and keep them up-to-date with your activities. Consider sharing information about your charity more widely, such as via social media channels or by participating in new fundraising activities, such as the live appeals planned by

the BBC. Your charity might also be able to take advantage of new funding initiatives, including a number of grants and emergency funds, being made available to support charities.

The **Fundraising Regulator** sets out helpful advice to enable charities to ensure that any changes to their fundraising activities are in line with the regulations.

Grant makers and their grantees should also remain in close contact, and discuss any problems that they expect to face. It may be possible to renegotiate agreements, and a number of grant making bodies have already indicated that they are willing to be flexible with their grant conditions. Ensure any amendments to grants are agreed and carefully documented.

Some corporate partners of charities are finding new ways to raise funds for the charities they support. Helpfully, some have willing to extend programme related deadlines or have volunteered that funds raised during this period can be used for unrestricted purposes, rather than being provided to support a particular project.

## Property

Many charities and NFPs lease the premises from which they conduct their activities, while others are landlords in their own right. The financial implications of the current situation are such that many may struggle to pay their rents. Whether landlord or tenant, you should be prepared to have conversations about your leasehold property and the steps that will be taken going forward. It might, for example, be appropriate to agree a rent deferral or suspension.

Where a tenant is unable to pay their rent due to the impact of coronavirus, the Coronavirus Act will protect them from eviction during the next three months. However, tenants are not exempted from paying their full rent, nor entitled to a rent reduction, unless the lease itself provides for it. Review any leases to which you are a party to determine your rights and obligations, and if a decision is taken to vary the lease, ensure that a careful record is made.

For further information on these points, guidance from our Real Estate team is available [here](#).

The Chancellor has also provided business rate relief for those operating in the retail, hospitality and leisure sectors in England. Some charities will be able to benefit from the business rate holiday being introduced for the 2020 to 2021 tax year. We are hopeful that this might be further extended to benefit a broader class of charities.

## Insolvency

The financial pressure created by the crisis will result in insolvency for a number of charities and NFPs. Insolvency occurs where an organisation's liabilities outweigh its assets, or where it ceases to be able to pay its debts as they fall due. As cash-flow problems can result in an otherwise healthy organisation becoming insolvent, it is vital that you monitor your charity's accounts for signs that it is running into difficulties. The Commission's CC12 guidance provides useful advice on this point.

In response to the increased likelihood of insolvency, the government has announced reforms to insolvency laws, intended to enable organisations to continue operating while restructuring. For example, a temporary suspension of wrongful trading laws will allow trustees of struggling charities to pay suppliers and staff without committing an offence. However, remember that many legal obligations will continue, and that charity trustees may still be held personally liable for their charity's debts - depending on the legal form of their organisation and whether or not they have acted responsibly.

If you suspect that your charity may be at risk of insolvency, the Commission recommends that you take professional advice sooner rather than later. An advisor will be able to help you consider possible alternatives or assist you with winding it up if this is necessary.

**If any of these issues or others are affecting your charity we are here to help. Experts throughout the firm are advising clients during this extraordinary time and can help you react, plan and take action for the time ahead.**

For more information please contact [Sarah Rowley](mailto:sarah.rowley@crsblaw.com) at [sarah.rowley@crsblaw.com](mailto:sarah.rowley@crsblaw.com) or on +44 (0)20 7203 5370.

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**Paul Henty**

16 April, 2020

## Co-operation and competition in a crisis: EU Temporary Framework on Competition Law and Coronavirus

The EU Commission issued its temporary guidelines on the application of competition law to business co-operation during Coronavirus.

<https://www.charlesrussellspeechlys.com/en/news-and-insights/insights/constuction-engineering-and-projects/2020/co-operation-and-competition-in-a-crisis/>

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**Eddie Richards**

16 April, 2020

## **The impact of COVID-19 on lease and contract reviews**

Eddie Richards outlines the key considerations for landlords and tenants following the introduction of The Coronavirus Act 2020.

<https://www.charlesrussellspeechlys.com/en/news-and-insights/insights/real-estate/2020/the-impact-of-covid-19-on-lease-and-contract-reviews/>

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**Paul Stone**

16 April, 2020

## **Focus Antitrust - 16 April 2020**

The latest edition of our Focus update.

<https://www.charlesrussellspeechlys.com/en/news-and-insights/insights/commercial/2020/focus-antitrust---16-april-2020/>

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**Tessa Newman**

15 April, 2020

## **The importance of impartiality**

The High Court has dismissed a claim for judicial review by Autonomous Non-Profit Organisation TV-Novosti.

<https://www.charlesrussellspeechlys.com/en/news-and-insights/insights/commercial/2020/the-importance-of-impartiality/>

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**Sarah Rowley**

**PARTNER**

Commercial

**+44 (0)20 7203 5370**

[sarah.rowley@crsblaw.com](mailto:sarah.rowley@crsblaw.com)



**Penelope Byatt**

**ASSOCIATE**

Commercial

**+44 (0)1242 246311**

penelope.byatt@crsblaw.co  
m



## Verity Heath

TRAINEE SOLICITOR

Private Client

**+44 (0)20 7203 5077**

Verity.Heath@crsblaw.com

## Related Services

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5 Fleet Place, London, EC4M 7RD, UK | +44 (0)20 7203 5000 | enquiries@crsblaw.com

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