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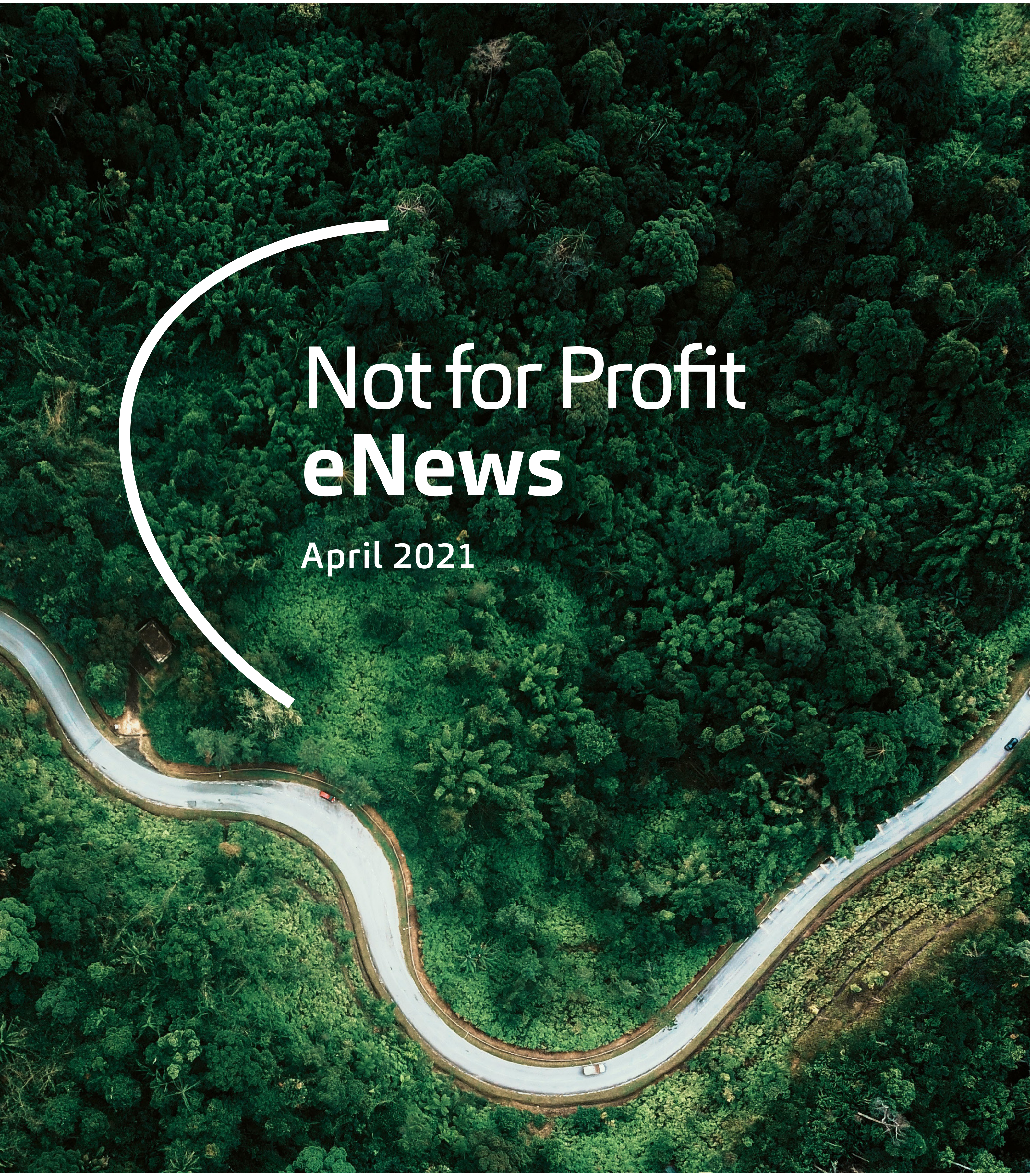

Not for Profit **eNews**

April 2021

Now, for tomorrow

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April 2021 eNews

Welcome to our April edition of eNews.

As Spring is now upon us and the days are getting brighter it seems like a natural metaphor marks the progress we are making along the pathway out of lockdown. As lockdown measures start to ease we appreciate this will still be a very difficult time for the sector. In this edition we give an overview of the charity commission bitesize video guides to help trustees be more certain in uncertain times as well as highlighting the Fundraising Regulator's pledge of assistance to help advise charities on best practice as we see a shift in restrictions.

There are also articles on the outcome of the Supreme Court rulings over sleep-ins, new IR35 legislation and more!

Plus part one of our feature article entitled "Roadmap to Risk Management" is enclosed.

Best wishes,

James, Steve & Fiona

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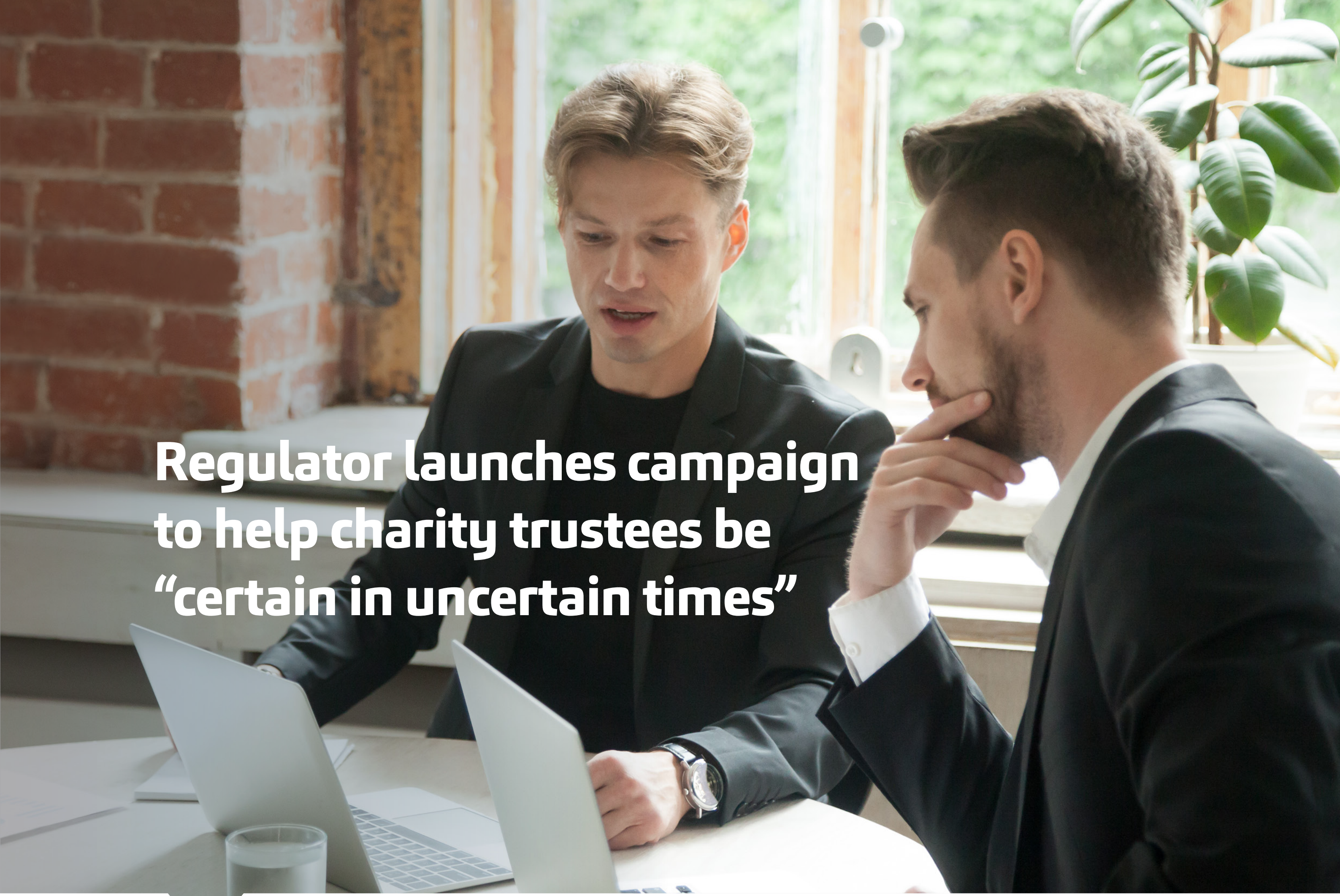


Regulator launches campaign to help charity trustees be "certain in uncertain times"

The Charity Commission has launched a campaign aimed at helping trustees refresh their knowledge of charity governance and be "certain in uncertain times".

The last year has been unusual, unprecedented and (hopefully) a one-off set of circumstances. As a result, there have been a lot of questions asked by trustees as to what they should do in a number of different scenarios.

It seems that the Charity Commission may have also received its fair share of requests, and is now promoting 5 animated video guides (which launched in November 2020) which provide all the governance basics trustees need to know.

The campaign comes as part of the Commission's commitment to helping busy trustees run their charities. In addition to being featured on the Commission's social media channels, the messages will be targeted at trustees on LinkedIn, Facebook and Instagram to enable the messages to reach more trustees. Sector bodies will be sharing the campaign with their members and supporters.

The regulator's approach to the campaign is informed by research into trustees' knowledge and awareness of their responsibilities, and into trustees' wider attitudes.

The campaign prompts trustees to consider their understanding of their key responsibilities by a posing question connected to each guide:

- Does every decision help your charity with its mission? **(Charity purposes and rules guide)**
- Could your charity be drifting into activities that your charity is not set up to do? **(Making decisions at a charity guide)**
- Is your charity reporting the right things at the right time? **(What to send to the Charity Commission and how to get help guide)**
- Could you spot a conflict of interest and manage it? **(Addressing conflicts of interest in a charity guide)**
- Is there more you can do to prevent fraud? **(Managing charity finances guide)**

More detail can be found here

New IR35 legislation

The IR35 legislation (also known as the 'intermediaries legislation' or the 'off-payroll working legislation') is a piece of anti-avoidance tax legislation HMRC introduced in 2000.

The aim of the legislation is to ensure that individuals who work like employees, but through an intermediary (typically their own personal service company), pay similar Income Tax and National Insurance Contributions ("NIC") to other employees.

Although the legislation has been around for 20 years, changes are being made to how the legislation works which could mean your charity has responsibilities under IR35 from 6 April 2021.

From 6 April 2021, for medium and large-sized organisations in the private and third sectors (including charities), the responsibility for deciding whether the IR35 rules apply will become the responsibility of the organisation that is the end user of the worker's service (the "end-client").

An organisation is "medium or large-sized" if two or more of the following apply:

- Your annual turnover (excluding donations and grant income) is more than £10.2m
- Your balance sheet total is more than £5.1m
- Your average number of employees is more than 50

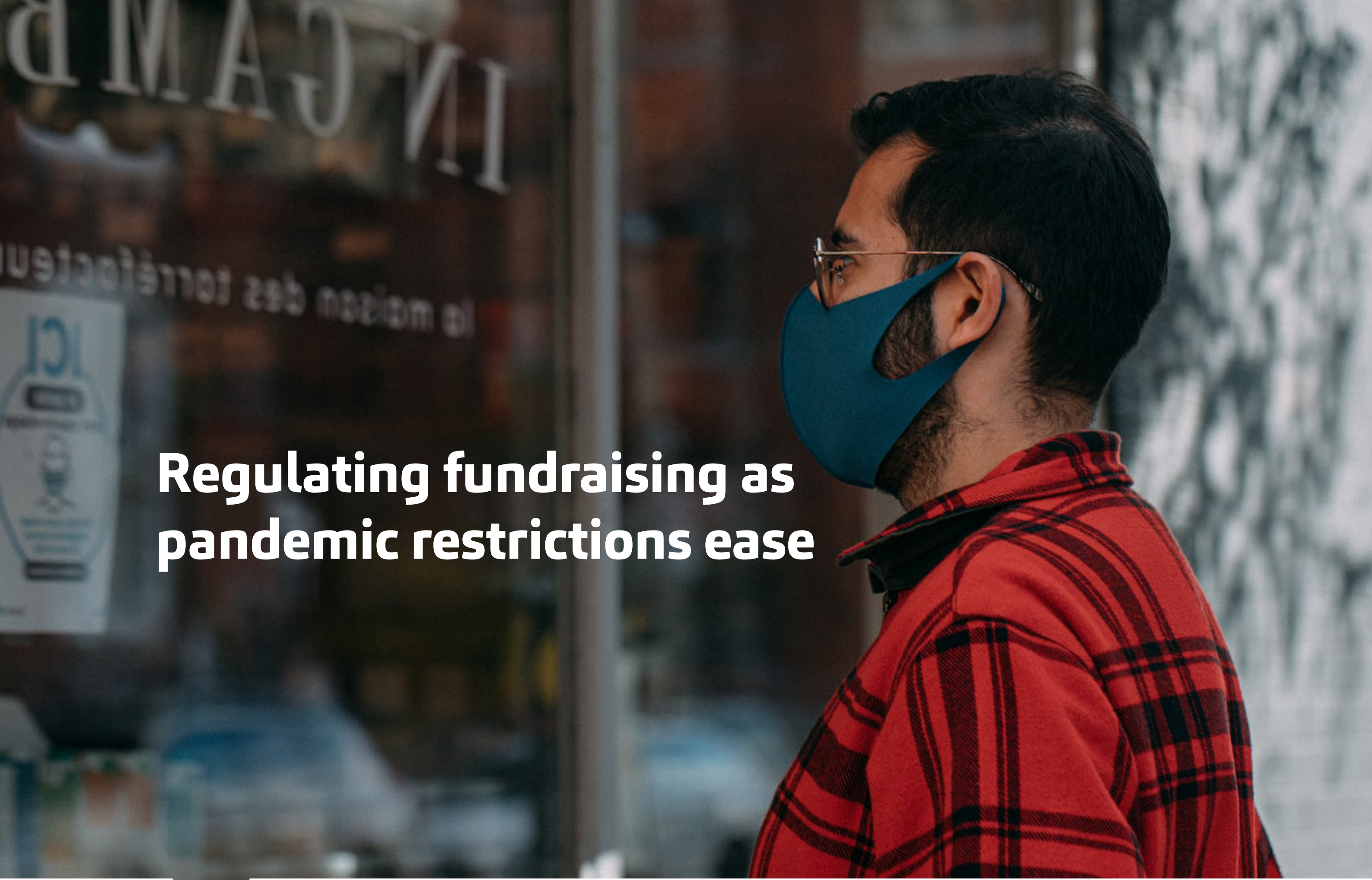
An unincorporated entity (such as a charitable trust) is medium or large if its annual turnover (excluding donations and grant income) exceeds £10.2 million.

If your charity is medium or large-sized, from 6 April 2021 you will be responsible for:

- Identifying all off-payroll workers and assessing each worker's employment status
- If you are the party paying the worker's intermediary, you will be responsible for deducting the correct Income Tax and NIC, and remitting it directly to HMRC through Real time information (RTI), along with Employer's NIC and potentially Apprenticeship Levy
- Issuing Status Determination Statements
- Maintaining a status disagreement process

If the new IR35 legislation will apply to your organisation, it is important to act now to ensure your charity is ready for the new rules by 6 April 2021.

If you need further advice or guidance in relation to this matter please contact a member of our Not for Prof t team on 01793 818300 .



Regulating fundraising as pandemic restrictions ease

As the Governments of the UK nations lay out their plans for moving out of national lockdown, the Fundraising Regulator has pledged to assist charities by continuing to monitor and advise charities on fundraising best practice.

Organisations have adapted their fundraising activities throughout the pandemic, showing just how committed they are to carrying out their work in a safe and responsible way. In 2020, the Funding Regulator issued **guidance** jointly with the Chartered Institute of Fundraising, to support fundraising organisations to make decisions about their fundraising activities. The guidance covered **the key principles for fundraising** which can be applied to all methods of fundraising, as well as **specific guidance for public fundraising** (including street, door-to-door and private site fundraising).

The Funding Regulator is in talks with central Government about how they might update the existing guidance, to reflect the latest announcements.

While many organisations are keen to restart their full range of activities, it is important to remember that there is not a clear timeline for which public fundraising activities can resume. The variety of fundraising activity means that there can't be a prescriptive set of 'rules' to follow, as there is not a one-size-fits-all model that applies for all charities and all fundraising.

Instead, organisations must make their own reasoned and informed decisions to restart or adapt their fundraising activities.

Key points can be summarised as follows

1. Keep up-to-date and follow UK Government guidance, including from the devolved nations of Scotland, Wales and Northern Ireland
2. Carry out risk-assessments
3. Make reasoned and informed decisions
4. Protect the public
5. Comply with the code

Further details can be found here

Support for organisations in Northern Ireland in response to covid-19

A £15.5m Covid-19 Charities Fund opening on 15 June 2021 has been announced by Communities Minister Deirdre Hargey. It aims to help "local" charities facing Covid-19 related financial difficulties. This is in addition to a Business Rates Holiday extension for a further 12 months being announced by the Northern Ireland Department of Finance.

The Executive **announced** a £2,000 grant scheme for any organisation delivering sport and physical recreation experiencing short-term financial hardship due to coronavirus, including:

1. National Governing Body of Sport (based in NI)
2. Constituted local sports clubs affiliated to a Governing Body of Sport recognised by Sport NI
3. Community and voluntary sector organisations that deliver or enable sport and/or physical recreation
4. Small charitable trusts that do not qualify for financial help elsewhere.

Care charities spared £400m pay out after Supreme Court rejects sleep-in carers appeal

Care workers across the UK who have to sleep at their workplace in case they are needed are not entitled to the minimum wage for their whole shift, the Supreme Court has ruled.

The case was brought by Clare Tomlinson-Blake against the learning disability charity, Mencap.

If she had won, care providers feared an estimated £400m bill for backpay, which they said they could not afford. The case sought to overturn a 2018 Court of Appeal ruling.

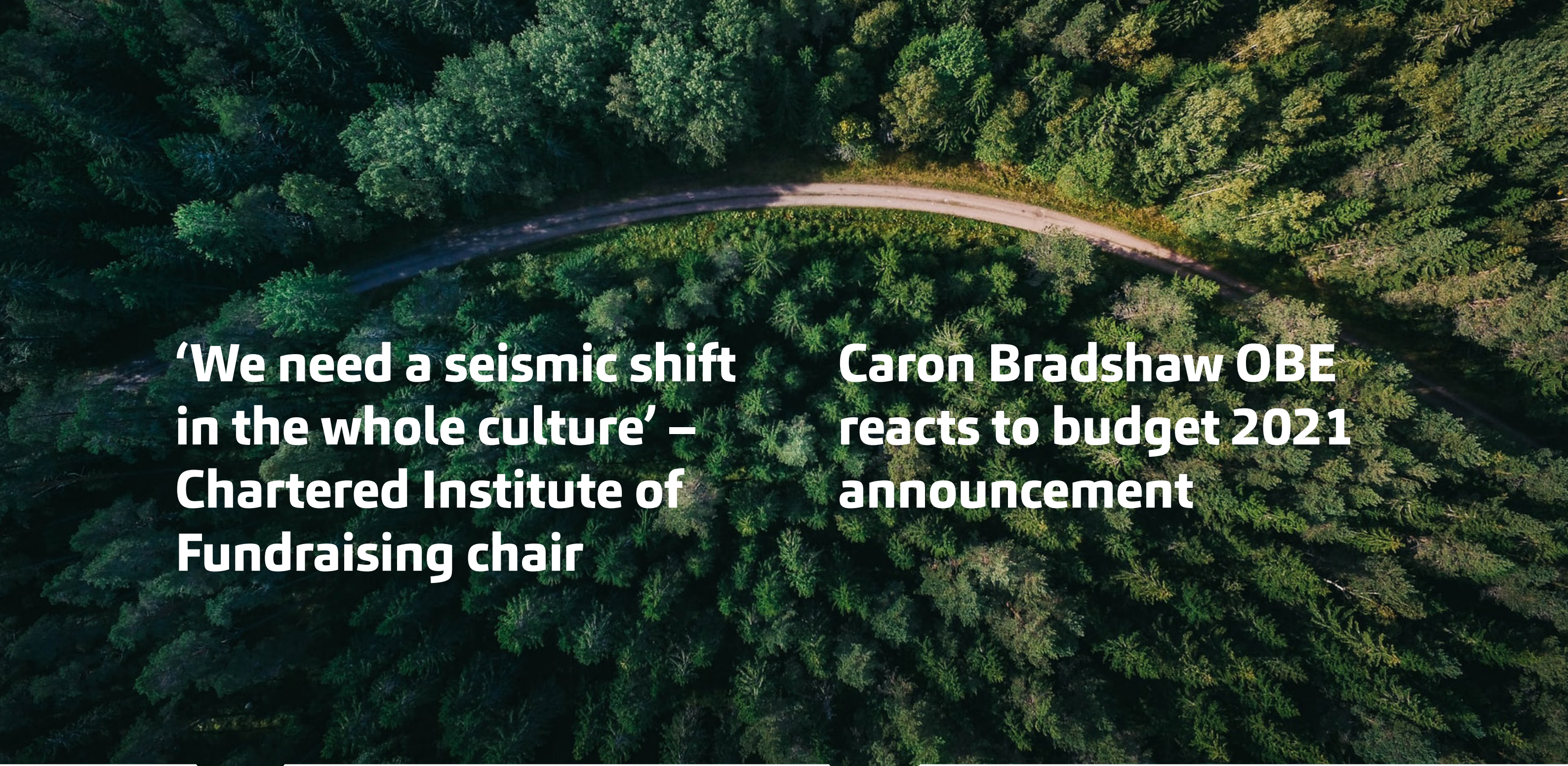
The Plaintiff's union, Unison, argued on her behalf that care staff should get the minimum wage for nightshifts even if they are asleep. The Supreme Court concluded there was an exemption in national minimum wage legislation which applied to sleep-ins.

In the court's written ruling, Lady Arden said that "sleep-in workers... are not doing time work for the purposes of the national minimum wage if they are not awake".

This decision means that charities will not be exposed to back-pay and other associated, and potentially significant, financial liabilities from the likes of HM Revenue and Customs, in addition to employment tribunal claims.

Critically, contractual terms of 'sleep-in' shifts will remain the same. This case was not about what care workers should be paid.

Instead, it focused on the interpretation of national minimum wage regulations, with the law and previous government guidance making clear that carers are not working while asleep.



‘We need a seismic shift in the whole culture’ – Chartered Institute of Fundraising chair

In a recent statement, Claire Rowney (CIF Chair) announced it has “a long way to go” and needs to change its culture.

- Mandy Johnson, who has been a fundraiser and is a former chair of the institute’s London committee, criticised the Chartered Institute. She claimed it had not responded to allegations of sexual abuse promptly.
- The Chartered Institute denies ignoring the allegations and says the matter is still part of an ongoing investigation so it cannot comment further.
- Claire Warner, a consultant, resigned from her role on the Chartered Institute’s standards advisory committee in protest at how things were being handled.
- This week chairs of special interest and regional committees sent the national body a formal letter expressing concerns about the Chartered Institute.

Rowney expressed desire for a “seismic shift in the whole culture so everybody is not just safe but is able to thrive”. She is committed to help bring about change, and “ensure plans are communicated to address the past issues and the future direction over the coming weeks.”

The full article can be found here

Caron Bradshaw OBE reacts to budget 2021 announcement

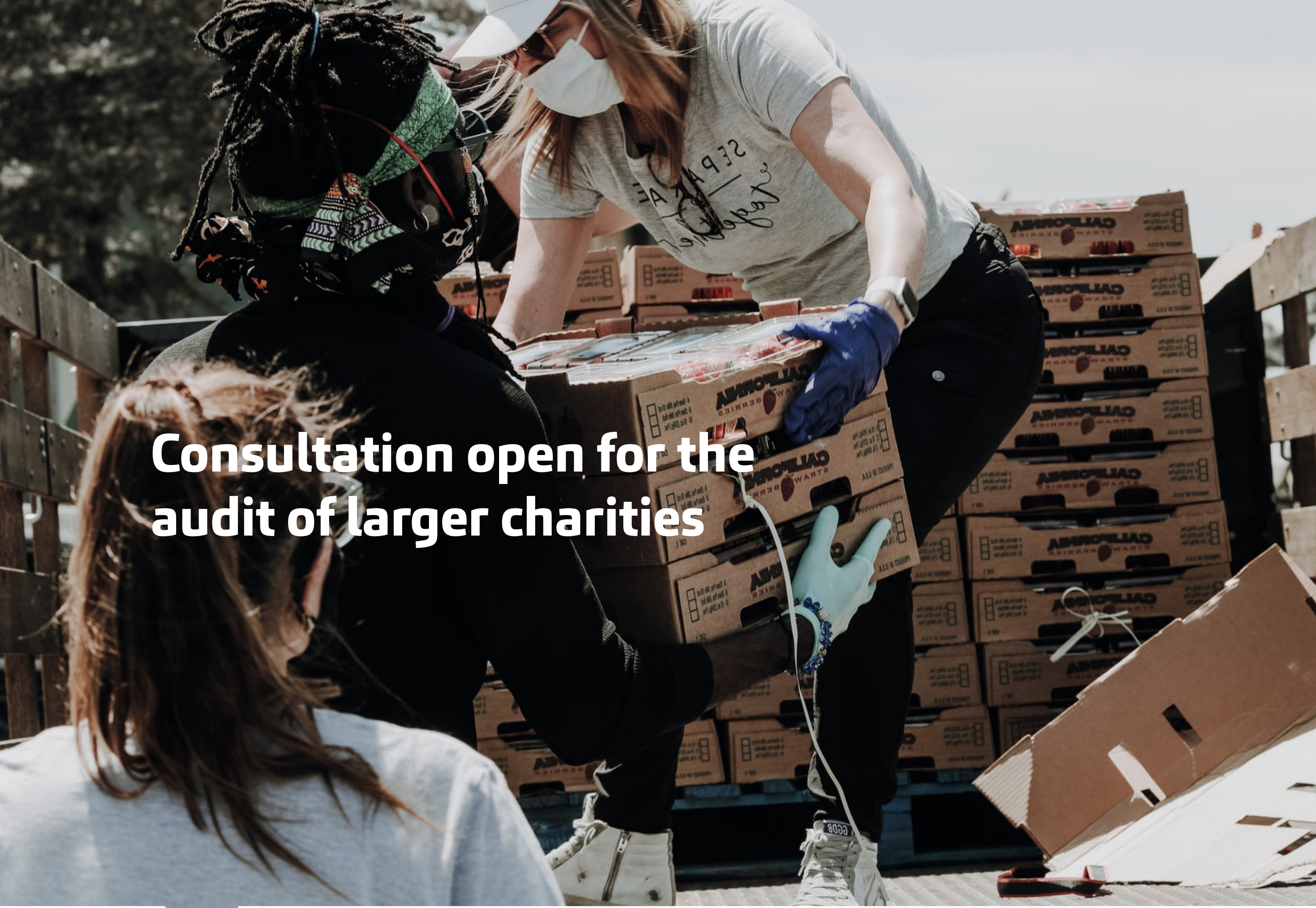
Charity Finance Group’s CEO, Caron Bradshaw OBE, comments on the 2021 Budget announcement by the Chancellor:

> “CFG was initially encouraged by the Chancellor’s opening gambit that he recognises the extraordinary hardship so many people are now facing. However, the Government has once again failed to recognise the vital role civil society plays in protecting and supporting those same people.”

- In her opinion, the Budget deliberately refuses to support social change organisations delivering public benefit.
- The extension of the furlough scheme will be considered a relief to many, but the sector is left having to decide between mobilising or mothballing, as a result of a failure to engage in amending this scheme.
- Additional funding for domestic abuse survivors, and mental health services for veterans, as well as the additional funding for the arts and culture sectors, is a start. However, when these are compared with measures to stimulate business, they seem insignificant.

To appear serious about reducing inequalities in society, the Government cannot continue to ignore social change.

The full blog can be read here



Consultation open for the audit of larger charities

In March the Government published a white paper which sets out proposals to strengthen the UK's framework for major entities and the way they are audited. The proposals set out how:

- entities should report on their governance and finances
- reports should be audited
- audit and the audit market should change
- these should be overseen by a new regulator

The paper is the combined response to three major independent reviews which have been commissioned by the Government since 2018, being; Kingman Review of the FRC, Competition and Market Authority's market study and the Brydon report of the effectiveness of audit.

The White Paper is open to consultation until 8 June 2021.

The report could have an impact on larger charities as the Government are asking whether they should seek to include large third sector entities under the definition of a Public Interest Entity (PIEs) beyond those that would already be included in the definitions proposed for large companies.

They are also asking what threshold for 'incoming resources' you would propose for the definition of 'large' for third sector entities? Is exceeding £100m too high, too low or just right?

The PIE status has a number of implications, including stricter ethical considerations between audit and non-audit services as well as extended audit reports. The PIE regime is more complex and regulated which may impact the efficiency of the audit but would expand its scope.

You can respond to the consultation here

Roadmap to Risk Management

Part One – Having a clear overall framework

The main cause of uncertainty in any organisation is risk, and therefore the importance of risk management is that it can help organisations identify what risks are causing this uncertainty and put processes in place to manage these risks before they impact on the organisation. If performed correctly, risk management can lead to a range of benefits such as better decision making and value for money, more effective use of resources and greater innovation together with fewer nasty surprises.

In recognition of the importance of this area we have decided to produce a new monthly series titled; "Roadmap to Risk Management". Across the next few issues we will discuss the importance of key aspects of an effective risk management framework, some of the questions that you may need to consider in relation to this and possible actions to take for your organisation. This will include

- The importance of objectives in risk management
- Breaking down and understanding your risks
- Understanding your control environment
- The benefits of a dynamic assurance framework

We start though with the overall risk management framework itself, as having in place an agreed framework that is well understood by all is a fundamental building block for ensuring an effective risk management framework and therefore the key first step in developing your arrangements. We have therefore set out below some of the key points to consider in developing such a framework and the type of stakeholders you may like to involve in the framework development process.

Bring onboard the Board: Risk management works best when the process is well understood and there is clarity over the objectives of your risk management system and the structure and framework by which it is embedded throughout the organisation. Whilst the initial design of your arrangements can be assigned to one or two individuals it is important that the board is brought into the process at an early stage and is involved in the decision-making process as to what the final system will look like. Risk Management does not work well when it is something that is done to an organisation and needs to be something that is done with the involvement of the Board and senior managers in order that there is clarity and agreement regarding what you are looking for the process to achieve. The use of workshop and business development days can be useful forums to work with the board in developing and agreeing what this framework will look like, in addition to considering other factors such as how and where risks will be reported.

Keep it simple: There is a sometimes a tendency to build complex risk management structures as this is thought to provide the most effective solution. Often the simplest risk management processes are the ones that work the best as these are the easiest for everyone, from the board to operations, to understand and therefore has the highest chance of success. It is easier, once simple structures are embedded and operating effectively to add additional layers to the process, than to try and simplify a process which is too complicated and widely mis-understood.

Write it all down: It is important that your overall approach to risk management is documented within an overall Risk Management Strategy or Policy so that it is clear as to what the overall framework for risk management is, where responsibility sits, and what the process is for recording risks on the risk management system. Such a document should be easily available to staff via the intranet or similar.

Be adaptable to change: When you are developing a framework that needs to be bought into by a diverse range of stakeholders, it is inevitable that there will need to be an element of change from the framework which was originally envisaged. As detailed above, risk management frameworks work most effectively when they are easy to understand and there is buy in from everybody, and therefore an element of adaptation to accommodate different views across stakeholders is likely to bring dividends in the medium term. Such a flexible approach must also be maintained over time; as stuff happens your processes will need to be dynamic to respond to these changes.

Does it answer the So What? Question. Risk management framework must have a defined purpose and provide beneficial outcomes to the organisation through improved awareness of the key risks faced by the organisation and the arrangements that are in place to manage these. If your framework is not going to achieve this then it probably needs reconsidering to ensure that it is delivering benefits in your ability to manage risks.

Pulling all of the above together should enable a consultative and inclusive approach to be taken to the development of your risk management framework, which ensures collective buy in from your board and leadership team and the development of a framework which can be embedded throughout the organisation.

In next month's edition we shall consider the importance of your objectives in the risk management process and why these should be at the centre of any risk assessment exercise.

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