Crowe Clark Whitehill

A Member of Crowe Horwath International

Wise Owl Trust

Year ended 31 August 2015

Audit Findings Report

Audit | Tax | Advisory

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Manchester, M2 5NT

The Board of Governors
Wise Owl Trust

Briscoe Lane Academy

Briscoe Lane

Manchester

M40 2TB

27 November 2015

Dear Governors

Audit for the year ended 31 August 2015

Following the completion of our audit fieldwork on the financial statements of Wise Owl Trust for the year ended 31 August 2015 we have pleasure in submitting our Audit Findings Report setting out the most significant matters which have come to our attention during our audit and of which we believe you need to be aware when considering the financial statements. The matters included in this report have been discussed with the Wise Owl Trust management during our audit of the financial statements and at our closing meeting on 30 November 2015. Debbie Ollerenshaw has seen a draft of this report and we have incorporated her comments and/or proposed actions where relevant.

Matters from our audit

We have set out in Sections 2 and 3 of this report comments on the matters arising from our audit work which we wish to bring to your attention. These comments highlight specific judgements / estimates that have been made in the preparation of the draft statutory financial statements as well as certain other important matters arising from the audit process.

Systems and controls

During our audit fieldwork, as required by International Standards on Auditing (UK & Ireland), we considered your systems of internal financial control as well as the accounting procedures and other aspects of your business processes relevant to our audit. We are able to report that no major issues came to our attention from our review of your relevant systems and controls. However, we have included further comments in Appendix 1 of this report where we have identified potential improvements during our audit work which we believe we should bring to your attention. You should note that our evaluation of the systems of control at Wise Owl Trust was carried out for the purposes of our audit only and accordingly it is not intended to be a comprehensive review of your business processes.

Financial statements

The governors of Wise Owl Trust are responsible for the preparation of the financial statements on a going concern basis (unless this basis is inappropriate). The governors 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.

Acknowledgements

We would like to express our appreciation for the assistance provided to us by the finance team and the other staff at the Academy during our audit.

Use of this report

This report has been provided to the Finance/Audit Committee to consider and ratify on behalf of the Board of Governors, 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.

Yours faithfully

Crowe Clark Whitehill LLP

Contents

1. Introduction and audit approach

Introduction

We have pleasure in setting out in this document our report to the governors of Wise Owl Trust for the year ended 31 August 2015.

We have substantially completed the audit in accordance with our Audit Planning Report which was sent to you and the senior management team on 28 September 2015, subject to the matters set out below.

- Completion of the post-Balance Sheet events review.
- Review of the final financial statements.
- Receipt of the signed letter of representation.

We will report to you orally in respect of any modifications to the findings or opinions contained in this report that arise on completion of the outstanding matters. On satisfactory completion of the outstanding matters, we anticipate issuing an unmodified audit opinion on the truth and fairness of the financial statements.

The items we have identified as outstanding are work we usually carry out just prior to us signing our audit report.

Audit approach

Our audit procedures, which are designed primarily to enable us to form an opinion on your financial statements, were carried out in accordance with International Standards on Auditing (UK and Ireland). Our work combines substantive procedures involving direct verification of balances and transactions, including obtaining confirmations from third parties where we considered this to be necessary, with a review of certain of your financial systems and controls.

No restrictions were placed on our audit, and we have been able to undertake our work as set out in our Audit Planning Report .

Our evaluation of the systems of control at Wise Owl Trust was carried out for the purposes of our audit and accordingly it is not intended to be a comprehensive review of systems and 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.

Key audit matters

In Section 2 we have discussed in detail the findings from our work in relation to the following matters.

- Income.
- Payroll
- Funds
- Management override of controls
- Management estimates – review of FRS17 assumptions

Materiality and identified misstatements

As we explained in our Audit Planning Report , we do not seek to certify that the financial statements are 100% correct; rather we use the concept of “materiality” to plan our sample sizes and also to decide whether any errors or misstatements discovered during the audit (by you or us) require adjustment.

The assessment of materiality is a matter of professional judgement but overall a matter is material if its omission or misstatement would reasonably influence the economic decisions of a user of the financial statements. Whether adjustments are material to the “true and fair” view can only be judged in the particular circumstances of the items and their impact on the financial statements to which they relate. Materiality has been considered having regard to the overall financial statement totals, the relevant individual balance, the type of transaction and the disclosures.

The audit materiality for the financial statements as a whole set as part of our audit planning takes account of the level of funds held by Wise Owl Trust and was set at approximately 1% of total incoming resources. We have considered this level of materiality based on the draft accounts for year ended 31 August 2015 and are satisfied that it continues to be appropriate.

Where we note misstatements, we consider these in qualitative and quantitative terms and request that management adjust individual errors above £2,000.

Other matters to be brought to your attention

We have brought to your attention various other matters in the other sections and appendices in this report, including the Trustees' responsibilities in relation to Fraud and Error in Section 4.

We have also provided an update on emerging and recent issues within the Not for Profit and Academies sectors in Appendix 5.

Regularity and propriety reporting

The EFA Accounts Direction requires the Accounting Officer to make statement of regularity and compliance within their financial statements.

As auditors, we are required to provide an opinion on this statement which provides "limited" assurance over the validity of the Accounting Officer's statement of regularity.

Regularity derives from a concern that public money is used only for purposes approved by Parliament, and can be defined as the requirement that a financial transaction is in accordance with indications of Parliament's intention such as funding agreements, specific statutory requirements, and direction issued by government bodies.

Propriety is a related concept, concerned more with standards of conduct, behaviour and corporate governance. It includes matters such as fairness, integrity, the avoidance of personal profit from public business, even-handedness in the appointment of staff, open competition in the letting of contracts and the avoidance of waste and extravagance.

Public funds, for central government bodies such as Academy trusts, include both grant funding and monies raised by other means which become public money once received and applied by the Academy trust. In Section 3 of this report, we have explained our approach to regularity and our conclusions.

Ethical Standards

In our professional judgement we are independent within the meaning of APB Ethical Standards and the objectivity of the audit engagement partner and audit staff is not impaired.

We are not aware of any inconsistencies between APB Ethical Standards and the company's policy for the supply of non-audit services or of any apparent breach of that policy.

We consider that there are no developments in relation to these standards which should be brought to your attention other than those raised elsewhere in this report or our Audit Planning Report .

Non-audit services

We are required to bring to your attention professional fees for non-audit services earned by Crowe Clark Whitehill LLP in the year ended 31 August 2015 and an analysis these is therefore given below.

- Teachers' Pension Scheme £975
- Accounts preparation £800
- Academies Annual Return £1,000

Legal and regulatory requirements

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

- Companies Act 2006
- Charities Act 2011
- The Charities (Accounts and Reports) Regulations 2008
- Statement of Recommended Practice, Accounting and Reporting by Charities (issued in 2005)
- Academies Accounts Direction 2014 to 2015 (SORP 2005)
- Academies Financial Handbook 2014
- Applicable accounting standards

Governors' responsibilities

Under the provisions of the Companies Act, the Governors' Report is required to include a statement confirming for each director who was a director at the time of the approval of the financial statements that:

- they have each taken all the steps that they ought to have taken as a director in order to make themselves aware of any relevant audit information and to establish that the company's auditor is aware of that information; and
- so far as they are aware there is no relevant audit information of which the company's auditor is unaware.

This report has been prepared for the private use of the Governors of Wise Owl Trust and its contents should not be disclosed to third parties without our prior written consent. We assume no responsibility to any other person who has access to this report.

2. Key areas of audit focus

Our work has been carried out in accordance with the audit plan presented to you and has taken account of our assessment of the risks of misstatement of transactions and balances in the financial statements.

We initially identified from our understanding of Wise Owl Trust a range of risks and planned our audit work so as to reduce the risk of material misstatement to an acceptable level. We also identified which of those risks required special audit attention ("significant risks" or "specific risks").

We have summarised below the results of our audit work on the areas of significant risk set out in our Audit Planning Report as well as on any key additional risks, judgements or other matters in relation to the financial statements of Wise Owl Trust identified during our audit.

2.1 Areas of "significant" or "specific" risk

We have summarised our overall conclusions on the areas of specific audit risk which we identified in our Audit Planning Report . We have also noted matters relating to these risks where applicable in our subsequent comments on key matters from our audit.

2.2 Management override of controls

We are required to design and perform audit procedures to respond to the risk of management's override of controls which included:

- 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 the academy and its environment.

During the performance of our testing we did not identify any issues which we need to bring to your attention as our work in this area was satisfactory.

2.3 Other areas of audit focus and disclosure

During our audit work we also performed testing on the following areas of audit focus and disclosure.

- Income
- Payroll
- Management estimates – review of FRS17 assumptions
- Funds

During the performance of our testing we did not identify any issues which we need to bring to your attention as our work in these areas was satisfactory.

3. Key matters from our audit

In addition to matters relating to the key areas of accounting and audit focus 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 Regularity and propriety reporting

The types of procedure applied to obtain sufficient appropriate evidence to support the conclusion on the regularity of transactions in the financial statements of an entity are the same as those applied to provide assurance over any other financial statement assertion. However the level of work required to support a limited assurance conclusion may be less than that required to support a reasonable assurance conclusion.

The analysis needed to inform the regularity opinion goes beyond that required to support statutory audit work, but may involve normal sources of audit evidence as the evidence base is the same. In many areas, dual testing of the same sample could provide evidence to support both engagements.

An integrated approach is likely to bring efficiencies and enable a rounded picture of the Academy's activities and this is the approach we have taken.

During the year the academy was provided with blinds by Riviera Blinds at a cost of £4,812. The sole trader of Riviera Blinds is the husband of the principal at Seymour Road Academy. These blinds were provided at cost. We have disclosed the above in the related party note to the accounts.

The principal had declared and signed a pecuniary interest in the company and this information is provided on the Academy website. She was not involved in sourcing any of the quotations for the work to be undertaken. A review of the tender process confirmed that competitive procurement procedures were followed. The finance committee applied best value principals when reaching the decision as to who they should appoint.

Therefore during our work on regularity and propriety reporting we have not identified any issues.

3.2 Capital Project Accruals

Briscoe Lane Academy received funding from EFA of £195,625 for a window replacement project. The remainder of the funding has come from a Salix loan £15,073 and school funds of £23,411. The total project cost is expected to be £234,109.

At the year end £217,785 was accrued in the trial balance. This related to all costs expected. A review of the invoices and project costs identified that £91,972 of the accrual relates to costs that have not yet been incurred. Therefore we have adjusted the accrual to include only those amounts for which the work was performed pre year end. The final accrual balance relating to the window project is £125,814.

3.3 Capital Items

During the year a new play area was purchased for £16,929. We highlighted this asset as being over the capitalisation policy and questioned whether it should have been capitalised. From discussion with management we identified that this was a replacement of an old play area and therefore they did not wish to capitalise. The cost has been expensed through repairs and maintenance.

3.4 Tendering Process

As part of our testing we selected the large contract for the new windows fitted to Briscoe Lane. The correct tendering process was followed however there was no documentation of the formal approval from the board as, due to time constraints, this was agreed verbally. We have received a subsequent conformation email from the governors that the project was formally approved although it was not documented at the time.

We recommend that any tender processes are fully documented at all stages of approval so there is evidence that the Trust is following the guidelines set out by the EFA.

4. Fraud and error

In our Audit Planning Report, we explained that the responsibility for safeguarding the assets and for the prevention and detection of fraud, error and non-compliance with law or regulations rests with the governors of Wise Owl Trust.

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, 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.

As part of our audit procedures we made enquiries of management to obtain their assessment of the risk that fraud may cause a significant account balance to contain a material misstatement. Usually fraud in the charity sector is not carried out by falsifying the financial statements. Falsifying statutory accounts 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 accounts can be used to permit a fraud or to avoid detection. As a generality charities represented by its management and its trustees do not actively try to falsify accounts as there are not the same incentives to do so. In the charity world fraud is usually carried out through misappropriation or theft.

We have reviewed and discussed the accounting and internal controls systems management has put in place to address these risks and to prevent and detect error. However, we emphasise that the governors, Audit Committee and management should ensure that these matters are considered and reviewed on a regular basis.

We have included the following statements in the letter of representation which we require from the governors when the financial statements are approved.

- The governors acknowledge their responsibility for the design and implementation of internal control to prevent and detect fraud and errors.
- The governors have assessed that there is no significant risk that the financial statements are materially misstated as a result of fraud.
- The governors 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 governors 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 2015 financial statements, or the period since the 2015 year end.

We emphasise that this section is provided to explain our approach to fraud and error, but the responsibility to make and consider your own assessment rests with yourselves.

Management override of controls

In addition to the procedures above, we are required to design and perform audit procedures to respond to the risk of management's override of controls.

No instances of management override have come to our attention as a result of this work.

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

Frauds of diversion

This is where income or other assets due to Wise Owl Trust 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 an academy trust becomes difficult.

Frauds of extraction

This is where funds or assets in possession of Wise Owl Trust 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.

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. We understand that major spend decisions are not taken by one person and therefore this risk is reduced.

Appendix 1 - Systems and controls issues

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 Wise Owl Trust 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 before any corrective actions are taken: We have also included as an appendix a brief update on the matters we raised last year.

High	These findings are significant and require urgent action.	*(0 comments in this category)*
Medium	These findings are of a less urgent nature, but still require reasonably prompt action.	*(0 comments in this category)*
Low	These findings merit attention within an agreed timescale.	*(1 comments in this category)*

Audit finding and recommendation	Priority	Management response
1. Fixed Asset Since the trust opened, the fixed asset register has been maintained and updated by the audit team. As the trust is growing we recommend that this process is taken over by the Business Manager. We have sent a copy of our register to aid in this transition. We recommend that the fixed asset register is maintained, recording the values and invoice reference number and date, as a control to prevent the mis-appropriation of assets. All additions and disposals should be updated on the register and assets of a capital nature over £5,000 should be capitalised on the balance sheet.		The Fixed Asset Register will be maintained and updated by the Trust from September 2015 onwards

Appendix 2 - Matters from last year

We have set out below the issues on which we reported after our audit last year together with an update on how the points raised have been addressed including information on the progress made at the time of the audit of the 2014 financial statements.

Recommendation fully implemented or no longer relevant		
Recommendation partially implemented		
No progress on recommendation		

Observations in 2014		Update 2015
1. VAT Postings It has been noted that the VAT due appears as a reconciling item to the bank reconciliation rather than being a debtor at the year end. This is due to the other side of the VAT posting being posted to the bank rather than a VAT control account. We recommend that a VAT control account is operated so that the true bank/cash balances are presented in the management accounts. .		No issues identified this year.
2. Procurement It was noted that in respect of procuring 'high value' goods and services that three quotes were not always obtained, this is because the trust used a list of preferred suppliers. It is recommended that the trust can demonstrate best value, it is still possible to use preferred suppliers but the trust must obtain evidence through periodic review and market testing.		No issues identified this year.

Appendix 3 - Reporting audit adjustments

International Standard on Auditing (UK and Ireland) 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.

Our audit approach is based on consideration of audit materiality as explained in section 1 of this report. We determine materiality for the purposes of the charity's statutory reporting by our judgement as to what adjustments would influence the readers' perceptions of the financial statements. We do not therefore seek to review all immaterial amounts.

For the purpose of reporting non-trivial items identified as a result of our audit work which have not been adjusted in the financial statements we set out in our Audit Planning Report that we would report unadjusted misstatements greater than £4,600 unless they are qualitatively material at a lower amount.

We are pleased to report that there are no remaining unadjusted items identified from our audit in excess of the above trivial limit.

Appendix 5 - Future reporting under FRS 102 and the new Charity SORP

For future accounting periods Wise Owl Trust will be required to report under FRS 102 - the Financial Reporting Standard applicable in the UK and Republic of Ireland - and the new Charities SORP which was published in July 2014. In August 2015 the EFA published 'Transition to FRS 102 and Charities SORP 2015' which summarises the key changes that academy trusts can expect in the Academies Accounts Direction 2015/16. This document can be found on the EFA website: https://www.gov.uk/government/publications/guide-for-academies-on-the-charities-sorp-2015

Section 35 of FRS 102 sets out how an entity prepares its first financial statements that conform to this standard. The key requirements will be the restatement of the opening balance sheet at the date of transition (i.e. for Wise Owl Trust at 1 September 2014 and the restatement of the comparative balance sheet (i.e. at 31 August 2015) in accordance with FRS 102. The opening balance sheet does not need to be published but will be needed to allow the restatement of the results for the comparative year.

More details on the new Charity SORP can be seen on a separate Charity Commission SORP website: http://www.charitysorp.org/ .

Areas of restatement and disclosure

We have highlighted below certain specific areas which may lead to changes to the balance sheet position of Wise Owl Trust at 1 September 2014, its results in subsequent periods and / or certain of its disclosures. We recommend that you consider these now in order to plan for the necessary adjustments and ensure that any relevant data is collated and valuations obtained on a timely basis.

a) SoFA presentation

The SORP simplifies the presentation in the SoFA, with four incoming resource headings (donations, earned income split between income earned from charitable activities and other activities, and investment and other income). There is a similar simplification of expenditure headings with three headings (fundraising costs, expenditure on charitable activities and other expenditure). However, it will be necessary to represent the relevant amounts under the new SoFA headings.

There will no longer be a requirement to disclose governance costs on the face of the SoFA. These costs will instead be disclosed in the notes as a component of support costs.

b) Cash flow statement

The format of cash flow statements have been simplified with cash flows being identified as resulting from operating activities, financing activities and investment activities, as opposed to the eight different categories currently used in FRS 1.

c) Tangible fixed assets

At the transition date Wise Owl Trust can opt to revalue its fixed assets to "fair value". That fair value is then taken to be the "deemed cost" of the item.

We understand that you do not currently plan to make use of this option.

d) Income recognition

FRS102 sets the basis for the recognition of assets and liabilities and related income and expenditure to take account of the probability that future economic benefit associated with the item will flow to or from the entity (i.e. more likely than not). This potentially may have implications for the accounting for certain sources of income such as fundraising, legacy or similar income as the previous SORP required certainty for recognition.

In practice we do not think this is likely to impact Wise Owl Trust.

e) Employee benefits

Any employee benefits which the staff are contractually entitled to such as holiday, time off in lieu etc. at the year-end and not taken will need to be accrued on the charity's Balance Sheet.

As the Wise Owl Trust holiday year is co-terminus with your accounting year-end we understand that your management believe that any accrual is not likely to be material as employees are not allowed to carry forward any significant holiday amounts.

f) Remuneration of senior management

Academy trusts reporting under FRS 102 *must* disclose the total amount of employee benefits received by its key management personnel for their services to the academy. It must also explain the arrangements and policies for setting pay and remuneration of its key management personnel.

g) Related Parties

There will continue to be an exemption for related party transactions between group entities that are wholly owned within the group. The new SORP also specifically requires the disclosure of the terms and conditions of any related party transactions and states that a related party transactions should not be described as being 'at arm's length' unless this can be substantiated.

h) Pension reporting under FRS 102

[For charities which participate in multi-employer defined benefit pension schemes, the accounting has been refined. Under FRS 102 if an employer has entered into an agreement with the multi-employer plan that determines how the entity will fund a deficit, the entity will be required to recognise the present value of the contributions payable from this agreement as a liability on its balance sheet.

This would not have been required previously as funding contributions were only recognised when they fall due.]

[For charities with continuing defined benefits pension scheme liabilities, there will be some potentially significant differences between the current FRS 17 accounting requirements and the approach to pensions accounting required under FRS 102.

The main difference for the future reporting under FRS 102 relates to the calculation of the pensions net financing cost. This cost currently comprises the net of the expected returns on the scheme assets as determined by the actuary and an estimated interest cost on the scheme liabilities. Currently the assumed rate of return on the assets is usually significantly higher than rate of "interest" on the liabilities. However, under FRS 102 the expected return on assets will be calculated using the discount rate so that no credit is taken for the expected outperformance on the Plan assets.

There are also differences in the treatment of any surpluses under the two standards should this become relevant in the future.]

Transitional disclosures

FRS 102 requires the presentation of reconciliations of an academy's funds as determined in accordance with the previous financial reporting framework and its funds determined in accordance with FRS 102 at two dates:

(a) the date of transition to FRS 102; and

(b) the end of the latest period presented in the entity's most recent annual financial statements determined in accordance with its previous financial reporting framework.

FRS 102 also requires the presentation of a reconciliation of "profit or loss" determined in accordance with its previous financial reporting framework and reported in the entity's most recent annual financial statements to its profit or loss determined in accordance with FRS 102 for the same period.

Appendix 6 - External developments

We have summarised below some of the developments and changes in the academy and general charity sector over the recent period which we believe may be of interest and relevant to you. 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 issue a regular technical briefing for charities by email. If you would like to receive this please email your details to nonprofits@crowecw.co.uk . Alternatively, these briefings are available on our website.

Barred check list for new members of academy trusts

The EFA has recently drawn attention to the National College for Teaching and Leadership's (NCTL) Employer Access Online service, accessed via Secure Access, which has recently been extended. The system can be used to check that new teachers are not subject to a teaching prohibition order, as well as to check if applicants to management positions are not barred from taking part in the management of an independent school.

The EFA has recommended that academy trusts use the service to check new members of governing bodies who are not in regulated activity. This is because they are not eligible for the Disclosure and Barring Service (DBS) barred check list. The extended service supports new requirements under Section 128 of the Education and Skills Act 2008 that came into effect in January 2015.

It is not necessary to carry out checks on existing members of governing bodies.

It is important to note that this new service does not replace the existing duty academies have to use the DBS service, including checking the DBS barred list.

New guidance on Governors' responsibilities

In July 2015 the Charity Commission launched its updated guidance 'The essential trustee' (CC3).

The title will be familiar to Governors, but the explanation of their responsibilities and what the regulator expects have been completely updated to make this guidance easier to understand and apply.

The updated 'Essential trustee' breaks down the trustee's role into 6 clear duties.

- Ensure your charity is carrying out its purposes for the public benefit
- Comply with your charity's governing document and the law
- Act in your charity's best interests
- Manage your charity's resources responsibly
- Act with reasonable care and skill
- Ensure your charity is accountable

Under each heading, the commission explains the legal requirements that Governors must meet, and the good practice they need to follow, to operate effectively and comply with their duties. From there, you can go to more detailed guidance if you need an in-depth understanding.

The commission makes it clearer that Governors are expected to follow good practice, applying it appropriately to their charity's circumstances. It's not an optional extra.

The updated guidance is available on the Gov.UK website https://www.gov.uk/government/publications/the-essential-trustee-what-you-need-to-know-cc3/the-essential-trustee-what-you-need-to-know-what-you-need-to-do .

Guidance for charities engaged with children or vulnerable people

As part of their statement of the results of an inquiry into St Paul's School the Charity Commission included the following comment on issues for the wider sector.

"*Trustees are under a duty to act prudently and at all times to act exclusively in the best interests of their charity and to discharge their duties in accordance with their duty of care. In consequence it is essential that charities engaged with children or vulnerable people (a) have adequate safeguarding policies and procedures which reflect both the law and best practice in this area, (b) ensure that Trustees know what their responsibilities are and (c) ensure that these policies are fully implemented and followed at all times. Trustees must therefore regularly review the steps that are taken to provide them with assurance on the fitness for purpose of their policies and the extent of compliance in the charity's practice with those policies.*

This is particularly pertinent in charities where there have been a number of allegations and/or complaints which raise potential safeguarding concerns or risks (whether of children or others). In such cases, given the higher risks involved, the commission would expect the Trustees to consider what additional steps are necessary beyond basic compliance with other statutory guidance or regulations (such as Keeping Children Safe In Education) to satisfy themselves and the commission that they are properly discharging their duty of care under charity law.

Trustees are jointly responsible for the overall management of the administration of their charity. All decisions by the Trustees concerning a charity should be taken by the Trustees, acting collectively. Where the Trustees delegate administrative duties, for example in respect of safeguarding, additional controls then become necessary in order to ensure an appropriate level of reporting and oversight by all the Trustees, and that the delegated duties are being properly discharged.

Trustees should provide the commission with information about serious incidents as soon as possible after they become aware of them, ideally as soon as possible. If a charity has an income over £25,000 Trustees must, as part of the annual return, confirm that there are no serious incidents or matters relating to their charity over the previous financial year that should have been brought to the commission's attention but have not. Failure to confirm this is a breach of legal requirements and may be taken as evidence of misconduct or mismanagement in the administration of a charity."

Updated HMRC guidance on employee travel and subsistence

Following the Office of Tax Simplification's ("OTS") review of employee travel and subsistence last year, the Government promised to update the existing HMRC guidance and as a result, HMRC have published in August 2015 an updated Booklet 490 (Employee Travel – a tax and NICs guide for employers). A number of significant changes have been made including the removal of outdated examples.

The updated guidance is helpful in determining HMRC's views on the legislation and it has some new examples around areas such as Non-Executive Directors attendance at Board Meetings, phased construction projects, homeworkers and employees with dual workplaces. However, travel and subsistence continues to be a complex area and we are seeing HMRC increasingly asking questions and refusing tax relief. We therefore encourage employers to take advice in non-straightforward cases.

A further update to Booklet 490 is expected later in the year to provide guidance on the exemption for business expenses (also a product of the OTS review) and intermediary travel and subsistence expenses which is due to take effect from 6 April 2016.

The updated guidance is available at: https://www.gov.uk/government/publications/490-employee-travel-a-tax-and-nics-guide .

Charities (Protection and Social Investment) Bill

The Charities (Protection and Social Investment) Bill, announced in the Queen's Speech, was introduced in the House of Lords on 28 May 2015.

The purpose of the Bill is to protect charities from abuse, strengthen the powers of the Charity Commission for England and Wales, and enable charities to more easily undertake social investment (investing their funds in a way that furthers their charitable purpose as well as providing a financial return). The Bill would enable the Charity Commission to:

- direct that a charity be closed down after an inquiry;
- issue official warnings to charities;
- disqualify a person who is unfit to serve as a charity trustee in certain circumstances; and
- address some gaps and weaknesses in the Charity Commission's existing powers.

The Bill would also give charities a new specific and simple power to make social investments (pursuing both a financial and social return), along with clear duties when doing so.

Since publishing this bill the Cabinet Office has introduced as an amendment new rules to protect vulnerable people from rogue fundraisers. All new fundraising contracts between charities and fundraisers will be required to state how vulnerable people are protected. In addition, charities with incomes over £1 million will have to set out in their trustees' annual report their fundraising approach, including the use of professional fundraising agencies, as well as steps taken to prevent inappropriate fundraising from vulnerable people.

The legislation will also require professional fundraisers to set out in fundraising agreements what steps they are taking to protect vulnerable people from high pressure fundraising, best practice they will follow and how the charities are able to monitor compliance. Currently, charities are not required to have any written agreement with fundraisers over the ethics of how money is raised.

Updated guidance on Charities and trading

The Charity Commission has in April 2015 updated its guidance on Charities and trading. The guidance overview clarifies that a charity will not pay tax on profits it makes from trading if:

- it is making money from helping the charity's aims and objectives, known as 'primary purpose trading',
- the level of trade that isn't primary purpose falls below the charity's small trading tax exemption limit, or
- it trades through a subsidiary trading company (although see separate comment on Gift Aid donations to the parent charity).

However, a charity must pay tax on any other profits. It is also not exempt from paying VAT when trading but may be eligible for some VAT reliefs.

The updated guidance is available on the Charity Commission website - https://www.gov.uk/charities-and-trading

Gift Aid donations from Charity trading subsidiaries

In October 2014, the Charity Commission withdrew its guidance regarding the payment of gift aid amounts in excess of the subsidiary's distributable profits. CC35 endorsed the practice of donating all taxable profits of a subsidiary to the parent charity, even in cases where this amount exceeded the profits available for distribution under Companies Act 2006, on the basis that the payment was not considered a distribution. Tax relief on the payment meant that no tax was payable by the subsidiary.

Following the Commission's withdrawal of this guidance, the ICAEW issued Technical Release 16/14 'Guidance on donations by a company to its parent charity' on this matter in October 2014, having sought the opinion of Counsel. The legal advice provided confirmed that the payment of gift to a parent is a distribution and therefore, in cases where payments exceeded the taxable profits available for distribution, payments of the excess were unlawful.

The Technical Release explains that when unlawful distributions have been made, the parent is liable to repay the excess, including amounts arising over the previous six years. The full text of the Technical Release is available at: http://www.icaew.com/en/about-icaew/what-we-do/technical-releases/legal .

HMRC are considering the tax impact of this situation and it is expected that their view will be published in due course.

Charity Commission alert on serious incident reporting

The Charity Commission has commented that it is still seeing too many instances where serious incidents that have occurred in charities have not been reported.

A serious incident is one that results in, or risks, significant:

- loss of the charity's money or assets,
- damage to the charity's property, or
- harm to the charity's work, beneficiaries or reputation.

Trustees have a general duty to take reasonable steps to assess and manage risks to their charity's activities, beneficiaries, property, work or reputation. Reporting serious incidents to the Charity Commission demonstrates that they are properly complying with this duty and their responsibilities as trustees, and taking appropriate and effective action to deal with them.

The alert also notes that if trustees fail to report a serious incident and it becomes known to the Charity Commission at a later date, the Commission may consider this to be mismanagement and take regulatory action, particularly if further abuse or damage has arisen following the initial incident.

Full details are available on the Charity Commission website – https://www.gov.uk/government/news/alert-on-reporting-serious-incidents-rsi

Testing resilience against fraud

The Charity Commission is encouraging larger charities to make use of a free tool aimed at helping them assess their resilience against fraud.

The Self-Assessment Fraud Resilience (SAFR) Tool is based around 29 questions and allows an organisation to establish how well it is protected against fraud:

- how well it understands the nature and cost of fraud,
- whether it has an effective strategy to address the problem,
- whether it has a counter-fraud structure which helps it implement its strategy,
- whether it takes a range of pre-emptive and reactive action to counter fraud, and
- the extent to which fraud is addressed and managed like any other business issue.

The commission has circulated the SAFR tool to all registered charities with an annual income of over £1m. Charities completing the self-assessment will receive instant results, giving them a fraud resilience rating out of a maximum 50 score, and telling them how well they have scored relatively (by percentile) against the hundreds of organisations across the charity and other sectors who have already measured their fraud resilience. Charities will also receive an estimate of how much they lose to fraud each year.

The tool can be accessed via the Government website - https://www.gov.uk/government/news/larger-charities-urged-to-test-their-resilience-against-fraud .

Flat-rate state pensions from April 2016

The Chancellor has confirmed the Government's proposals that the flat-rate state pension will start in April 2016 - a year earlier than previously planned. This will impact on employers and employees who currently contribute to pension schemes which are accepted for the purposes of contracting-out of the State Earnings Related Pension Scheme and the State Second Pension.

Employers will no longer receive the current contracted-out NI rebate for salary-related pension schemes and will therefore have to pay 3.4% extra in NI contributions. Employees will be required to pay an extra 1.4% in NI contributions. Clearly it will be important that charities recognise these future NI changes in their budgeting and other considerations for future years.

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