The publication for charities.

Issue one
April 2021

PKF

Emerging Issues

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The charity sector is forever changing and keeping on top of Charity Commission guidance, law and regulation, financial reporting and tax is vital. Our regular digest of emerging issues will help keep you up to date.

April
In this issue...

We focus on sector developments and matters on the horizon as at 1st April 2021.

Guidance

Charity Commission - updates and guidance

The following guidance has recently been published or updated by the Charity Commission:

Date	Title
January 2021	Coronavirus (COVID-19) guidance for the charity sector
November 2020	Making decisions at a charity
November 2020	Managing Charity finances
November 2020	Managing conflicts of interest in a charity
November 2020	What to send to the Charity Commission and how to get help
June 2020	Reporting serious incidents to the Charity Commission

A summary of each of the above items is provided below, with links to the full guidance.

Coronavirus guidance for the charity sector

This guidance was updated on 8 January 2021. It covers a number of topics, including:

- Government financial support for charities.
- Charity meetings, AGMs and other meetings.
- Mergers and collaborative working.
- Using reserves and restricted funds.
- Insolvency help and advice on managing financial difficulties.
- Fundraising and coronavirus appeals and working with businesses.
- Keeping people safe.
- Trading subsidiaries – financial support from parent charities.

Action: Trustees should read the updated guidance and take any actions needed.

Managing charity finances

This guidance was published on 2 November 2020. It explains the trustees' responsibilities in relation to protecting the charity's money, and gives five pointers on what trustees should do:

- Protect your charity's money – there is an internal financial controls checklist that can assist as well as guidance on how to protect your charity from fraud and cybercrime.
- Know your charity's financial position – NCVO has a budgeting guide that can assist and the Charity Commission has guidance on how to set a reserves policy.
- Keep accurate financial records.
- Manage expenses and payments to trustees.
- Deal with financial problems quickly.

Action: Trustees should read the updated guidance and take any actions needed.

Making decisions at a charity

This guidance was published on 2 November 2020. It provides advice to trustees on how to ensure that they make valid decisions that are in the best interests of the charity. It includes seven principles which trustees should follow, particularly where decisions are complex, would have a significant impact on the charity, involve a significant amount of money, or are otherwise high risk:

- 1. Act within your powers
- 2. Act honestly and with good intentions, and only in your charity's interests
- 3. Be sufficiently informed, taking any advice you need
- 4. Take account of all relevant factors
- 5. Ignore irrelevant factors
- 6. Manage conflicts of interest
- 7. Make a decision that is within a range that a reasonable body of trustees could make

The guidance then provides a number of other practical recommendations to support the seven principles and ensure they are followed, for example keeping sufficient records, following the charity's rules and the law, and obtaining all information needed before making a decision.

Where higher risk decisions need to be made, the guidance refers to a previous Charity Commission document called It's your decision (CC27) which is also recommended reading.

Action: Trustees should read the updated guidance and take any actions needed.

Managing conflicts of interest

This guidance was published on 2 November 2020. It discusses the importance of trustees not allowing personal interests, or the interests of people or organisations connected to them to influence their decisions. The guidance includes a number of practical examples of how conflicts of interest can arise.

Once conflicts have been identified, four key steps have been given in managing them:

- Declare conflicts of interest – this means having a conflicts of interest policy which includes having a register of interests and declaring any interests at trustee meetings.
- Consider removing conflicts of interest.
- Manage conflicts of interest – this includes checking that trustee payments and benefits are authorised and any specific rules are followed.
- Keep a record of conflicts of interest that arise - what was the conflict, who or what it affected, when was it declared and how did you manage it.

The guidance also discusses what to do when there is a serious conflict of interest, and to consult their detailed guidance published 1 May 2014 in those instances.

Action: Trustees should read the updated guidance and take any actions needed.

What to send to the Charity Commission and how to get help

This guidance was published on 2 November 2020 and advises charities of the information they need to provide to the Charity Commission and how the Commission can support them. The main aspects covered are:

- Keeping your Charity Register details up to date.
- Provision of annual return, report and accounts.
- Dealing with serious problems and how to report them to the Charity Commission.
- Free help, information and services available.
- Other sources of help to trustees.
- Information about how the Commission supports and regulates charities.

Action: For information.

Reporting serious incidents to the Charity Commission during the Coronavirus pandemic

This guidance was published on 3 June 2020. The original guidance on serious incident reporting still applies, however the Commission has provided supplementary examples in light of the pandemic. In summary, these are:

- Actions taken to meet government rules such as a building closure is not considered a serious incident if the impact on the charity does not give rise to an incident that needs to be reported in light of the original guidance.
- With regards to financial loss, if the loss is more than £25,000 or 20% of the charity's income but this has only occurred due to the pandemic it is not considered to be a serious incident.
- The decision of which incidents that require reporting can be delegated to staff, however staff must report these incidents to trustees as they have overall responsibility.
- There is an online form that should be used for reporting such incidents.
- Where trustees consider reporting an incident but decide not to report it, they should keep a brief record of their decision and the reasons for it

Action: Trustees should read the updated guidance and take any actions needed.

IFR4NPO Consultation

A consultation paper has been launched in relation to this initiative to develop internationally applicable financial reporting guidance for non-profit organisations.

The stated purposes behind the initiative are to improve accountability, consistency, transparency and trust. The project has attracted interest from stakeholders in over 100 countries.

The consultation paper has two parts. Deadlines for giving feedback on part 1 and part 2 are 30 July 2021 and 24 September 2021 respectively.

Action: Particularly of interest to charities with international operations, Trustees should consider whether they wish to submit a response to the consultation.

Charity Commission to consult on responsible investment guidance

The Charity Commission undertook a listening exercise in 2020 in relation to barriers to responsible investment.

Following on from this, the Commission plans to publish draft guidance in spring 2021 for public consultation with final updated guidance expected in summer 2021.

Detail on the outcomes of the listening exercise can be found here which provides background to the upcoming consultation, which was announced here.

Action: Trustees of charities holding investments or intending to hold investments should look out for the public consultation in the spring and then to the updated guidance in the summer.

Whistleblowing disclosures made to the Charity Commission for England and Wales 2019 to 2020

On 30 September 2020, the Charity Commission published transparency data on whistleblowing disclosures made in 2019/20 by charities. Of note:

- There has been a 33% increase in the number of disclosures compared to 2018/19.
- There has been a significant increase in the rate of disclosures from volunteers and individual trustees (an increase of 36.8% compared with a 9.7% increase in 2018/19).

- The majority of disclosures (63.2%) continue to be from employees (90.3% in 2018/19).
- The primary issues raised were governance, safeguarding or financial management concerns.

Action: For information.

Enabling safe and effective volunteering during coronavirus (COVID-19)

This guidance was published 13 November 2020 and updated 4 February 2021. This guidance is for those who run organisations that use volunteers. The guidance gives advice on several areas including:

- Who can volunteer.
- Volunteering outside the home.
- Volunteering in groups and around others.
- Volunteers eligible for vaccines.
- Safeguarding volunteers.
- Volunteers who claim benefits or who are ‘furloughed’.

Action: Trustees of charities who use volunteers should read the updated guidance and take any actions needed.

Law and regulation

Charity Governance Code

Governance is the process through which charities are directed and controlled, to ensure that they deliver sustainable public benefit and comply with all legal and regulatory requirements. Good governance has arguably never been more important than it is now. Increased public scrutiny over the charity sector in the wake of several high profile news stories in recent years - coupled with increased regulatory powers of the Charity Commission - mean that there are greater consequences of 'getting it wrong.'

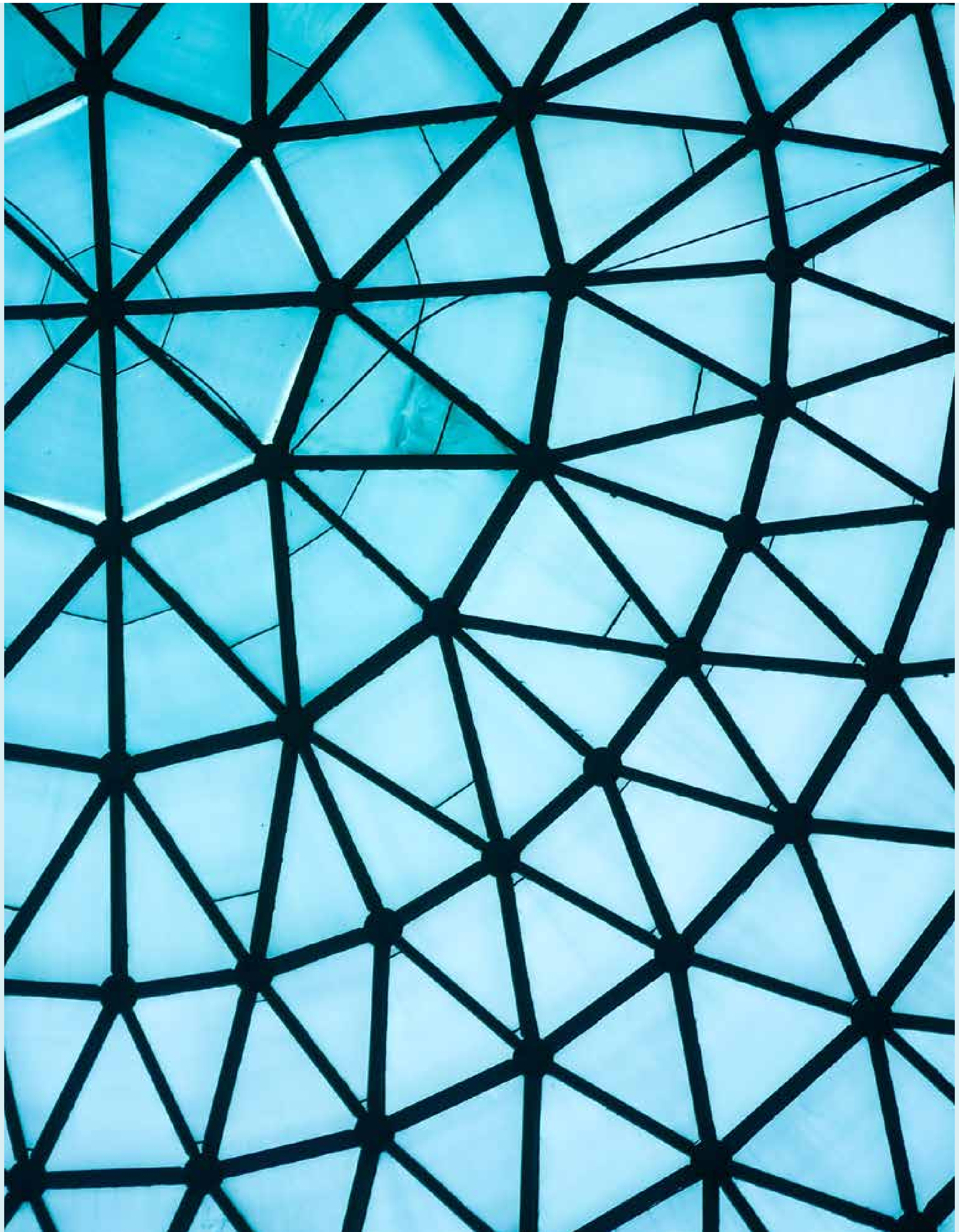
Following a consultation process, a refreshed version of the Charity Governance Code was issued in December 2020. The main changes have been made to Principle 3 ('Integrity') and Principle 6 ('Diversity') which is now called 'Equality, Diversity and Inclusion' and includes four stages which charities should follow.

The Code continues to be a practical tool for charities to self-assess their governance policies, identify any areas which need improvement and make necessary changes. The refreshed version of the Code continues to suggest an 'apply or explain' approach to the guidance contained within.

There also continues to be a version for larger charities and smaller charities, the threshold for being considered large being defined as having income of £1m a year. Both versions of the Code, as well as useful diagnostic tools, can be downloaded here.

Action: We encourage all charity trustees to familiarise themselves with the new Code and to think about how the governance processes at their charity compare – and whether any changes are needed in light of this new guidance. The Code is best viewed as a tool to reflect upon and improve governance.

Financial reporting



Multi-employer defined benefit pension schemes

The bodies behind the Charities SORP published Information Sheet 4 on 19 November 2019 in relation to accounting for multi-employer defined benefit pension schemes.

The guidance applies for accounting periods commencing on or after 1 January 2020, so for charities with a 31 March year end the first accounting period affected will be that ending 31 March 2021.

The Charities SORP (FRS 102) requires that where a charity participates in a multiemployer defined benefit plan it should account for it as a defined contribution plan if insufficient information is available to account for the plan using defined benefit accounting (i.e. when a charity is not able to identify its share of the plan's assets and liabilities).

It should be noted that charities which are in this position, but which have entered into a legal agreement to fund a deficit in the pension plan, must recognise a liability for the present value of contributions payable.

If sufficient information becomes available to allow for the identification of an individual employer's share of the overall plan's assets and liabilities, the accounting must transition from defined contribution accounting to defined benefit accounting. This was seen in the Social Housing sector in 2019, as a result of actuaries now being able to identify the individual share of assets and liabilities.

Information Sheet 4 provides guidance to be applied when such a situation arises.

Action: Trustees of charities which participate in multi-employer defined benefit pension schemes should review the guidance and ensure that the accounting for their scheme as either a defined contribution or defined benefit scheme is appropriate.

SORP guidance for COVID-19

Guidance has been published for trustees and those preparing charity accounts which looks at the potential impact of COVID-19 on financial reporting by charities. In considers implications for the following areas:

- Trustees' annual report
- Going concern
- Alternative basis to going concern when preparing the accounts under the SORP

Action: For information and consideration when preparing the financial statements.

Tax and VAT

IR35 and 'off-payroll workers

The purpose of the IR35 rules is to ensure than an individual employed via an intermediary, usually a personal service company, is not a direct employee in all but name. This is to ensure that the correct amount of tax and National Insurance is paid.

From April 2021, the IR35 rules apply to organisations that breach at least two out of three of the following thresholds over two accounting periods:

- Annual turnover of more than £10.2m (this excludes income from donations and grants).
- Balance Sheet total of more than £5.1m.
- Over 50 employees.

Organisations which are caught are now responsible for deeming whether an individual is eligible to use a personal service company or whether they should instead be on the payroll as an employee.

If an off-payroll worker is deemed by the organisation to meet the definition of an employee, the organisation is now responsible for paying PAYE and National Insurance on the net value of the invoice received from the personal service company, and has to record the details on their payroll system.

Complexities are likely to arise where the invoices received from the personal service company continue to include VAT. Changes may be needed to the accounts payable systems (through which the VAT will be paid) whilst the remaining value of the invoice will be processed through the payroll system.

Action: Trustees of charities which use contractors or individuals issuing invoices from a personal service company should consider whether they breach the criteria to be affected by IR35. If they do, a plan should be put in place to review, conclude on and record the status of each individual, and ensure that the payroll and accounts payable systems are able to process the transactions appropriately.

Making Tax Digital for Corporation Tax

There is an open consultation on making tax digital for corporation tax. It will explore how the principles established for Making Tax Digital could be implemented for corporation tax. It seeks views from both companies and other organisations within the charge to corporation tax. The consultation closes on 5 March 2021.

Action: For information, the consultation has now closed.

Coronavirus (COVID-19)—Implications for VAT

HMRC have implemented a number of different VAT measures as a result of the economic impact of the pandemic. The measures are set out in the table below:

Measure	Description
Deferred VAT payments	The Government implemented a deferral of VAT payments falling due between 20 March 2020 and 30 June 2020 until 31 March 2021. HMRC has since issued additional guidance in relation to the further deferral in relation to these payments here.
Changes to the VAT liability of certain goods and services	Zero-rating was brought forward for e-publications, a temporary zero-rate introduced for PPE and temporary reduced-ratings for certain supplies in the hospitality sector.
Flexibility of HMRC's approach	HMRC has suggested that taxpayers can reach out to it where a self-supply charge for the change in use of certificated buildings has been crystallised as a result of loaning a building during the pandemic. Section 15.6 of Notice 708 refers.

Action: For information.

VAT and Brexit

With the end of the Brexit transitional period on 31 December 2020 there have been a multitude of changes to the VAT rules.

The majority of changes impact the movement of goods between the UK and EU along with the movement of goods between Northern Ireland and Great Britain.

The new rules will not directly affect charities that operate exclusively in Great Britain and may give scope for HMRC to expand VAT zero rating provisions, as it has done during 2020 in response to COVID.

HMRC updated 60 of their guidance documents on 31 December 2020 and therefore any charities that are receiving or supplying goods or services to or from the EU and Northern Ireland may need to tread carefully to avoid unnecessary VAT liabilities.

If importing goods, charities should notify their freight forwarders that they intend to account for the import VAT via their VAT return, following the implementation of the postponed VAT accounting scheme, so that charities are not charged for use of their freight forwarder's deferment account.

Action: If charities are supplying or receiving goods or services to or from the EU or Northern Ireland, care should be taken so as to ensure no inadvertent VAT liabilities arise. HMRC's guidance has been updated but the relevant publications can be difficult to locate. If in doubt, advice should be sought.

VAT and advertising on social media

The supply of advertising services to charities is generally VAT free. To make use of the zero rating, a declaration is required to be made by the charity and a copy of such a declaration is included in section 10.5 of Notice 701/58.

HMRC have challenged the application of the zero rating relief to newer forms of advertising, such as social media adverts, as they believe that the adverts were sufficiently targeted to fall outside the provisions of the zero rating.

HMRC have published updated guidance which now accepts that some digital advertising carried out for charities can benefit from the zero rating. The list, published in HMRC's guidance, illustrates how far the zero rating can be applied to new forms of advertising, but stops short of allowing zero rating for email adverts and social media/subscription website accounts (i.e. when adverts are applied to individuals over social media, based on an individual's known likes, dislikes interests, location etc.).

HMRC are still being lobbied on this point in the hope that their position will change and will likely be a point of contention for charities until the law is updated to consider modern advertising methods.

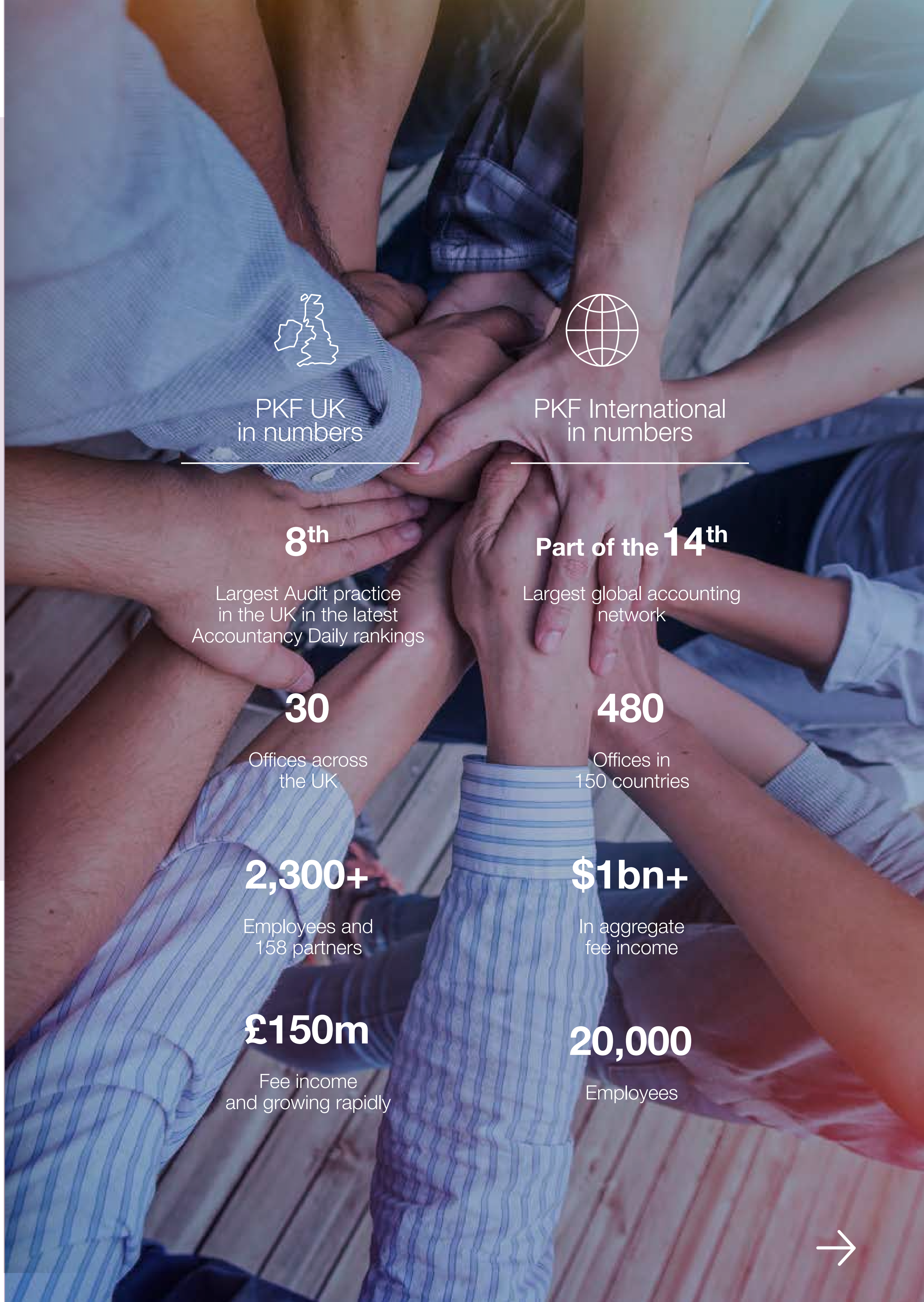
Action: If you believe you have been charged VAT on an advertising campaign, other than that on social media, you may be able to reclaim the VAT overcharged.

About PKF
Simplifying complexity for our clients

PKF is one of the UK's largest and most successful accountancy brands.

Our specialist team has many years' experience working with and advising UK charities, membership organisations, social enterprises and large institutional donors based both in the UK and overseas.

This means we understand what you are trying to achieve, how you are trying to achieve it, and the issues you face. Our energy and enthusiasm, coupled with deep sector experience, means we will commit to helping you achieve your goals with practical, tailored and well-rounded advice.



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