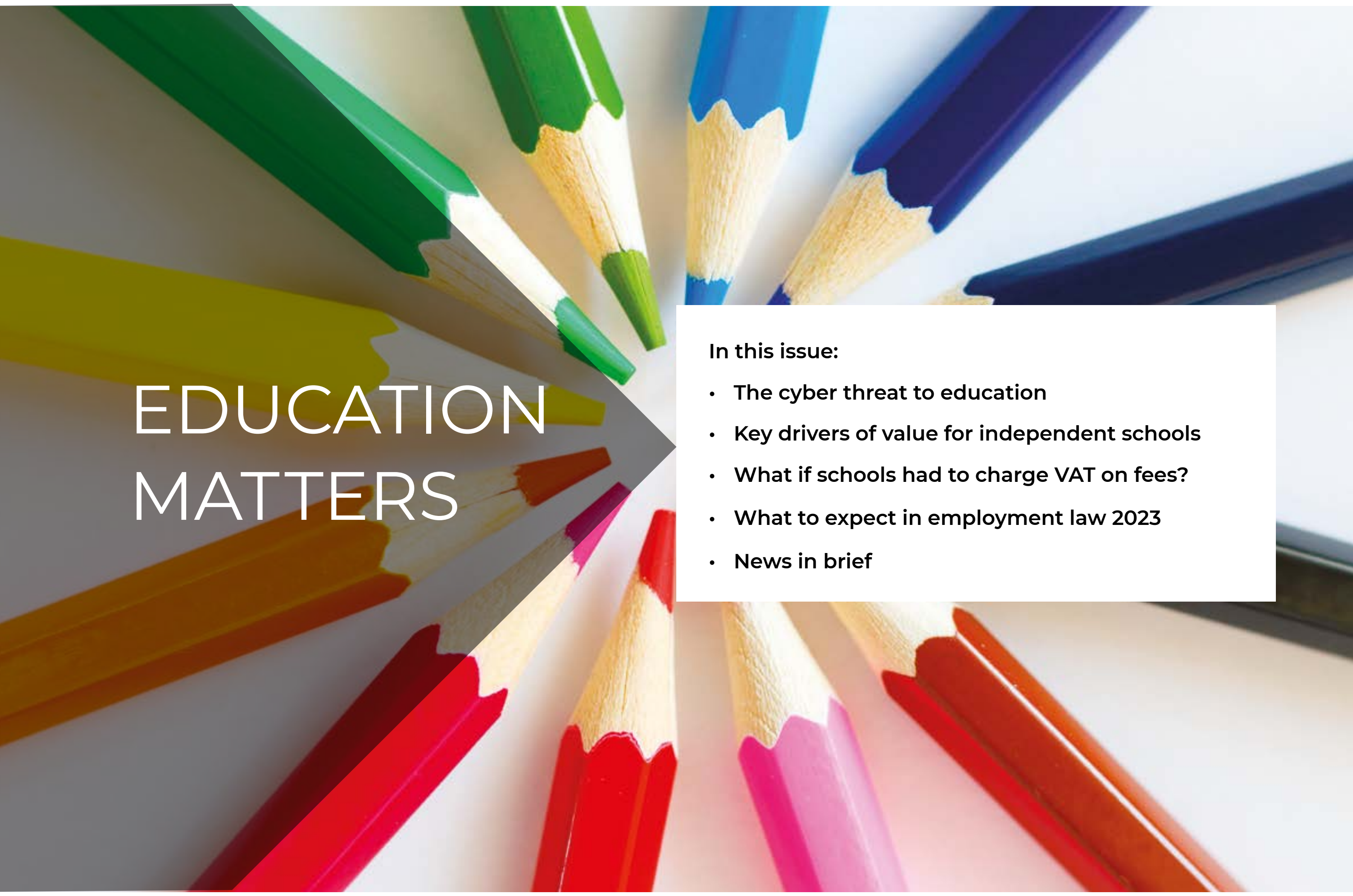


EDUCATION MATTERS

In this issue:

It is quite unnerving that I am putting pen to paper for another publication which comes around far too quickly. I am fascinated that conversations in the last 12 months are defined by pre and post-covid, a line has been drawn and the world is now defined by that split. We are all of course more than happy that school closures, remote working and hopefully the last of our covid exam sitting pupil year is all in the distant past. However, as you would expect there is never a dull moment in the sector and last Autumn more Board conversations were dedicated to the impact on independent schools from a Labour Government, VAT on school fees and what, if any, the impact on our parents of a recession and increasing interest rates.

Crystal Ball gazing has always been a prerequisite for anyone wanting to be in this sector and I confess I personally have failed in this measure. 18 months in politics is a long time and anything can happen. Even now while going to print, many are shocked by the sudden resignation of Nicola Sturgeon, a politician that no one could argue fully believed in a strong Scotland and only a strong Scotland. We would all like to believe that whichever government is in power, the aim is for a strong United Kingdom. Education plays an important part of that journey. State and Independent fee-paying schools have existed side by side for many generations, learning off one another, one could argue that the competition between the two is healthy; so why would any government want to penalise the independent sector for its success, surely the question should be how can the academy and state sectors become stronger?

We can only hope future governments act to strengthen the education sector due to the important role it plays for our future generations. Penalising the Independent sector by removing charitable status is not the route to do this. The sector is not dominated by wealthy Etonesque schools and the country will be a poorer place if many schools are forced to shut due to the increased financial burden that will inevitably follow if tax measures such as VAT on school fees are introduced.

We will continue to keep watch and hope that ideology is replaced with sensibility.

Anjali Kothari
Head of Education

THE CYBER THREAT TO EDUCATION

By Richard Jackson, Partnerships Manager, Moore ClearComm

Cybercrime statistics in 2022 reinforced that education remains very much a key target for cyber criminals, and so far in 2023 the headlines suggest that the sector is now one of the most likely sectors to suffer a cyber attack.

In early January, various media outlets broke the story that data stolen from 14 UK schools during cyber attacks from September 2022, was actively available on the dark web (source: InfoSecurity magazine) www.infosecurity-magazine.com/news/uk-schools-leak-confidential-data/.

The hacking group behind the attacks 'Vice Society', is also behind a series of high-profile attacks on schools across the UK and the USA since the summer of 2022, coinciding with the start of the new school year. Vice Society is just one of many organised cybercrime groups, and (once a school's data is stolen) it makes demands for payment with the threat of leaking documents if a payment is not made.

The data stolen from the UK schools includes:

- Children's SEN information
- Child and parent/carer passport scans
- Staff pay scales
- Staff contract details

On 16th January it was announced that Vice Society had struck again, claiming responsibility for a November 2022 cyber attack on the University of Duisburg-Essen that forced the university to reconstruct its IT infrastructure – leaking sensitive data on an ongoing basis. Vice Society is not alone, rather a 'live' example of the many organised cybercriminal entities that actively target education institutions, regardless of location.

It was also announced in early January that 16 schools across Hull and Yorkshire had been impacted by a ransomware attack over the Christmas holidays, with the hackers demanding £15 million ransom for the return of access to school IT systems.

Education cyber attack data

A report from the National Cyber Security Centre (NCSC) in November 2022 confirmed an estimated 90% increase in cyber attacks, targeting the UK education sector, in the preceding 12-month period.

In addition, a survey by IT service provider Cantium in 2022, makes alarming reading. The survey of 500 UK headteachers, school IT professionals and teaching staff found that:

- 37% of respondents (including school staff and IT professionals) "do not rank cyber security as a high priority". This could mean almost 12,000 schools are at greater risk from a cyber attack in 2023.
- 66% of UK schools had suffered a cyber attack in the last 18-months and only 35% felt strongly that they were "well prepared to protect their school against malicious activity in the future".

Why schools?

Research by Intel elaborates on why improved cyber security is so important in education:

- One in three education devices contains sensitive personal data.
- The volume of personal data stored by schools/colleges/universities is usually high (especially when schools share systems or are part of multi-academy trusts).
- In a study of 5,400 IT decision-makers across 30 countries, those working in education are the most likely to admit security weaknesses.
- 44% of IT managers in the education sector have experienced a ransomware attack (higher than healthcare, IT and local government).
- 87% of educational establishments have experienced at least one cyber attack.

Seasonality

Seasonality and a focus on 'peak periods' play a big part in the deliberate timing of cyber attacks on most sectors, and education is no different. The trend of attacks in August and September 2022 was significant and we can expect to see a continual cyber attack focus during the following times:

- School holidays and half terms
- Exam periods
- End of school year/term
- Beginning of school year/term
- Weekends

Attackers know when school staff will be working under pressure, or if the school will be operating at reduced staff levels, and that's when cyber diligence is reduced – making the chances of a successful attack, much higher.

Six key questions

Finally, it is recommended that all educational establishments consider these six critical questions:

1. What are your seasonal trends and when might your staff be less focused on cyber security or data protection?
2. What data are you storing and do you really need it?
3. Are you technically prepared to manage a cyber attack?
4. Do you have cyber insurance and what does it cover?
5. What is your financial exposure in the event of attack?
6. What are the implications (financial, reputational and legal) of paying a ransom?

Richard is the Partnerships Manager at Moore ClearComm, the cyber and data protection division within Moore Kingston Smith. Qualified and experienced as a cyber security and data protection professional, along with holding industry standard certification in both business analysis and project management.

He is also an experienced and passionate speaker and advocate of cyber risk management and regularly appears as a guest on webinars and podcasts.

KEY DRIVERS OF VALUE FOR INDEPENDENT SCHOOLS

By Dan Leaman, Partner, Moore Kingston Smith Corporate Finance

We are seeing that mergers and acquisitions in the independent schools sector has become more active due to strong market drivers such as, rising demand for independent schools and demographic trends - as well as cost pressures which push towards economies of scale.

There is continued interest from overseas investors looking for property rich businesses in the UK as well as a number of private equity backed groups consolidating in this space. Some successful schools are also expanding their reach with the acquisition of other schools to their groups, either as feeder schools, or secondary campuses, to leverage their brands and reap the benefits that come from the scale.

However, there are also a number of smaller independent schools that are struggling and we do expect to see some of these come to the market in the next year as they seek investment to fund a step change to help them transform their market proposition.

In the UK, our independent schools can be limited companies or charities and historically small prep schools have been run by private families. The merger and acquisition activity has been varied with a broad mix of charity to charity and charity to limited company. Although the charity to charity approach does not often involve a sale with money changing hands, the acquirer will value a school depending on the costs involved with increased investment, reorganisation costs and redundancy costs.

Independent schools are generally valued by applying earnings multiple to the underlying Earnings before Interest, Tax, Depreciation and Amortisation (EBITDA) of the business. This figure is normally adjusted by adding back any exceptional costs that are not reflective of the business post transaction to reflect the normalised EBITDA a buyer can expect in the future.

In order to maximise the earnings multiple and therefore the value of a school, the following points are key:

1. **Reputation** – The reputation and quality of teaching are key drivers of value for independent schools.
2. **Profitability** – Schools with a track record of delivering consistent and growing profits are more attractive to investors looking to make a return rather than schools with marginal or inconsistent financial results.
3. **Premises** – A school with attractive freehold properties and facilities can attract a higher multiple. Conversely price will often be adjusted downwards for schools where maintenance and capital expenditure have been underspent in the years approaching a sale, as buyers take account of required catch up expenditure to bring the properties back into the state that they deem necessary.
4. **Operational efficiency** – If a school is at capacity with high occupancy and good pupil retention these are indications that the school is operating effectively and gives a buyer a high degree of certainty over future income. A school that is consistently operating at capacity will therefore drive-up value. Schools operating at capacity with a good reputation are also more likely to reinvest in their facilities, further driving up their value.
5. **People** – Staff/fee ratios are a key metric for acquirers as appropriately staffed schools will drive a higher margin. Appropriate permanent staffing levels are therefore attractive to potential acquirers, and conversely excessive use of agency staff is seen as unattractive. In addition to financial metrics, good staff engagement and retention are important. The cost of the Teachers' Pensions Scheme (TPS) can also be a drag on staff/fee ratios and so schools where TPS has been successfully exited will be more attractive.
6. **Parents** – Schools that can demonstrate a high degree of parental satisfaction with their offer will give buyers further comfort over future income streams, when they are deciding whether to invest.
7. **Results** – Schools that can demonstrate consistent results for pupils in both academic terms and in entry to onward destinations can be highly sought after.
8. **Pricing** – Higher fee levels when combined with high occupancy and high retention show that a school is attractive to its market and those schools that can charge for a greater complexity of care are also attractive to acquirers and can drive up multiples.
9. **Location** – The geography of the school's location is also important, for example, schools in London will demand a higher multiple due to the ongoing shortage of space and demand for schooling being high there.
10. **Scale** – Generally schools with a larger scale or groups of schools can generate higher multiples as they benefit from economies of scale.

Dan advises clients on strategy, acquisitions, sales, MBOs and fundraising. He has over 12 years' experience in mergers and acquisitions and eight years' experience in business as a COO/CFO. He always starts with understanding clients' businesses and aspirations and then develops strategies to work collaboratively to deliver their goals and maximise returns.

WHAT IF SCHOOLS HAD TO CHARGE VAT ON FEES?

By Debbie Jennings, VAT Director, Moore Kingston Smith

Many independent schools are assessing the potential impact of losing their charitable status, which would pave the way for VAT to be introduced on school fees; specifically, what it would mean for their business, pupils, and finances.

Since the UK left the EU, the government is free to decide whether to change the UK VAT regulations. This could include withdrawing the VAT exemption applicable to supplies of education provided by certain organisations, such as independent schools. That is, to change an exempt supply into a taxable one.

The possible introduction of VAT on school fees has been tabled by a political party for several years, but one of the main arguments made to counter this is that there could be a net revenue loss.

This is because of the number of pupils that may end up having to be educated at state schools due to their parents no longer being able to afford the school fees. The KPMG IBCS report in 2010 suggested up to 135,000 children could leave the sector.

Imposing standard rate VAT on education provided by independent schools would mean that they would have to determine whether they could absorb a 20% uplift in the price of education or not. That is, deciding if the school itself could account for the VAT to HMRC without having to pass on an increase in price to parents. Alternatively, would the school have to pass the additional VAT cost (either all of it, or in part) onto the parents, therefore putting up the fees anyway?

To provide wider context, the key advantage of school fees changing from exempt to subject to VAT, is that VAT incurred on related expenditure would become recoverable. This would be particularly valuable if significant expenditure is to be incurred on capital works at school premises, as the VAT could be reclaimed from HMRC. Also, certain large expenditure incurred on land and buildings may fall within the Capital Goods Scheme, opening up a retrospective period of potential VAT reclaims. The Oxford Environment Report published in December 2022 suggests the estimated spend by the sector was £2.09 billion or £1.82 billion after VAT. A proportion of this can be reclaimed by schools under a VAT regime.

If the government in power did change the VAT liability applicable to school fees, it could only do so from a future date and would need to give schools time to prepare for the introduction of VAT, i.e., allow for a transitional period. Where VAT has been introduced on to certain supplies in the past, organisations have tried to minimise the impact by arranging for large upfront or prepayments for the future service provisions. However, any payments made after the announcement could be subject to VAT, as HMRC would likely introduce 'anti-forestalling' legislation to prevent pre-payment VAT planning.

That said, many schools already operate fees in advance schemes whereby parents can effectively pre-pay for education. These schemes have the benefit of crystallising the point at which VAT would be applied, providing the school has unfettered use of the funds received. Therefore, schools should consider the possible VAT benefits of using fees in advance and ensure that the terms and conditions of the scheme give the best chance of achieving VAT exemption.

The uncertainty around the possibility of VAT being introduced on education fees make it difficult for independent schools to form firm plans for future financial projections. However, some high-level modelling can be done based on certain assumptions.

Debbie is a VAT Director in the VAT Team in London. She has worked in VAT advisory for over 20 years and qualified as a Chartered Tax Adviser with Deloitte. She has spent the majority of her career working at 'Mid-Tier' firms, and has always specialised in and enjoyed working with nonprofit clients.

She has provided a full range of VAT advice to clients in the education sector, ranging from individual independent schools, FE colleges, universities and academies and free schools. This has included maximising VAT recovery methods, structuring capital projects in order to mitigate VAT and benefit from available VAT reliefs, preparing VAT reclaims and considering outsourcing and partnering arrangements.

WHAT TO EXPECT IN EMPLOYMENT LAW IN 2023

By Dinah Patmore, Strategic HR Partner, Moore Kingston Smith HR Consultancy

2023 looks set to be an interesting year in employment law – let's have a look at three key areas:

The Retained EU Law (Revocation and Reform) Bill

Last year, the government introduced The Retained EU Law (Revocation and Reform) Bill 2022 which will come into effect at the end of 2023. The government introduced this Bill with a view to ending the special status of retained EU law in the UK and enabling government to amend, repeal and replace retained EU law more easily.

The Bill switches off or 'sunsets' retained EU law automatically with effect from 31 December 2023 unless the government takes action to preserve specific pieces of legislation or replace it with UK legislation.

The Bill also:

- stops EU laws that applied directly into the UK from 1972 to the end of 2023 from continuing to be used in the UK from 2024.
- stops EU law being supreme over UK law.

Examples of the most well-known pieces of employment legislation that could be affected are the Agency Workers Regulations, the Part-Time and Fixed Term Workers Regulations, EU regulations relating to equal pay and family friendly leave, the Working Time Regulations and the TUPE Regulations.

The Bill has been criticised due to the lack of time before the end of 2023 to conduct a thorough analysis of what regulations should be preserved or replaced, leading to important rights potentially expiring. Additionally, uncertainty is likely to be created by ending the application of previous EU case law and having to potentially 'start again'.

There is a degree of pressure on the government on both sides of the argument; one side urging the government to stick to the sunset date of 31 December 2023 and the other urging the government to extend the sunset date to the end of 2026.

The Employment Bill

The Employment Bill was expected to be introduced in 2022 to implement some of the outstanding recommendations of the Good Work Plan. The Bill did not make it on to the Queen's Speech, causing many to speculate when it might be introduced or whether it might be quietly shelved.

However, several private members bills have now been introduced, with government backing, which would, if they become law, implement many of the measures that would have been included in the Good Work Plan, including:

- new, enhanced flexible working rights.
- new statutory duty on employers to prevent sexual harassment by third parties.
- extension of redundancy protection for women and new parents.
- new right to a week's carers leave each year for employees with dependents with a long-term care need.
- new right to neonatal leave and pay.

The fact that these Bills have received government backing enhances their prospects of becoming law, which could either happen this year or in 2024.

Potential changes to holiday entitlement and backdated holiday pay

Following the well-known Harpur Trust vs. Brazel case which was settled in 2022, the government recently opened a consultation about the calculation of holiday entitlement for part-year workers on permanent contracts and irregular hours.

Part-year workers are currently entitled to a larger holiday entitlement than part-time workers who work the same total number of hours across the year.

The government states it is keen to address this disparity to ensure that holiday pay and entitlement is proportionate to the time worked for all workers. The government is considering introducing legislation to allow employers to pro-rate holiday entitlement for part-year workers, so they receive holiday in proportion to the total annual hours worked.

The consultation document outlines the proposal for the new calculation of statutory holiday entitlement, which is effectively a return to the 12.07% method using a fixed reference period and not including any weeks without work.

This will be a welcome change for employers in the education sector, who have been very much impacted by last year's ruling.

In not so good news for employers, we are currently awaiting the Supreme Court's judgment in a case called Chief Constable of the Police Service of Northern Ireland and another v Agnew and others.

This is an appeal from the Supreme Court of Northern Ireland's ruling that a gap of more than three months would not interrupt a series of unlawful deductions in an underpaid holiday pay claim.

The Supreme Court's judgement will be binding on the whole of the UK, so depending on what the outcome is, this could change whether employers can continue to rely on making a correct payment to break a chain of unlawful deductions and avoid claims for backdated holiday pay.

Dinah is the lead HR contact for numerous sectors within the firm including Charities, Education, Manufacturing and Distribution and Real Estate and Construction.

She has wide-ranging experience working with business owners and leaders, gained within SMEs and large corporations in various industries, operating in both the private and non-profit sector. She works with business leaders to help shape their people strategy and delivers on the priorities that will enhance the employee experience and business performance.

THE BUDGET IS COMING!
15 MARCH 2023

NEWS IN BRIEF

100 YEARS OF MOORE KINGSTON SMITH

Moore Kingston Smith is celebrating a milestone 100 years in business throughout 2023. The centenary recognises 100 years of supporting clients, industry innovation, learning and growing into the firm it is today. Watch our video celebrating 100 years.

ACADEMIES PLUS (A+) NEWSLETTER

Our latest newsletter written specifically for academies and multi-academy trusts. Download the latest copy.

NEW VAT PENALTIES: JANUARY 2023 ONWARDS

With effect from 1 January 2023, for VAT returns no longer reporting on periods pre-2023 the current VAT filing and payment penalty system is to be replaced by a new system. The new system will be based on penalty points. Read the full article.

GOVERNMENT CONSULTS ON PART-YEAR WORKERS' HOLIDAY ENTITLEMENT

In some 'potentially' good news for employers, the government opened a consultation on 12 January 2023 about the calculation of holiday entitlement for part-year workers on permanent contracts and irregular hours. Read the full article.

THE CYBER THREAT TO EDUCATION AND ACADEMY TRUSTS IN THE UK

Our cyber security and data experts Moore ClearComm examine current data and the threat to schools in detail and suggest potential trends emerging that will support the education sector to reduce and mitigate its risk. Download the report.

TAX FACTS 2023/24

Your online guide to UK tax rates for 2023/24.
Download your copy.

2023 EVENTS PROGRAMME

Our events programme covers a wide range of topics to guide and inform you on the latest issues. You will also find past recordings of previous webinars.
Visit our events page.

FINANCE LEADERS' FORUM

A Moore Kingston Smith community for senior finance executives. We focus on the common business challenges, both current and future, facing senior finance executives. Enter our hub.

THE BUSINESS DOCTOR

Bringing you practical and effective guidance on the challenges we see businesses facing right now.
Enter our hub.

ENTERPRISE HUB

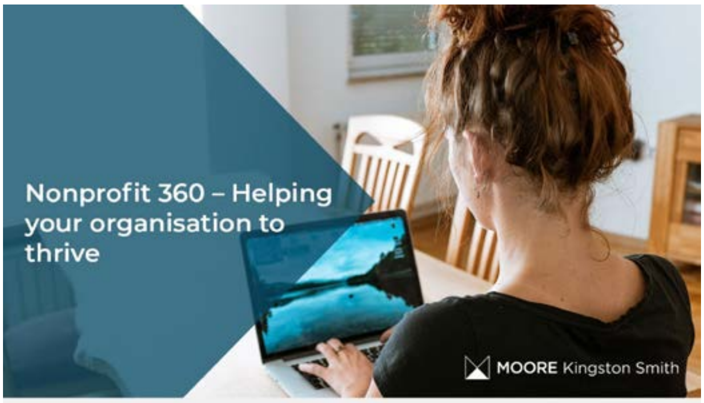
Delivering engaging topical webinars backed up with the materials that you need to help you reach your full potential. Enter our hub.

PRESS CENTRE

If you're looking for insight from our industry experts, or simply looking for the latest news from Moore Kingston Smith, you're in the right place.
Enter our hub.

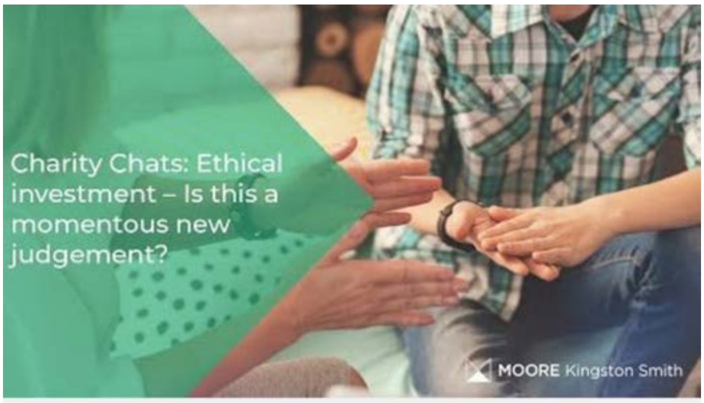
VIDEOS

We have a series of videos ranging from webinars, panel debates and short discussions to help navigate you through the issues facing the charity sector.

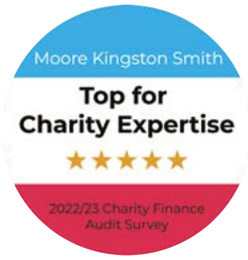


Webinars

Panel discussions



Charity chats



For all education related news and insights, please visit our website [www.mks.co.uk/education.](www.mks.co.uk/education)

If you are interested in any of the articles published in this newsletter, please contact Anjali Kothari directly at **akothari@mks.co.uk**.

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