**DCMS *Call for Views* on derogations from the GDPR**

**Response from the Charity Tax Group – 10 May 2017**

**About the Charity Tax Group**

1. The Charity Tax Group (CTG) has over 500 members of all sizes representing all types of charitable activity. It was set up in 1982 to make representations to Government on charity taxation and it has since become the leading voice for the sector on this issue.
2. CTG welcomes the opportunity to respond to this consultation and would be happy to meet officials to discuss our answers in greater detail.

**The Call for Views**

1. The implementation of the new data protection regulations should offer important and welcome protection to donors. However, we believe that the implementation should recognise the practical implications for charities at an operational level, where there are conflicting obligations to contact donors for administrative reasons, particularly in respect of Gift Aid.
2. While it is unlikely that this would require any formal derogations from GDPR, it is important to flag this potential issue at the outset and to encourage further discussions between HMRC, the ICO and charities to establish what is and is not permitted in respect of donor contact and Gift Aid.
3. We are aware that under the current rules it is permissible to contact donors and process data to meet the legal requirements around Gift Aid, then limits on donor contact do not apply and there will not be a breach of the Regulation if they continue to contact donors who have expressed a preference for not being contacted. However, it is not clear where the line is drawn between, for example, a legal obligation underpinned by legislation and action required of charities by HMRC in line with its guidance. In some cases, HMRC expects charities to follow its guidance as a matter of good practice, without any clear statutory foundation. This has been seen in the context of HMRC encouraging charities to contact donors to reconfirm their Gift Aid eligibility, as part of a wider effort to ensure claims are correct and valid.
4. We believe that there is a general lack of awareness around the scope of this permissible contact under the new Regulations, namely the requirements for neutral language and no additional non-processing motivations (ie marketing or even thanking donors). Fundraisers inevitably want to cultivate positive relationships with donors and would benefit from clear guidance on what form contact relating to Gift Aid and other administrative processes can take.

**CTG – 10 May 2017**