

Briefing: Serious Incident Reporting

This briefing will:

- Provide the Charity Commission definition of a serious incident and the main categories for reportable incidents
- Highlight trustees' responsibility for the reporting of a serious incident and outline the key elements of a serious incident policy for your organisation
- Signpost to further information and recent updates in response to the COVID-19 pandemic.

The Charity Commission definition is:

A serious incident is an adverse event, whether actual or alleged, which results in, or risks significant:

- *Harm to your charity's beneficiaries, staff, volunteers or others who come into contact with the charity through its work*
- *Loss of the charity's money or assets*
- *Damage to the charity's property*
- *Harm to the charity's work or reputation*

Significant means proportionate to the charity, taking account of its staff, operations, finances or reputation.

Trustees are required to submit serious incident reports promptly in an open and honest manner. Failure to do so is treated by the Commission as non-compliance with the trustees' legal duties. Even if the actual reporting to the Charity Commission is delegated to someone else, such as an employee or professional adviser, ultimate responsibility for making sure it happens, and promptly, lies with the trustees. It is essential that this responsibility is highlighted in trustee induction training, and that board members refresh their understanding of their legal duties on an annual basis.

If your charity's income is more than £25k, trustees, as part of the annual return sign a declaration confirming there were no serious incidents during the previous financial year that should have been reported and were not. Until all serious incidents have been reported, the trustees are unable to make this declaration or complete the annual return, which is a statutory requirement under Section 169 of the Charity Act 2011. It is an offence under Section 60 of the Charity Act 2011 to provide false or misleading information to the commission, which includes through annual returns.

Main categories for reportable incidents

- Protecting people and safeguarding incidents - where incidents have resulted in significant harm or risk to those coming into contact with beneficiaries, staff or volunteers.
- Financial crimes - such as fraud, theft, money, laundering or cybercrime.
- Large donations from unknown or unverifiable sources or suspicious financial activity using the charity's funds.
- Other significant financial loss - such as legal costs incurred in a court case or significant fire damage to the charity's main premises.
- Links to terrorism or extremism - including banned organisations or the kidnapping of staff.

Other significant incidents include:

- insolvency
- significant data breach
- incidents involving partners that materially affect the charity.

Depending on the type of the incident and the work of the charity, reports of a serious incident may need to go to other organisations in addition to the charity commission, such as the police, Action Fraud, the National Crime Agency or the Care Quality Commission.

The Charity Commission have produced guidance for charity trustees about Serious Incidents, how to spot them and how to report them (last updated 14 June 2019):

[How to report a serious incident in your charity](#) (click title)

In June 2020 the Commission produced a supplementary examples table to help trustees to decide if they need to report an incident related to the pandemic. For example, the Charity Commission usually expects charities to report any financial losses that don't involve a crime, where they exceed either £25k or 20% of the charity's income. However, these thresholds do not apply when considering financial losses related to the pandemic. Trustees should focus on the significance of the impact of any losses, rather than the amount.

[Reporting serious incidents to the Charity Commission during the coronavirus pandemic](#) (click title)

More broadly, **NCVO** have collated information which signposts to information, webinars and support across all aspects of charity governance including serious incident reporting.

[Crisis Governance - Support for Trustees During the Coronavirus Pandemic](#) (click title)

The **Association of Chairs** have provided a brief overview with links to relevant resources:

[Reporting and Avoiding Serious Incidents](#) (click title)

Serious Incident Policy

It is essential that you have a Serious Incident Reporting Policy that sets out your legal compliance and your organisation's reporting procedures. The information to inform your policy can be found in the Charity Commission guidance but the following headings will help you create a framework for your policy and populate it with information specific to your organisation.

Introduction

- your name and charity number
- the trustees of (X) have a legal duty to notify the Charity Commission of all serious incidents promptly and to include them in the declaration to the Commission in the annual return.

Scope

- what does the policy apply to - a serious incident is defined by the Charity Commission as one that may impact on your staff, volunteers, service users or any other individuals impacted by the activity of your organisation.
- where those incidents may arise – in your premises or locations you operate in the community.

Definitions

- Use the Charity Commission definition, as set out in the introduction to this document.

Responsibilities

- The chain of command – who an actual or suspected incident should be reported to (eg. CEO to Chair of Trustees) and the process for raising with the board - identifying whether it is a reportable incident, recording the decision and reporting to the Charity Commission as per their guidance, if identified as a serious incident.
- You may want to break this section down into reporting / investigating / incidents with *Additional Management and Reporting actions*, such as suspected criminal activity, including fraud and safeguarding, and health and safety.
- Be clear that even if the reporting is delegated to an employee or professional adviser, it is the responsibility of the trustees to report in a timely fashion and to represent that information in the annual return.
- The example at 8.5 of the following RB Mind Serious Incident Policy provides a useful overview and details incidents pertinent to their organisation and activity that may be considered serious incidents - [RB Mind - Managing Incidents and Serious Incidents Policy](#) (click on the title)
- Make a commitment to including this as a mandatory part of trustee induction training and to refresh that learning as a board on an annual basis.

Monitoring and Review

How you will collate and evaluate the information from the incident and use it to minimise harm in the future, inform staff and volunteers, and improve your services. The golden thread throughout is how your board will lead and manage this process, acting in the best interests of the charity and its beneficiaries.

Relevant Policies and Procedures

A reminder that the Serious Incident Policy is to be applied consistently in line with other related organisational policies such as:

- Equality and Diversity
- Financial Controls
- Whistleblowing
- Safeguarding (Vulnerable Adults / Children and Young People)

Date for review

At least every two years

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