



Notifiable Events

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1. Introduction

We aim to support public confidence in charities and their work. Part of our role is to try and prevent problems from happening, by providing guidance and advice to charities. Where problems have occurred, we want to help minimise the impact to the individual charity and the charity sector overall.

From 1 April 2016, we asked charities to report Notifiable Events to us. This is when something serious has happened or is happening to the charity. We don't want to know about every event, only those that threaten to have a significant impact on the charity or its **assets**.

By doing this, we want to encourage charities to deal with issues quickly and effectively to prevent them from becoming a serious problem for the health of the charity and, potentially, for the wider charity sector.

This brief guidance explains how this will work in practice. Sections 2 to 12 are written in the form of frequently asked questions. If you have any more questions please get in touch with us at notifiable@oscr.org.uk.

2. What do we mean by a notifiable event?

We mean events that have a significant impact on your charity. What has a significant impact will depend on the size and nature of your charity. It will be up to the charity trustees to decide whether or not the event is serious enough to be reported to us. In **Section 13**, we have explained what each of these events is, and given one example of each. We will add to this guidance as we analyse the events and queries that are coming to us. If you feel that you would like further examples in any particular area, please let us know and we will see if this can be included in the guidance.

3. Do charities have to report an event to the Scottish Charity Regulator?

We see the reporting of a notifiable event as a positive step and a key part of charity trustees being responsible and accountable for the running of the charity. We want to hear about events because we want to make sure that they are appropriately dealt with. There is no legal requirement to report an event. However, it will be concerning to us if there has been a significant event that has not been reported to us, especially if it goes on to have a negative impact on the individual charity or the wider charity sector.

4. What kinds of events should be reported?

A list of the types of events we are interested in can be found in Section 13, with examples, to help you decide if the event is significant enough to report to us.

5. When do we want to hear about it?

We would like to hear about the event as soon as possible. However, we do understand that the charity trustees may need time to look at the issue and decide how to deal with it before reporting to us. This will also help with the report as charity trustees will be able to explain to us how they are managing the issue and any remedial action they have already taken.

6. Who should let us know about the notifiable event?

It should be the **charity trustees** who let us know, as part of the overall governance of the charity.

7. How to let us know

You can email us at notifiable@oscr.org.uk outlining the following:

- What the event is and how it has (or may have) a serious impact on the charity. We need enough details to understand the event, but please don't worry about having a final polished report. If the information is clear and gives us what we need, we are not worried about the format.
- What action (if any) has already been taken?
- What further plans the charity trustees have in place to deal with the event?
- What plans the charity trustees have in place to mitigate similar things happening in the future.

8. What will the Scottish Charity Regulator do once it receives a notifiable event?

We will acknowledge the email, consider the report and decide if we need to do any follow up. In the majority of cases, if you have done what is needed to manage the event, there will be no need for further follow up. There may be occasions, however, when we do need more information. If that is the case, we will be in touch.

9. What should a charity do if something criminal has happened (or you suspect that something criminal has happened)?

You should report this to Police Scotland who will give you a crime reference number if appropriate. You should then report it to us giving us this number if you have it. We are interested in criminal events that have an overall impact on your charity. There may be incidents where police become involved because of the nature of your activities, but where we do not need to hear about them. For instance, if you are a school and the police get involved with the activity of a pupil, but it is a minor incident. Or, for example, you hold a cultural activity with a large audience, and the police are called to sort out a minor incident, we would not need to hear about that.

You as charity trustees can make that judgment. Is the incident significant to your charity overall? If so, please let us know.

10. What if the charity also has to report to another regulator?

If you are registered with the Scottish Housing Regulator, then you will already be reporting notifiable events to them. We do not, therefore, need you to report to us.

Similarly if you are also registered with the Charity Commission for England and Wales or the Charity Commission for Northern Ireland, then we do not need to receive an incident report from you.

If you are registered with the Care Inspectorate, we do require a report from you where there is a significant financial, funding or charity trustee issue that would impact on the overall charity. We would not require a notification on situations regarding the care services provided due to the type of arrangement we have in place with them.

If you are registered with any other regulator, we would still want to receive a report.

11. What if the charity is a member of a youth group such as Scouts Scotland, Guide Association Scotland, The Boys' Brigade or The Girls' Brigade in Scotland?

If you are a Group, Unit or Company in any of these associations, you should follow the guidance provided by your parent charity on their website.

11. How we view notifiable events

Our focus as Scottish Charity Regulator is on the actions of the charity trustees and the way in which they are (or are not) fulfilling their charity trustee duties. What we want to see through this reporting is that charity trustees are doing what is needed to deal with problems which occur. In most cases we will judge a well-managed incident as a good reflection on the management of a charity rather than an indication of something problematic.

13. Detailed descriptions and examples of notifiable events

Fraud and Theft

Fraud and theft are separate criminal offences. If either of these offences have happened within your charity then you must report this to the police before submitting a notifiable event report to us.

Fraud is where someone has used a form of dishonesty in order to make a gain for themselves or cause a loss to someone else. For instance, this would include someone using false representation, failing to disclose important information or abusing their position.

Theft is taking (permanently) something belonging to someone else.

While frequently fraud and theft might relate to funds and financial assets, they may also concern other assets of the charity.

Example

The person in charge of the petty cash has managed, over time, to divert sums of money for personal use using false receipts. This only comes to light when the individual is off sick, and someone else spots strange patterns in the release of money.

This has been going on for a period of over a year. As the charity uses the petty cash a lot, the individual has managed to take a total of over £2,500. This is a significant amount of money for your charity.

In this case we would like to know:

- How much was taken and how
- The crime reference number

- What you have done since discovery of the theft
- What you have done or will do to try to make sure that it does not happen again.

Substantial financial loss

What is 'substantial' will vary from charity to charity. A good rule of thumb is that anything that represents 20% or more of the charity's income is substantial. However, you might feel that a smaller sum than that is substantial in terms of the way it affects your charity.

Example

One of your key sources of funds has been grant funding. You have been in receipt of a £100,000 grant from the same donor for the last five years. Due to a change in funding priorities, the charity will no longer be in receipt of the grant funding. The charity has a gross income of £250,000. The loss of this grant funding is, therefore, substantial.

In this case we would like to know:

- What has happened re the loss of the grant
- What impact this is likely to have on the organisation
- What the charity trustees are doing to adapt to the new situation.

Incidents of abuse or mistreatment of vulnerable beneficiaries

Charity trustees have a responsibility to make sure that vulnerable beneficiaries are safeguarded. If there is an incident where there has been mistreatment of vulnerable beneficiaries, then we would like to hear about it, and what you are doing to make sure it cannot happen again.

This would include the following:

- A charity trustee, member of staff or someone connected to your charity has mistreated or abused a vulnerable person while carrying out the charities activities.
- Allegations have been made that such an incident may have happened, even.

There are grounds to suspect that such mistreatment actually took place.

Example

You are a charity that works with young people aged 10-18, providing out of school theatre opportunities.

During recent rehearsals, one of the charity volunteers acted inappropriately with one of the younger members of the cast. While the behaviour was stopped before it became significant, the mother of the child was upset and came to the charity to raise the issue and subsequently raised the matter with the police. The police decided it was not a criminal matter. However, the charity trustees realised there was an issue. They needed to deal with the current situation, and look to prevent a similar situation occurring in the future. They also needed to take action with respect to the volunteer, their safeguarding policies and the training of volunteers.

In this case we would like to know:

- What the incident was
- How the charity trustees dealt with it
- What the charity trustees are doing to try to make sure that something like that doesn't happen again
- If the charity trustees have looked at their policies and checked that they are sufficient and up to date.

Not enough charity trustees to make a legal decision

Your governing document will let you know how many charity trustees you need in order to make a legal decision. This is generally called a quorum. If you have been making decisions with less than the legal number of charity

trustees, then your decisions will not be legal. We would like to know if this has happened, and what you have done or are doing to correct the situation.

Example

Your charity has been functioning well over the last period. As part of your approach to good governance, you decided to review your governing document at your board meeting. On review, you discover that in order to make legal decision you need to have seven charity trustees. However, you currently only have six charity trustees.

In this case we would like to know:

- How you discovered you were acting with less than the legal number of charity trustees
- How long that has been the case
- Any major decisions you have taken in that time that might be called into question because of the inquorate nature of your charity trustee board
- What you are doing now to correct the situation.

Charity has been subject to a criminal investigation or an investigation by another regulator or agency; sanctions have been imposed, or concerns raised by another regulator or agency

This one is very self-explanatory. We would like to know where a charity is under investigation from another source. This would include criminal investigations as well as, for example, investigations being undertaken by other regulators.

Example

There is an ongoing police investigation about drug use by staff at one of

the charity's premises.

In this case we would like to know:

- The crime reference number.
- What are the circumstances of the case
- What the trustees are doing to manage the situation at this time.

Once the case is closed we would want to know:

- The outcome of the case
- Steps the trustees have taken to mitigate similar problems happening in the future.

Significant sums of money or other property have been donated to the charity from an unknown or unverified source

Generally, small donations of money are not problematic.

The exception might be where you note a strange, previously unseen, pattern of many small unknown donations coming in. However, if you receive a very large donation this could indicate that the monies donated are, in some way, 'tainted'.

The Charity Commission for England and Wales indicates that a donation of more than £25,000 from an unknown or unverified source should be reported under their serious incident regime. We think this is a good level at which to be concerned.

Example

You are a charity with a gross income of approximately £150,000. A team is currently doing a trek across America to raise funds for your organisation. The fundraising is going well. However, one day you look online and you discover that overnight the total has gone up from £25,000 to £55,000.

When you check further, you realise that that this is from a single donation that has been given anonymously.

In this case we would like to know:

- The level of the donation
- Steps you have taken to identify the source of the funding
- Any concerns or information you have about the donation.

Suspicious that the charity and/or its assets are being used to fund criminal activity (including terrorism)

This is where there are suspicions that money or other charitable assets are being diverted from charitable use and being used to directly or indirectly fund criminal activity.

Example

You are a large charity that has delegated much of the day to day running of the charity to your chief executive and senior staff. Recent financial and narrative reports coming to you from the operational wing of the charity has raised concerns with the board that monies may be being diverted to support “sectarian” activity.

Initial investigation by the board shows that they were right to be concerned.

In this case we would like to know:

- What was it that raised your suspicions
- What did your initial investigation throw up
- What are you doing as a board of charity trustees to deal with the situation
- What measures are you putting in place to make sure that it doesn't happen again.

A charity trustee is acting whilst disqualified

Some people are disqualified from being charity trustees.

These are:

- those convicted of dishonesty, an offence under the Charities and Trustee Investment (Scotland) Act 2005 (until either of these offences have been spent)
- an undischarged bankrupt
- has been subject to the removal from management or control of any body by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990
- has been removed by the Charity Commission of England and Wales or by the High Court of Justice in England
- has been disqualified as a Company Director.

An individual who has been disqualified in one of these ways can apply to OSCR for a waiver.

Example

During a break in a board meeting, the charity trustees are having a chat. At that stage, it comes to light that one of the charity trustees is bankrupt. Another trustee is aware that you cannot serve as a charity trustee while being an undischarged bankrupt. She realises that the board needs to act immediately to remedy the situation.

In this case we would like to know:

- What is the reason for the charity trustee being ineligible
- How this came to light
- What the charity trustees have done or plan to do about it.



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