

Risk framework of the Scottish Charity Regulator

1. Introduction

As the Scottish Charity Regulator we aim to support public trust and confidence in charities and their work. As a preventative and proportionate regulator, we want to ensure that our resources and activities are focused on the issues that have the biggest potential to undermine this public trust and confidence.

In April 2016, in order to help us target our work appropriately, we developed a formal risk framework that outlined and prioritised our key areas of concern. Since then, we have worked to better understand, mitigate and act on these risks. The risk framework will never be static. It will evolve to reflect the changing internal and external reality.

We use it to direct our work in all or business areas: engagement, registration, and enforcement. Matters involving priority risks are given priority over matters which have comparatively low risk.

During 2017, we undertook a comprehensive review of the risk framework, using internal and external intelligence gathered during that period. This has resulted in some changes to the risk framework.

2. The review and the changes

The review analysed both internal and external information, looking at whether the original risks remained a priority for us and whether or not they needed to be updated in any way.

The review did not lead us to propose a change to the overall areas in which we grouped the risks, those being “protection of charitable assets and beneficiaries” and “protection/integrity of charitable status”. However, the number of risks has been focused from ten to six. The previous risk areas and the current risk areas are listed below.

| Risk Areas 2016--2018 |
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| Trustees acting improperly causing adverse impact. |
| Individuals/organisations inappropriately benefiting from charitable status. |
| Continual non-submitting charities. |
| Criminal activity. |
| Charities that don't provide public benefit. |
| A body (or individual) misrepresenting itself as a charity. |
| Charities carrying out actions without seeking the appropriate consent from OSCR which cannot be retrospectively consented to. |
| Lack of clarity over the charity brand – bodies at the margins of charitable status and/or with complex or novel structures. |
| Persons who are disqualified but acting as charity trustees. |
| Charities which are operating in fragile states. |

Risk Areas April 2018 onwards (in priority order)

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| Deliberate mismanagement of charities. |
| Criminal activity (including safeguarding issues) |
| Charity trustee lack of knowledge. |
| Attempts to gain charitable status for private benefit. |
| Lack of clarity of the charity brand – bodies at the margins of charitable status and/or with complex or novel structures. |
| Charities that don't provide public benefit. |

Below there is an explanation of why our view of particular risks has changed, and how that has been represented in the updated risk areas

3. Risk descriptions that have remained the same

| Risk Area |
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| Lack of clarity over the charity brand – bodies at the margins of charitable status and/or with complex or novel structures. |

4. Risk descriptions that have been changed and why

| Risk Area | Reason for Change |
|--|--|
| Deliberate mismanagement of charities Charity trustee lack of knowledge | Previously, the highest ranked risk was “trustees acting improperly causing adverse impact”. When this was analysed, it became clear that two different risk areas were being mixed in together, thus making the risk area confusing. One area concerned the actual deliberate actions of trustees, which represents some of the most serious cases we see, while the other was still very concerning, but was more to do with Trustees not having the knowledge they need to manage their charities appropriately. The decision was made, therefore, to separate out the two as the actions needed to deal with the two were likely to be very different. |
| Attempts to gain charitable status for private benefit | The previous description “charities that don't provide public benefit” has been reworded to make it clearer what this risk area is. While this risk might be felt at different stages of a charity's life, the real risk tends to lie at the registration stage. |

5. Risks that have been removed and why

| Risk area | Reason for removal |
|--|---|
| Continual non-submitting charities | While this is still a general area of significance for the organisation, it is not in itself a discrete risk. Rather, it is captured by other risk areas. Much of the problem here is to do with lack of charity trustee knowledge, along-side some potential misconduct. |
| Charities carrying out actions without seeking appropriate consent from OSCR which cannot be | Again, this is not really a discrete risk. Rather, it is symptomatic of another risk area, generally that of trustee knowledge. |

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| retrospectively consented to. | |
| A body or individual misrepresenting itself as a charity. | Again, not now considered a discrete risk. Rather, it can be wilful misconduct, or lack of trustee knowledge. |
| Charities operating in fragile states. | With this set of charities, we are interested in the criminal end of the spectrum, and this is where the real risk lies. |
| Persons acting as charity trustees while disqualified | This is no longer considered a discrete risk. It will tend to be an indicator of wilful misconduct. If encountered at the registration stage, the evidence is that it is not normally high risk and it usually an indicator of a lack of charity trustee knowledge. |

6. In Conclusion

The review process has allowed us to look critically at the risk framework and has improved the clarity with respect to the risk areas we should be concentrating on in order to best underpin public trust and confidence in charities.

By being clearer about these risk areas, we will be better able to design the appropriate actions in order to ensure our work is targeted in the appropriate way.

The nature of these risks will continually change, and the risk framework will be reviewed on a yearly basis to ensure that it continues to reflect the appropriate risks at the appropriate level.