

Annual Return 2023 – Forthcoming Changes

Executive Summary

Changes to the Annual Return

The Scottish Charity Regulator is making changes to the Annual Return process that affects all charities. The changes aim to make completion of the Annual Return easier and more valuable for charities. While there will be a change to the questions that charities are asked there will be support during completion of the Annual Return to help charities get it right. Following submission of the Annual Return, depending on how questions have been answered, the charity trustees may be provided with feedback to support them in running the charity well. There will be different information available to us because of the new questions and more information will be displayed on our Register allowing the public access to more information about charities.

Who should read this?

The changes will be of interest to all charities entered on the Scottish Charity Register as well as their advisors, independent examiners, and auditors. In addition, those with an interest in how charities operate such as funders, donors, beneficiaries, employees, and volunteers may wish to understand the changes and provide feedback. Members of the public with an interest in Scottish charities may also wish to participate.

What feedback do we need?

We are looking to get feedback to refine the changes we want to make to ensure the end result is positive for both charities and OSCR. We are seeking feedback in two key areas:

- Views on how clarity of the wording of the questions and what support charities may need to understand them.
- Comments on the additional information to be displayed on the Register.

In addition to this feedback we are engaging directly with those bodies that support charities, including professional advisors, umbrella bodies and third sector interfaces. These bodies will help to ensure that the guidance we have developed is useful and understandable.

Duration of the feedback exercise

We will collect feedback on the changes up to 6 October 2023. We intend the new approach to the Annual Return to be put in place in late 2023. This means it

would apply to charities with an accounting year end date after that time. Charities have 9 months from the end of their accounting year to submit their Annual Return and accounts.

How to respond or enquire about this feedback exercise

By email, please send responses to: feedback@oscr.org.uk

By post, please send responses to:

OSCR

2nd Floor

Quadrant House

9 Riverside Drive

Dundee

DD1 4NY

Additional ways to be involved

We will be running webinars to explain more about the forthcoming changes and to gain feedback. These will be advertised on our website at www.oscr.org.uk

1 Introduction

We developed the current version of our Annual Return for charities in 2016 as part of our wider move to a regime of Targeted Regulation. The intention was that the new questions would help us to gain a stronger understanding of where issues were occurring in charities and where more support may be required. We have recently reviewed the Annual Return to ensure that it remains appropriate in the context of our mission statement and our new Corporate Strategy covering 2023 to 2026.

Our Corporate Strategy includes the following priorities:

- We will ensure the public have access to the information they need about charities in Scotland and how they are regulated
- We will provide charities with the tools and guidance they need to meet regulatory obligations
- We will deliver smart, responsive, and effective regulation that positively impacts on Scotland's charity sector and its beneficiaries.

We are changing the Annual Return to better meet these priorities by:

- Providing responsive and helpful **pop-up information** to support correct completion of the Annual Return
- Providing charities with **feedback** on their submission, as appropriate, in response to how the questions are answered. This will take the form of a **guidance email** which will highlight areas for the charity trustees to consider about how the charity is run.
- Gathering additional basic information from charities and **publishing this on the Register**

To help us provide feedback to charities we need to ask all charities on our Register **questions** about the **governance** of the charity, regardless of the income level of the charity. The change will mean that there will be more questions for some charities to answer. It will also mean that the person completing the Annual Return will need to understand how the charity operates.

Asking more questions will allow us to provide charity trustees with guidance which will be useful to them to ensure they meet their **legal duties**, and the charity is well governed. It also allows us, as Regulator, to identify areas where education and guidance is required and to identify situations where we may need to take regulatory action.

Charities that are also Registered Social Landlords and those charities also registered with the Charity Commission for England & Wales will continue to only

provide a minimal amount of information via the Annual Return as those charities have other regulators that take the lead in their regulation.

In this document we will explain the changes and invite opinions and comments to help us refine them.

2 How to provide feedback

The proposed changes will be of interest to all charities and those who work with or have significant connections to charities. You can provide feedback by:

By email please send responses to: feedback@oscr.org.uk

By post, please send responses to:

OSCR

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Quadrant House

9 Riverside Drive

Dundee

DD1 4NY

3 Why change is needed

We last changed the Annual Return questions in 2016 as part of our wider move to a regime of targeted regulation. At that time we increased the questions we asked charities with income of at least £25,000, about governance of the charity whilst asking only very basic questions of smaller charities.

The information we have since received from charities with an income of at least £25,000 has been useful in helping us better understand the sector. However, it has not been as successful as we hoped in encouraging charities to think about, and improve, their governance.

Most of the charities on our Register have income of less than £25,000. We know from the concerns and queries we receive that these charities sometimes have difficulty with their governance.

We want to be able to support charity trustees to meet their legal duties and to govern the charity well. The questions asked will be straightforward for anyone that understands how the charity operates to answer. By asking more questions from all charities on our new system we can provide immediate guidance to charities where required. This will allow charity trustees to be more aware of

potential governance issues and how to resolve these. They will receive an email explaining the issues that they can use to discuss areas they need to consider. We will then be able to focus our regulatory activities on those charities who have repeated issues and who may need more support or where we may need to take regulatory action.

The questions have been developed from our knowledge of the charity sector and target the areas where we believe charities need assistance to meet their regulatory requirements.

We also know from our work that charities sometimes make errors in answering the questions on the Annual Return. This means that the data we hold is incorrect and may also incorrectly highlight a risk. We have therefore developed pop-up information which will appear throughout the completion of the return to allow charities to complete the Annual Return correctly in the first instance.

4 What charities will have to complete

All charities will be required to complete all sections of the annual return form but there will be differences in some of the questions that charities need to answer depending on certain criteria. There will no longer be additional questions for charities with income over £25,000. For cross border charities (those also registered with the Charity Commission for England and Wales) and Registered Social Landlords, there will be no changes.

As with the previous Annual Return, it is designed for online completion. Questions will be tailored depending on answers to previous questions and data which we hold about the charity.

As well as asking some basic questions about the charity's finances, we will ask some questions about the charity's governance. Some of the questions we currently ask will remain but there are some new questions that are based on where we know charities can get things wrong.

The person completing the return will need to have a good understanding of the charity and how it operates to be able to properly answer the governance questions.

Once the return is submitted to OSCR, charities may be issued with a guidance email in response, depending on how the questions were answered. This will tell the charity where we have identified a potential issue and will provide information as to what needs to be done to address it. It is our expectation that this will be

taken to the charity's trustee board for discussion. We will be able to review charities year on year to ensure that expected improvements have been made.

Some of the questions we ask may change from year to year. As charities are provided with guidance and take steps to improve their governance, we will move to focus on other areas. This will allow us to focus on regulatory issues being faced and allow us to adapt quickly to emerging issues, such as the pandemic or cost of living crisis.

We are also introducing a change to help charities consider what public benefit they are providing. This will apply only to charities who have told us that they have had no income and expenditure for two consecutive years. We will ask them if they carried out charitable activities during the year and to provide an explanation of these.

A full list of the questions that the Annual Return will contain is shown in Appendix 1.

Question 1

We welcome comments on the new questions, specifically:

- a) Are the questions clear and understandable?**
- b) Is more explanation needed to help understand what the questions mean? – if so, please explain which questions need this and what further explanation is needed.**

5 Changes to Register information

Additional Register Information

To aid transparency we will display some more information on each charity's entry in our Register. The additional information we intend to publish is:

- The description the charity has provided as to what activities they undertake
- Number of charity trustees
- Number of volunteers
- Numbers of staff

The reasons for this are to help users of the Register understand a bit more about the charity. Although we do include information on the charity's objects, purposes and beneficiaries it can still be difficult to understand from this what a

charity does on a day-to-day basis, the work that it undertakes and the people it helps. In publishing the description a charity provides in their Annual Return it is hoped that the public will get a better understanding of what the charity is doing and how it is being run. By providing the trustee and volunteer numbers, the public can get some insight into the governance and the scale of the charity.

Question 2

Do you agree that the following should be published on each charity's entry in the Scottish Charity Register:

- (a) The description the charity has provided of the activities they undertake**
- (b) Number of charity trustees**
- (c) Number of volunteers**
- (d) Numbers of staff**

Question 3

Is there any additional information which should be published on the Register?

Equality Impact Assessment

We have considered the potential impacts of these changes on charities, trustees and the public under the Public Sector Equality Duty. We have carried out an Equality Impact Assessment (EQIA) covering the proposed changes to the Annual Return. The draft EQIA can be viewed on our website.

Question 4

Comments are welcome on the impact assessment, particularly any areas of impact (positive or negative) not identified.

Appendix 1

Proposed Questions for the Annual Return

Section A – Set Data	
Question number	Question/data to be filled in
A1	Accounting reference date – will be populated by system
A2	Total number of Charity Trustees at the year end
A3	Total number of Paid Staff at the year end
A4 NEW QUESTION	How many people have volunteered for your charity in the last financial year, excluding your trustees?
A5 NEW QUESTION	Does the charity have its own Bank or Building Society Account?
A6	Does the charity publish its annual reports and accounts on its website?

Section B – Financial Information	
Question number	Question/data to be filled in
B1	Gross income
B2	Gross expenditure
B2i) NEW BRANCHED QUESTION	<p>Only asked if the charity has stated that it has nil gross income and expenditure for two consecutive years.</p> <p>You have entered that your Charity has no income and expenditure for the last two years; can you advise if the Charity is carrying out charitable activities Y/N</p>
B3 NEW QUESTION	<p>What type of accounts does your charity prepare?</p> <p>Drop down menu options: Receipts and Payments Fully accrued</p> <p>If Receipts and Payments is selected, the charity will be asked for amounts held in bank and cash at the end of the year and if any land or property is owned</p> <p>If Fully Accrued is selected and income < £250,000 then charity will be asked for their total funds</p>
B3a	Charities with income of £250,000 or more

	Please provide a breakdown of the charity's incoming resources for the last financial year (will require figures to be completed in line with the Charities SORP)
B3b	Charities with income of £250,000 or more Please provide a breakdown of the charity's resources expended for the last financial year (will require figures to be completed in line with the Charities SORP)
B3c	Charities with income of £250,000 or more Net current assets
B3d	Charities with income of £250,000 or more Total funds

Section C – Organisational Awareness	
Question number	Question/data to be filled in
C1	Your charity's purpose, according to the Scottish Charity Register is <i>[this information would be taken directly from the Register]</i> In order to achieve this purpose, does your charity do any of the following? Please tick all that apply. <ul style="list-style-type: none"> • Provide grants or donations to others • Deliver services and/or hold meetings/sessions and/or undertake activities/events • Undertake religious activities • Provide facilities • Campaign • Other • None of the above
C2 NEW QUESTION	Tell us in your own words what your charity is set up to do and how you do this
C3 NEW BRANCHING QUESTION	Have you made any changes to your governing document in the last year If Y – have you notified us (and link provided to guidance) If N – when was the last time you reviewed your governing document

C4	Do you have at least the minimum number of trustees your governing document requires? Yes/No
C5 NEW QUESTION	Do you have an up-to-date induction process so that new charity trustees understand their role in the charity? Yes/No
C6	Do any of the charity trustees receive payments for any services provided to the charity? Yes/No – if yes, please provide the following information a) How many receive a payment?
C7	Is your charity part of a group either as a parent or a subsidiary? Yes/No – if yes, please tell us if your charity prepares consolidated accounts as a parent organisation with a subsidiary or if your charity is included in the consolidated accounts of another body.
C8 NEW QUESTION	This question is only asked of charities where the geographical spread on the Register is overseas only or UK and overseas Tell us which countries you operate in Does the charity have controls in place to monitor overseas expenditure yes/no When spending money outside Scotland did your charity transfer money other than using the regulated banking system yes/no
C9 NEW QUESTION	Has your charity had any notifiable events which have not already been notified to us Y/N If Yes then further details will be required.