

PCCs AS REGISTERED CHARITIES
REPORTING SERIOUS INCIDENTS TO THE CHARITY COMMISSION

Where PCCs have registered as charities, members of the PCC (trustees) are required to report certain ‘Serious Incidents’ to the Charity Commission. This note explains what counts as a Serious Incident and offers guidance to PCCs on what to do if a serious incident does occur.

INTRODUCTION

A ‘Serious Incident’ is, broadly speaking, any incident that the PCC considers presents a significant risk to the PCC, the church, its beneficiaries, its reputation or its assets. The Charity Commission requires registered charities to report any such serious incidents to the Commission so that it can protect the charity and its beneficiaries from further harm, support the charity’s trustees where required, and ensure that incidents are properly handled and, where relevant, that legal requirements are complied with.

In this note, we offer general guidance on what serious incidents are, how you might handle them and how to report them if necessary. We have also added 4 Annexes giving more detail on what to do in the event of certain specific types of serious incident: Annex 1 refers to Safeguarding Incidents, Annex 2 to money-laundering and Annex 3 to other serious incidents. Annex 4 reproduces the Charity Commission’s own guidance on specific types of incident, for ease of reference.

For most parishes, the procedure for reporting serious incidents will not be relevant and you need only skim the first couple of pages of this note. However, if at any time you suspect a serious incident may have occurred, you should read this note more carefully and seek further advice.

As a rule, we suggest that you discuss any serious incident (actual or suspected) with your Diocese or another professional adviser as soon as possible; they should be able to advise you on what to do next. If you suspect an incident has occurred, you should also read the Charity Commission’s helpful Guidance on Reporting Serious Incidents (June 2010): <http://www.charitycommission.gov.uk/Library/rsinotes.pdf>.

This Note is intended as guidance only.

You should seek advice from your diocese, the Charity Commission or another qualified professional (eg the Local Authority Designated Officer or a Child Protection Adviser) if you are unsure about what the PCC should do.

WHAT IS A SERIOUS INCIDENT?

The Commission lists a number of incidents which any registered charity must report as serious incidents. In no particular order, these are:

- significant financial loss to the charity;
- serious harm to beneficiaries, particularly vulnerable beneficiaries;
- threats to national security, specifically terrorism;
- criminal or illegal activity within or involving a charity;
- sham charities set up for an illegal or improper purpose;
- charities deliberately being used for private advantage;
- charities whose independence is seriously called into question;
- issues that could damage the reputation of an individual charity or class of charities or the wider charity sector;
- issues that could damage public trust and confidence in charities or in the Commission as an effective regulator;
- any incident that is also reported to the police or other statutory agencies (unless it is a minor issue that poses little or no risk);
- any incident where the charity's professional advisers (eg auditors) advise that a report to the Commission should be made;
- any incident where an individual has committed an offence that calls into question his/her suitability to be involved in or connected to the charity, whether as a trustee, member of staff or volunteer;
- any incident that the PCC considers presents a serious or significant risk to the charity, its beneficiaries, reputation or assets.

Clearly the PCC will need to exercise its discretion in deciding whether an incident does in fact present a 'serious or significant' risk. Obviously, a case of child abuse will count as a serious incident but graffiti or petty vandalism in the churchyard will not. If in doubt as to whether an incident should be considered serious, speak to your diocese or another professional adviser, or email the Charity Commission to ask its advice: RSI@charitycommission.gsi.gov.uk.

WHAT SHOULD YOU DO IF A SERIOUS INCIDENT HAS OCCURRED?

This depends on the nature of the incident. The Commission gives detailed guidance on certain incidents (<http://www.charitycommission.gov.uk/Library/rsinotes.pdf>) and we have reproduced this for ease of reference in Annex 4 below. We have also given guidance on safeguarding, money-laundering and other serious incidents in Annexes 1-3.

In general terms, if any member of the PCC suspects that a serious incident has occurred, he/she should as soon as possible discuss it with other PCC members and, if the PCC needs advice, with an appropriate officer (eg your Diocesan Child Protection Adviser or the Local Authority Designated Officer). If the PCC (as trustees) agree that the incident should be treated as a 'serious incident,' it should then be reported to the Charity Commission as soon as possible.

Where the incident involves criminal activity (actual or suspected), you must also report it to the **police** and obtain a crime reference number. Where the incident involves a safeguarding incident, the **local authority** will investigate the case (a 'child protection enquiry.'). In both cases, the Charity Commission will leave the actual investigation to the proper body but you should still report the incident to the Commission. Take care, however, that your report to the Commission does not prejudice any statutory investigation. You can seek advice from your diocese, local authority or from another adviser before making your report if you need to.

You also need to inform your **insurance** company. Again, be aware of the confidentiality and sensitivity of the case where appropriate when informing them.

In some circumstances, eg where there is any possibility of media coverage of the incident, it is advisable to talk to the **Diocesan Communications Officer** too.

WHAT SHOULD YOU DO IF THE INCIDENT IS ONLY A SUSPICION OR AN ALLEGATION?

If you have reasonable grounds for suspicion, you should discuss the matter with PCC members and with your diocese/other relevant adviser in confidence. You will need to tread particularly carefully when discussing a sensitive incident that has (or may have) occurred, especially if a criminal investigation could ensue. This does not of course mean you should bury your head in the sand and hope the incident goes away. Charity trustees (ie the PCC) are responsible for taking appropriate action in response to a suspicion or allegation as well as in response to an actual incident, in order to protect the charity and its beneficiaries. If in doubt, the key point is to seek advice from an appropriate adviser or officer in confidence.

HOW AND WHEN TO REPORT AN INCIDENT

You should report a serious incident to the Commission as soon as possible after it has occurred (not forgetting to seek advice and report it to the police or local authority if you need to). Reporting the incident to the Commission within a reasonable period of time is part of demonstrating that the PCC is handling the incident properly.

The easiest way to report an incident is by email, to RSI@charitycommission.gsi.gov.uk. You could also write to Charity Commission Direct at PO Box 1227, Liverpool, L69 3UG or phone on 0845 300 0218. You can also report the incident when you submit your Annual Return (see below), but only if the timing is

right; you should report a serious incident as soon as you can after it has occurred so don't wait until Annual Return time.

One person can report the incident on behalf of the PCC but all PCC members, as trustees of the charity, should be aware of the reported incident (except perhaps in the most sensitive cases).

The sort of information that the Commission would like you to provide is detailed in section 4 of <http://www.charitycommission.gov.uk/Library/rsinotes.pdf>; see 'Questions we may ask' and try to provide the appropriate information if the situation arises. To save you some work, however, you can simply forward to the Commission a copy of any report of the incident made to the police or to another body.

SERIOUS INCIDENTS AND THE ANNUAL RETURN

To help ensure that serious incidents are reported, the Commission requires any registered charity whose income is over £25,000 to sign a Declaration as part of the charity's Annual Return stating that the charity has reported to the Commission any Serious Incidents that have occurred. If a charity has not reported a serious incident, it must therefore do so as part of its Annual Return. All PCCs which are now registered charities have to submit an Annual Return and sign this Declaration. A separate note has been produced to guide you through submitting your Annual Return, Report & Accounts, available on www.parishresources.org.uk.

WHAT WILL THE CHARITY COMMISSION DO AFTER YOU HAVE REPORTED AN INCIDENT?

The Commission's response will depend on the particular circumstances; as its own Guidance says, 'Where it is clear that trustees are handling serious incidents appropriately and the risks are being managed by them, we are unlikely to take further action.' Factors determining the Commission's response will include the risk of (further) harm to beneficiaries or to the charity, the scale of the assets at risk and the public profile of the charity or the incident. The Commission adds that its concern is always to protect the charity and promote public confidence and trust in the charity sector, providing support and guidance as well as ensuring that charities comply with their legal obligations. It gives more details of its possible responses in section 5 of <http://www.charitycommission.gov.uk/Library/rsinotes.pdf>.

PREVENTION IS BETTER THAN CURE!

Ideally, of course, the PCC will avoid serious incidents occurring by ensuring that it has good risk management systems in place. For example, the PCC should make sure that anybody working with children is eligible to do so and has been CRB-checked/ISA registered,¹ and it should ensure that Child Protection procedures are in place and regularly reviewed. You should read the Church of England's Child Protection Policy and the Adult Safeguarding Policy, available at www.cofe.anglican.org, for more information. You should also read the Guidance for Treasurers on Financial Management and Controls (see www.parishresources.org.uk) to help avoid financial mismanagement. Larger PCCs might like to reach the Charity Commission's guidance on financial controls too: <http://www.charity-commission.gov.uk/publications/cc8.asp>.

Remember that as trustees, PCC members are responsible for taking reasonable steps to manage risks to the church's property, beneficiaries, work and reputation. You should consult your diocese or other professional adviser if you have any concerns relating to potential risks or serious incidents.

You can find out more about risk management by reading http://www.charity-commission.gov.uk/Charity_requirements_guidance/Charity_governance/default.aspx

FINALLY

Remember that if the worst does happen, your PCC should be fully supported by your diocese and, assuming that PCC members have acted honestly and prudently, by the Charity Commission and other agencies. Obviously the occurrence of a serious incident will never be welcome, but reporting the incident should not itself be anything to fear.

ANNEXES

Annex 1: Safeguarding Incidents

Annex 2: Money-laundering Incidents

Annex 3: Other Serious Incidents

Annex 4: Extract from Commission's Guidance on Reporting Serious Incidents

¹ ISA registration for new workers came in from July 2010. Existing workers may apply from April 2011 according to a phased programme. See www.isa-gov.org.uk.

ANNEX 1: SAFEGUARDING INCIDENTS

This is the most sensitive sort of ‘Serious Incident’ and requires the most careful handling. In the case of safeguarding incidents (including allegations where there is no proof), you should take advice from one (or more) of the people listed below before making a report to the Commission. You will want to make your report with care, bearing in mind the confidentiality and sensitivity of the issue. **The priority must of course be the protection of vulnerable people and prevention of any (further) harm.**

Who to consult for advice – as soon as possible

- Your Local Authority Designated Officer, contactable via the Local Safeguarding Children Board
- Your parish or diocesan Child Protection / Safeguarding Officer
- The National Safeguarding Officer, elizabeth.hall@c-of-e.org.uk, 0207 467 5189.
- If appropriate, the police
- The Church of England’s Child Protection Policy and the Adult Safeguarding Policy, available here:

<http://www.cofe.anglican.org/info/papers/protectingchildren.pdf> &
<http://www.cofe.anglican.org/info/papers/promotingasafechurch.pdf>.

If a criminal investigation does not ensue, you may wish to consider whether disciplinary action is appropriate if lay employees or clergy have been involved. You may also wish to consult your Diocesan Communications Officer if you suspect any media coverage.

See the section on ‘Suspicious, allegations and incidents of abuse or mistreatment of vulnerable beneficiaries’ in Annex 4 for the Commission’s own guidance on these incidents.

ANNEX 2: MONEY-LAUNDERING

Money-laundering is the process by which criminals seek to turn stolen money into 'clean' assets. If, for example, the PCC is selling a property and it is purchased by criminals with stolen money, the criminals would own a 'clean' asset (the property) and the stolen money is harder to trace. Money-laundering is associated with terrorism and there is now a responsibility on many public organisations, including charities, to be on the look-out for money-laundering. **If you have any grounds for suspicion, you should not proceed with the transaction** until you have consulted a Diocesan Officer (the Money Laundering Reporting Officer, if there is one). Do not mention your suspicions to the person/organisation you suspect; that would be 'tipping off' and is itself an offence.

Some signs which might give you grounds for suspicion are:

- The receipt of funds followed by a request for a refund with no obvious reason. This could include the receipt of a donation into the PCC bank account which is later claimed to be an error and has to be refunded.
- A donation or series of donations from an unknown source which cannot be verified. This would be especially suspicious if the donor required the funds to be applied for a particular purpose and/or sent to a particular beneficiary. The Charity Commission expects you to report any anonymous donation (or series of donations) exceeding £25,000.

If the PCC is entering into a transaction which involves selling a substantial asset, you should particularly look out for:

- Third parties who will not answer questions about, for example, the source of their funds or who are unwilling to provide details sufficient to verify their identity
- The acceptance of relatively uneconomic terms when a better deal could have been obtained.
- Individuals entering into financial commitment that appear to be beyond their means
- Purchasers wishing to use cheques drawn on the accounts of others
- Changes to the parties to a transaction at the last minute
- Transactions being undertaken on behalf of, or for the benefit of, apparently unrelated third parties
- The use of apparently unnecessarily complicated structures
- Parties to a transaction seeking to make large payments in cash
- Funds being received from sources other than those anticipated

It is unlikely that a PCC will be the victim of money-laundering but if it is, you must report the matter to the police as well as to the Charity Commission.

ANNEX 3: ALL OTHER SERIOUS INCIDENTS

This includes, for example major theft from the church or PCC property; loss or damage to PCC property caused by fire or other mishap; fraud; associations with terrorist organisations etc. Obviously, some of these are more likely than others! See Annex 4 for the Commission's own guidance on these areas.

You should report any criminal activity such as fraud or major theft to the police, to your insurers and to the Charity Commission but take care that your reports to the Commission and to your insurers do not prejudice police investigations. Ask the police for advice as necessary.

The Commission recommends that damage to property through non-criminal activity eg fire, flood etc is reported to the Commission only if the loss is in excess of £25,000 or 20% of the PCC's total assets, or is significant for any other reason (eg precious historical artefact).

You must make a report to the Commission if any PCC member, employee or volunteer is found to have associations with terrorist or other unlawful organisations. A list of proscribed organisations can be found on the Home Office website.

You should make a report if it transpires that a PCC member is acting as a charity trustee and is not eligible to be a trustee. Remember that all PCC members are trustees if the PCC is a registered charity. Anyone who has been disqualified as a company director or who has been convicted of an offence involving dishonesty or deception, for example, would not normally be eligible to act as a trustee. Of course, you should have checked that a person is eligible to act as a trustee before appointing them to the PCC so this should not arise.

Finally, you should also make a report if you do not have proper Child Protection and Safeguarding Procedures in place. This should not be relevant since all PCCs should have policies in place - and should make sure they are followed, and reviewed regularly. **If you do not have policies in place, consult your diocese and establish policies and procedures urgently.**

ANNEX 4: CHARITY COMMISSION'S GUIDANCE ON PARTICULAR TYPES OF SERIOUS INCIDENT (Source: Section 3 of http://www.charitycommission.gov.uk/Our_regulatory_activity/Reporting_issues/rsinotes.aspx)

Fraud and theft

Fraud and theft are criminal activities. Their impact on a charity can be significant, going beyond financial loss and the impact on the financing of a charity's planned activities. These crimes cause distress to trustees, staff and volunteers. They may bring adverse publicity to the charity and damage the good reputation the charity has with its donors, beneficiaries and the public as well as that of the charity sector more generally. It is vital that the public has trust and confidence that the money they donate to charity is used properly and goes to the cause for which it is intended. It is therefore important that trustees deal properly with these incidents and take reasonable steps to ensure that such events do not happen again.

You need to report to us any actual or suspected serious incidents of fraud, theft, other financial crimes or other significant loss to the charity. You should report incidents if you know an event has taken place or where you reasonably suspect that it has.

We recognise that some instances of fraud and theft that may occur in a charity might be of a relatively low value and part of the normal risks all organisations face. There is no minimum figure that should or must be reported. You need to decide whether these incidents are serious or significant enough to report to us in the context of your charity and the circumstances of the incident, taking account of the actual harm and potential risks to the charity posed by the incident.

The circumstances of low value incidents can pose serious risks. Repeated or frequent incidents may be symptomatic of weak financial controls and poor oversight, which may allow individuals to deprive a charity of significant sums over a period of time. Such incidents may also be indicative of individuals deliberately keeping the sums they take at a low level to avoid them being detected or action being taken by the charity, the Commission or police. Therefore, if there have been several incidents of low value fraud or theft in your charity we would expect you to report this to us, particularly if the cumulative effect during the year results in a significant loss.

We also recognise that for some charities, due to the nature of their activities (for example running shops or trading), the risks of some losses or being the victim of a crime may increase. Further advice on reporting multiple incidents to us in these circumstances is provided in 'Section 4 – Reporting an Incident'.

The higher the value of the loss, the more serious the incident will be, indicating it should be reported. Other factors that are likely to indicate seriousness include:

- if the person accused of taking the funds/ assets is involved in the charity;
- if the person accused of taking the funds/assets is in a senior position (for example the Chief Executive) or holds a position of special responsibility for safeguarding the finances (for example a Treasurer, or employee working in the Finance team);
- numerous incidents have taken place that are connected;
- the charity has been subject to a number of separate incidents over a period of time;
- the funds are from a public appeal or collection or from grant funding;
- there are signs of public interest, for example media reporting;
- if the charity has had to take serious action against an individual, for example disciplinary procedures or suspension.

No fraud relating to or theft from a charity is acceptable. Therefore, even if an incident is not serious enough to report to us, because you believe it is so minor, you must still ensure you handle the incident responsibly and appropriately and that you take reasonable steps to ensure it does not happen again. We may be notified about the incident, for example as a result of a complaint or concern by a member of the public, and if we decide to check this, we would expect the trustees to be able to show they have acted appropriately.

We would always expect instances of high value fraud or theft, and/or where there is public or media interest, to be reported to us immediately.

We know that some trustees as part of their processes for dealing with incidents, want to report all incidents to us regardless of the size of the loss. We will handle and deal with those minor reports in the same way as other incidents that should be reported to us. Providing there are no concerns about the way the charity is handling the incident, the action we take will be to log the report and use it as part of our wider monitoring and analysis of the impact of losses on the whole sector.

Reporting an incident to the Commission and the police is one way to evidence that the trustees are acting appropriately in handling the incident.

Other significant loss

You should also report to us any significant loss due to other causes, such as fire, flood or storm damage or having to abandon property, for example in a war zone. As a guide for these type of incidents, we would expect you to report any loss of funds or other property with a value of 20% or more of the charity's income, or £25,000, whichever is the smaller amount. For amounts lower than that, you should decide if they are significant for your charity and should be reported, taking the charity's income, work and other factors into account.

Such significant losses will not include a decrease in the value of investment funds occurring in the ordinary course of investment business.

What we need to know

When you report the incident to us, please let us know:

- the amount involved;
- how it was discovered (for example by the charity through internal controls, by the charity's auditors or professional advisers or its bank);
- a summary of the circumstances of the theft/fraud with enough details to enable us to be clear about the risks and be satisfied that you are dealing with them responsibly;
- if you have a policy or procedure for dealing with these types of incidents and confirm it has been followed in this case;
- what action you have taken to deal with it; confirming whether you have reported the fraud or theft to the police, providing us with the crime reference number;
- if you have recovered the money or are taking steps to do so;
- whether or not losses are covered by insurance.

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

This could mean an unusually large one-off donation or a series of smaller donations from a source you cannot identify or check. Donations may take forms other than money, for example, shares or goods.

We would expect you to report any such payment (or payments) totalling £25,000 or more. The risks of accepting a donation from an unknown or unverified source may be greater when the donor attaches specific conditions (for example, to apply the funds through a particular group or organisation). You should be able to verify the source and ultimate destination of charity funds, to comply with your general legal duties. You do not need to report a donation where you know the source of the donation represents the proceeds of a collection.

Our guidance on Charities and Terrorism (OG 96) also advises on donations from unknown sources, or with particular conditions attached, to minimise the risk of charities being used for money laundering.

Legal requirement

Changes in tax law following the Finance Act 2006 section 54 mean that a charity should keep records of substantial donors and transactions with those donors. This is to avoid a tax liability. Trustees' general legal duties mean that they must act with due diligence in the receipt (and expenditure) of funds.

The charity (including any individual staff, trustees or volunteers) has any known or alleged link to a proscribed (banned) organisation or to terrorist or other unlawful activity

In 2008, the Counter-Terrorism Act amended sections 19 and 22 of the Terrorism Act 2000. These sections relate to the duty to disclose a belief or suspicion that a terrorism offence has been committed when the information comes to your attention through trade, profession, business or employment. This is relevant for trustees of charities, as 'employment' has been amended to specifically include voluntary work. If it comes to your attention or you suspect that another trustee, member of staff, volunteer or anyone associated with the charity has any such links, you must immediately inform the police and should also inform us. It is a criminal offence not to report the matter to the police. Included within 'links' is making facilitation payments (bribes or inducements) or paying protection money or ransoms to suspected terrorist, criminal or proscribed (banned) organisations.

You can find our policy and approach on charities and terrorism in our Counter-Terrorism Strategy. This, and our Compliance Toolkit, Protecting Charities From Harm explain more about how we handle allegations of charities' involvement in terrorism, the duties of trustees and the reporting of suspicions.

You can find a list of proscribed organisations on the [Home Office website](#).

There is a list of entities or people designated under terrorism legislation, with guidance on designation, on the [HM Treasury website](#).

A person disqualified from acting as a trustee has been or is currently acting as a trustee of the charity

How you handle this kind of incident and the two incidents that follow will show whether you have proper systems in place to check the eligibility of trustees and to safeguard children and other vulnerable beneficiaries.

Legal requirement

Some people are disqualified by law from acting as trustees, including anyone described in section 72(1) of the Charities Act 1993. This includes individuals who:

- have been convicted of any offence involving dishonesty or deception which is 'unspent';

- are undischarged bankrupts;
- have made an arrangement with creditors and have not been discharged (this will include an Individual Voluntary Arrangement (IVA));
- have been removed from the office of charity trustee by an order made by the Commission or the High Court;
- are subject to a disqualification order under the Company Directors Disqualification Act 1986 or to an order made under section 429(2)(b) of the Insolvency Act 1986.

You can obtain more details in our publication *Finding New Trustees: What charities need to know (CC30)*.

It is normally an offence to act as a trustee while disqualified unless we have given a waiver under section 72(4) of the Charities Act 1993 (some special provisions apply to the administration of charitable companies).

In addition to the disqualifications above, which apply to all types of charities, the Safeguarding Vulnerable Groups Act 2006 prohibits certain individuals from acting as trustee of a children's charity or a vulnerable adults' charity where they have been barred by the Independent Safeguarding Authority ('ISA'). The role of the ISA is described in more detail below.

There may also be restrictions in the charity's governing document which must be followed.

You can find out more on disqualifications and waivers of disqualification in section E of our publication *Finding New Trustees: What charities need to know (CC30)*.

The charity has no vetting procedure to ensure that a trustee or member of staff is eligible to act in the position he or she is being appointed to

The law does not require charities to ask prospective new trustees to sign a declaration of their eligibility to act but we consider that it is good practice to do so. It shows that the trustees are discharging their legal duties and responsibilities as trustees. We have produced a model declaration.

There are legal restrictions on who can be a trustee, which are set out in our guidance *Finding New Trustees: What charities need to know (CC30)*. We would have a serious regulatory concern if you failed to put systems in place to make the necessary checks to vet trustees, staff and volunteers in order to protect vulnerable beneficiaries.

These include CRB checks and where they must or should be carried out because of the activities that the charity undertakes. In some circumstances we may regard failure to conduct suitable checks as evidence of misconduct, mismanagement or both, in the administration of the charity.

The charity does not have a policy for safeguarding its vulnerable beneficiaries (eg children and young people, people with disabilities and older people)

Trustees should have systems in place for safeguarding vulnerable beneficiaries. We have produced guidance on safeguarding children.

We do not administer legislation on safeguarding children and vulnerable adults. The Commission's role is about protecting public confidence in the charity involved (and charities generally) and also ensuring the trustees comply with their legal obligations as trustees in managing and administering the charity.

The Department for Education is responsible for government policy on safeguarding children. You can obtain more information at <http://www.everychildmatters.gov.uk/>

The Department of Health is responsible for government policy on safeguarding vulnerable adults. There is more information at <http://www.dh.gov.uk/en/index.htm>

The ISA is a non-departmental public body sponsored by the Home Office. It was set up following implementation of the Safeguarding Vulnerable Groups Act 2006 to act as a single agency to vet and register all individuals who want to work or volunteer with vulnerable people and to bar unsuitable people. It acts as the decision making element of the Government's **Vetting and Barring Scheme** and maintains the two new barred lists covering the children and vulnerable adults sectors.

Its role is to assess the risk of harm that an individual would pose if they were to work with vulnerable groups, based on information held about that individual. There is more information at <http://www.isa.gov.org.uk/>

The Care Quality Commission is the independent regulator of all health and adult social care in England. There is more information at <http://www.cqc.org.uk/>

The Vetting and Barring Scheme and Criminal Records Bureau (CRB) checks

What should trustees do?

The Vetting and Barring Scheme aims to prevent unsuitable people from taking certain paid or volunteer work with children and some adults. The Vetting and Barring Scheme was launched in October 2009 when some key safeguards and legal duties came into effect. Since that date it is a criminal offence for barred individuals to apply for work, either paid or unpaid, with children and some adults in a wide range of posts. Employers also face criminal penalties if they knowingly permit barred individuals to engage in regulated activity.

Regulated activity is an activity of a nature or at a place as specified by the safeguarding legislation that involves contact with children or some adults on a frequent, intensive or overnight basis and covers anyone working closely with children or some adults, either paid or unpaid. It includes charities that carry out work targeted at children or some adults. The list of adults services caught under this requirement is defined in the Safeguarding Vulnerable Groups Act 2006, section 59. It includes adults living in sheltered housing, in residential accommodation, such as care homes or a residential special school, receiving domiciliary care in their own home, those in custody or under the supervision of probation services or receiving a service or participating in an activity for people with particular needs because of age or disability.

Employers also now have a duty to refer cases to the ISA where they dismissed or ceased using an employee or volunteer because they think they have harmed or posed a risk of harm to children or these adults.

ISA registration was due to begin in July 2010 for people taking up new roles – paid or voluntary – becoming mandatory in November 2010 and to be phased in for people already working with vulnerable groups up to 2015. However, registration has now been halted to allow the government to remodel the scheme. The scope of the remodelling process, which will be co-ordinated by the Home Office in partnership with the Departments of Health and Education, is currently being finalised and will be announced in due course.

We will update this guidance and related guidance as appropriate as soon as further details on the Vetting and Barring Scheme are announced.

Changes made when the Vetting and Barring Scheme was launched in October 2009, as set out above, are still in place. This includes the requirement for individuals working in regulated activity with children and vulnerable adults to have an Enhanced CRB check.

We advise trustees to ensure they are aware of the changes and updates in this area through the ISA website. The guidance can be found at <http://www.isa-gov.org.uk/Default.aspx?page=2>.

The Vetting and Barring Scheme forms part of a wider framework of safe recruitment practices. It is important to remember it does not replace Criminal Records Bureau disclosures which will still be required for some positions. Nor does it remove the need for charities to develop and apply robust recruitment procedures, including checking identity, qualifications and references and enquiring into career history.

You can find more information about CRB checks and the Vetting and Barring Scheme on the ISA website at www.isa-gov.org.uk

You can find full guidance on the referral process on the above ISA website.

The legislation is complex: trustees should consider taking professional advice where necessary.

Suspicious, allegations and incidents of abuse or mistreatment of vulnerable beneficiaries

You should report this if any one or more of the following things occur:

- there has been an incident where the beneficiaries of your charity have been or are being abused or mistreated while under the care of your charity or by someone connected with your charity such as a trustee, member of staff or volunteer;
- there has been an incident where someone has been abused or mistreated and this is connected with the activities of the charity;
- allegations have been made that such an incident may have happened, regardless of when the alleged abuse or mistreatment took place;
- you have grounds to suspect that such an incident may have occurred.

As well as reporting to us, you should also notify the police, local authority and/or relevant regulator or statutory agency responsible for dealing with such incidents.

In the context of safeguarding issues, we have a limited and very specific role. We do not investigate incidents of abuse from the point of establishing any criminal culpability, as this responsibility is for other statutory authorities to take forward.

The police investigate concerns that a criminal offence may have been committed. Local authorities also investigate reports of child abuse. This investigation is known as a 'child protection enquiry' and is usually led by Social Services. In practice, Multi-Agency Panels or local Safeguarding Boards are set up which consider individual cases and the needs of the child. They usually comprise a range of practitioners and can include education welfare officers, health visitors, youth workers, police, social workers, doctors and family support workers.

The Commission's focus is with trustees' compliance with their legal duties and responsibilities towards the charity in managing allegations of this nature. Our concern is ensuring that individual incidents are being properly dealt with. This includes making sure that trustees have proper systems and procedures in place to handle allegations, are dealing with them responsibly, and reporting incidents where appropriate to the police, social services and other agencies. We also expect them to manage the risks of the incidents happening again as far as this is reasonably possible, by making any necessary changes to systems, procedures and work practices.

In some instances the police or another agency may decide not to pursue a case. However there may still be serious concerns about the charity, the conduct of its trustees or its systems to safeguard beneficiaries

at the charity that the Commission needs to look into. On some occasions we are the only agency that can take action against a trustee(s), especially if the concerns centre on the conduct of the trustee(s).

We realise that the sector is diverse and that defining the beneficiaries and people connected to the charity may not be straightforward. If you are not sure whether to report an incident, please contact us.

The charity has been subject to a criminal investigation, or an investigation by another regulator or agency; or sanctions have been imposed or concerns raised by another regulator or agency such as the Health and Safety Executive, the Care Quality Commission or Ofsted

You should inform us if the charity has been the subject of any criminal investigation or if another regulator or agency has imposed any formal sanction on it. We would also want to be advised of significant developments and notified of the outcome of the investigation by other agencies and the outcome of criminal court proceedings. If you are unsure what ‘concerns’ should be reported to us, as a starting point, you should refer back to the issues that we will give our immediate attention listed earlier under ‘What is serious or significant?’

[Ends]

This note was produced in June 2010 for guidance only and is available to download from www.parishresources.org.uk