



THE CHURCH  
OF ENGLAND

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## **Guidance for DBFs and Religious Communities:**

### **Reporting non-safeguarding Serious Incidents to the Charity Commission**

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## Introduction

DBFs and Religious Communities<sup>1</sup> are charities. The directors of a DBF and those appointed as the trustees of a Religious Community by its governing document, are charity trustees. Charity trustees are held responsible for compliance with the law and the Charity Commission's guidance in relation to their charity. One of the responsibilities of charity trustees is to report any "**Serious Incidents**" occurring within their charity to the Charity Commission and explain how they are being dealt with.

A Serious Incident is an adverse event, whether actual or alleged, which results in or risks **significant** harm to the charity's beneficiaries, employees, office holders, volunteers or to 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 or harm to the charity's work or reputation. What is considered to be "significant" is a matter for the trustees to determine, as it will depend on the context of the charity, taking into account its operations, staff, finances and reputation.

**This guidance does not cover safeguarding Serious Incidents.** Specific guidance on how to report safeguarding Serious Incidents can be accessed [here](#).

This guidance explains how to identify when a **non**-safeguarding Serious Incident has occurred and provides guidance on how you should report it to the Charity Commission.

It is important to remember that the requirement to report a Serious Incident to the Charity Commission is in addition to any requirement to notify the police, local authority, statutory agency or other relevant authority.

This guidance is effective from 1 January 2019.

### 1. What is a "Serious Incident"?

An incident is a Serious Incident if it results in, or risks, significant financial loss to a charity, damage to a charity's property or harm to a charity's work, beneficiaries or to its reputation. Examples include fraud, cyber-crime, theft, significant financial loss, a data protection breach, links to terrorism or extremism, unverifiable or suspicious donations and other significant incidents.

A charity must report Serious Incidents that involve its beneficiaries, as well as those relating to others who come into contact with the charity through its work, including office holders, employees and volunteers.

Any incident which is connected with the activities of the charity and involves actual or alleged criminal activity should always be reported to the police, Action Fraud or the NCA and to the Charity Commission as a Serious Incident. You should not wait until someone has been arrested, charged or convicted, before reporting an incident.

### 2. Why do Serious Incidents need to be reported to the Charity Commission?

The Charity Commission has a limited and very specific regulatory role and will not investigate whether a criminal offence has occurred (that being the role of the police). However, the Charity Commission will scrutinise the conduct of a charity's

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<sup>1</sup> A very small number of Religious Communities are "closed" and are not charities as they do not provide sufficient public benefit. Religious Communities that are not charities do not need to report Serious Incidents to the Charity Commission.

trustees and the steps they have taken to protect their charity, its beneficiaries, assets, reputation and services. This includes considering whether the trustees have put in place appropriate safeguards to protect their charity and have taken reasonable steps to ensure that their charity is not exposed to undue risk. Such safeguards and steps would include adopting and implementing appropriate policies, procedures and systems. In addition, the Charity Commission will expect the trustees to be able to demonstrate that they are responding to the incident responsibly, in accordance with their internal policies and procedures and that they have reported Serious Incidents, where appropriate, to the police and/or any other relevant agencies.

The Charity Commission will also want to know how the charity's trustees are reducing the risks of such incidents occurring again, so far as is practicable, by making any necessary changes to existing policies, procedures and practice as a result of the Serious Incident.

When a Serious Incident is reported to it, the Charity Commission considers whether it is appropriate to provide the reporting charity with regulatory advice or guidance. In the most serious cases, the Charity Commission may need to exercise its statutory powers. In addition, the Charity Commission will consider whether it needs to take any steps to protect other charities, for example where the alleged perpetrator of a fraud or theft is also a trustee or office holder, or volunteers at or works in, another charity.

The person who submits the charity's Annual Return to the Charity Commission each year on behalf of the trustees is required to make a declaration that no Serious Incidents occurred in the charity during the previous financial year that should have been reported but were not. Therefore, unless all Serious Incidents have been duly reported, the charity will not be able to make the declaration required in order to submit its Annual Return, as it is an offence to provide false or misleading information to the Charity Commission.

### 3. What are the main types of Serious Incident<sup>2</sup>?

#### (A) Financial crimes, such as fraud, cyber-crime, theft and money laundering

- Theft and fraud of money and financial assets.
- Cyber-crime is any criminal act involving computers and networks.
- Theft of "intangible" assets, such as databases and confidential or sensitive information, which can cause not only financial loss, but can also damage a charity's reputation with donors, beneficiaries and the general public.
- Fraud includes dishonesty and false representation, such as identity fraud.
- Charities can, inadvertently, be used to launder money.

#### (B) Large donations from an unknown or unverifiable source, or suspicious financial activity using the charity's funds

- Donations from unusual sources and one-off significant donations (or a series of smaller donations) from a previously unknown donor or an unverified<sup>3</sup> source should be considered carefully. Unverified or suspicious donations from a single source exceeding £25k should be reported to the Charity Commission. Trustees

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<sup>2</sup> Other than safeguarding Serious Incidents which are covered in separate guidance.

<sup>3</sup> Charity Commission Toolkit on verification of donations provides guidance on how to verify donations and managing the risks involved: <https://www.gov.uk/government/publications/charities-due-diligence-checks-and-monitoring-end-use-of-funds>

should also consider whether such donations below £25k need to be reported, once other factors relating to the donation are considered<sup>4</sup>.

- Other suspicious financial activity which may need to be reported include requests to cash cheques for large sums of money, to convert quantities of cash into another currency, or to pay a fee to release funds for donation to the charity.

(C) Other significant financial loss

A loss of funds or property totalling over £25,000 or, if the loss is valued at below £25,000, if the loss exceeds 20% of the charity's income, should generally be reported as a Serious Incident. If the amount lost is lower, it should only be reported if the loss is significant, taking the charity's income, work and other factors into account<sup>5</sup>. Examples of such losses may include:

- significant fire, flood or storm damage destroying or seriously damaging the charity's main premises;
- having to abandon property;
- losing a court case and having to pay substantial legal fees or damages out of charity funds (unless costs are incurred through routine litigation, undertaken in line with charitable aims and on behalf of beneficiaries);
- significant financial penalties for breaches or non-compliance imposed by regulators including HMRC, the Financial Conduct Authority, the Health and Safety Executive, the Information Commissioners Office and the Fundraising Regulator.

Financial losses such as a decrease in the value of investment funds, asset write-downs, pension deficits and bad debts do NOT need to be reported, unless they pose a significant threat to the solvency of the charity.

(D) Other significant incidents:

- A trustee is disqualified in law from acting as a trustee, for example due to an unspent conviction for fraud or theft, being an undischarged bankrupt, or being disqualified as a director under company law.
- A data protection breach which is notified to the Information Commissioner's Office (ICO), or an investigation into the charity being launched by the ICO (e.g. an Information Notice is received by the charity), must be reported to the Charity Commission as a Serious Incident.
- Your charity is subject to a police investigation or a significant investigation by another agency or regulator, including the Fundraising Regulator and UK Visas and Immigration. Routine inspections by a regulator do not need to be reported unless the inspection resulted in significant adverse findings or is likely to attract negative media attention.
- Major governance events rendering the charity unable to operate, such as mass resignations of staff or trustees.
- The charity's trustees or employees are the subject of criminal proceedings in connection with the charity or their role in it.
- Insolvency, forced withdrawal of banking services or actual or suspected criminal activity.

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<sup>4</sup> See Section 4 below.

<sup>5</sup> See Section 4 below.

- Links to terrorism or extremism, including to 'proscribed' organisations, or individuals subject to an asset freeze.
- Incidents involving partner charities or organisations that materially affect the charity or its reputation, staff, finances or operations.

#### 4. What factors may indicate that an incident is "Serious" and should be reported?

##### (A) Level of financial loss

- There is no minimum loss figure for an incident to be classified as a "Serious" as this will, in part, depend on the income and context of each charity. However, the higher the value of the loss, the more likely it is to be a Serious Incident.
- Repeated or frequent "low value" incidents of fraud or theft in your charity may indicate that individuals are trying to avoid detection and so should be reported.

##### (B) Identity of the accused

- Where the person accused of theft or fraud is involved in the charity, particularly if the person holds a senior position or has responsibility for financial management, the incident should be reported.
- Where the person accused is involved with other charities.
- If a charity takes serious action against an individual, such as disciplinary procedures or suspension, the action triggering the disciplinary procedures may be a Serious Incident.

##### (C) Regularity of incidents or an apparent connection between them

- Numerous small incidents that appear connected, or take place over a relatively short period, should be considered together when deciding whether an incident is "Serious".
- If a single incident has been committed over a long period of time, it is also more likely to be considered to be "Serious".

##### (D) Publicity (actual or potential)

- If the funds lost or at risk were raised from a public appeal or collection, or were provided by a grant, it may indicate that the loss is "Serious".

If there is public interest in the incident, such as significant media reporting, it is likely to be considered "Serious".

If you are uncertain whether an incident is sufficiently "Serious" to be reported, or if you require further assistance in preparing the report for the Charity Commission, assistance can be sought from the Diocesan Secretary of the diocese in which the Serious Incident took place (if you are a Religious Community), from the Diocesan Registrar (if you are a DBF), or from your charity's professional advisers.

Where you decide that an incident is not "Serious" and so does not need to be reported, it is still important to handle the situation appropriately and take reasonable steps to ensure it does not happen again.

## 5. What is not a Serious Incident?

If an incident is not Serious, or it is not connected with the charity's activities, it does not need to be reported. Examples of incidents which do not need to be reported to the Charity Commission as Serious Incidents are:

- Health and safety type accidents, which do not result from a failure of governance or the following of proper procedures, do not need to be reported as a Serious Incident. For example, if the PCC's minibus crashed on a children's outing, with no serious injuries, because another driver drove into it, it does not need to be reported. However, if it crashed because the minibus was in poor state of repair and had not been serviced, and/or any of those on the bus were killed or were seriously injured, it would need to be reported as a Serious Incident.
- Beneficiaries fighting on the premises which did not result in any serious injuries, or beneficiaries behaving in an aggressive manner to office holders, employees or volunteers, do not need to be reported as a Serious Incident.

## 6. Who should make the Serious Incident Report?

Although the responsibility for making a Serious Incident report in a timely manner rests with the charity's trustees, this responsibility can be delegated. It is important that this delegation sets out clearly what the parameters of the delegated responsibility are and includes a requirement for reports to be made to the trustees on any Serious Incidents reported pursuant to the delegated powers. The trustees should ensure that they are informed about the most high risk Serious Incidents being reported, as well as those where a decision was taken not to report as the incident was considered to be a borderline case.

- The trustees of each DBF should delegate the responsibility for submitting Serious Incident reports to the Charity Commission to the Diocesan Secretary.
- The charity trustees of each Religious Community should consider delegating the submission of Serious Incident reports to an appropriate person. Where possible, the person who submits safeguarding Serious Incident reports for the Religious Community should also be responsible for submitting non-safeguarding Serious Incident reports to the Charity Commission.

## 7. When should a Serious Incident be reported to the Charity Commission?

The Charity Commission expects that Serious Incidents are reported to it "promptly", i.e. as soon as is reasonably possible after it happens, or immediately after you become aware of it. In practice, a report should be made once sufficient information has been gathered for the report to be meaningful. However, there may be occasions where it is appropriate for a brief initial report to be made, with an indication that a follow-up report will be made once additional information has been obtained.

It is important to report Serious Incidents in a timely manner, as a failure to report a Serious Incident that subsequently comes to light may be considered by the Charity

Commission to be mismanagement, or a serious governance failure. This could result in the Charity Commission taking regulatory action, particularly if further loss has been suffered by the charity following the initial Serious Incident that was not reported.

If a charity's trustees become aware that a Serious Incident has been identified in a charity which it funds, and the Serious Incident has been reported to the Charity Commission, the funder charity should NOT also report the Serious Incident to the Charity Commission UNLESS:

- the association between the funder charity and the funded charity in which the Serious Incident occurred would, in the minds of the public, risk causing significant reputational damage to the funder charity; and/or
- the Serious Incident has a significant impact on the staff, work or operations of the funder charity.

It is anticipated that such "double reporting" would only be needed in exceptional circumstances.

## 8. What should you do if a Serious Incident is identified?

If a "Serious Incident" occurs, you should take immediate action, following any policies and procedures in place, to:

- prevent or minimise any further harm, loss or damage;
- report it to the police, if you suspect a crime has been committed, and to any other regulators to which the charity is accountable (fraud and cyber-crime should be reported to Action Fraud);
- report it to the Charity Commission as a Serious Incident by emailing [RSI@charitycommission.gsi.gov.uk](mailto:RSI@charitycommission.gsi.gov.uk);
- plan what to say to your staff, volunteers, members, the public and the media (where appropriate); and
- review what happened and prevent it from happening again - this may include strengthening internal controls and procedures, and/or seeking appropriate help from professional advisers.

## 9. What information needs to be included in a Serious Incident Report?

Serious Incident reports should state what happened, the nature of the risk to the charity and the steps you're taking to deal with the incident. The Annex to this Guidance provides a template which should be used when preparing a Serious Incident report. In particular, a report should provide details of:

- who you are and your connection to the charity;
- the authority you have to report the Serious Incident on behalf of the charity's trustees;
- who in the trustee body is aware of the incident, for example all or only some of the trustees (this is particularly relevant where the Serious Incident involves a trustee, someone connected to a trustee, or senior member of staff);

- the incident itself, when it happened and when the charity first became aware of it;
- what action is being taken to deal with the incident and prevent future problems – where the charity has internal policies and procedures on how to respond to an incident of the type being reported, the Commission should be told and confirmation provided that the policy/procedure in place is being followed by the charity;
- whether and when it was reported to the police or another regulator / statutory agency (including official reference numbers); and
- media handling lines you may have prepared (where appropriate)<sup>6</sup>.

When reporting an historic allegation, the report should confirm that the DBF or Religious Community has informed the Diocesan Secretary in the diocese in which the alleged perpetrator now holds office (if relevant). The Charity Commission would then expect the DBF in the relevant diocese to make a Serious Incident report to inform the Charity Commission of the steps taken as a result of the allegation reported to protect the DBF (or PCC) in which an alleged perpetrator now holds office from any potential risk of theft, fraud etc (if relevant).

Although the initial report to the Charity Commission should be anonymised, the Charity Commission may require further details and information in relation to any Serious Incident reported to it. Therefore, the person submitting the report should provide a named contact to the Charity Commission, should it have any follow-up queries or require further information. Where follow-up queries are received, any assistance needed should be sought from the Diocesan Secretary and/or the Diocesan Registrar, as appropriate.

Where a Serious Incident relates to both a PCC and a DBF, for example if an allegation of theft is made against a parish priest whose stipend is paid by the DBF, only the PCC needs to make a Serious Incident report, unless there is risk of significant particular harm to the reputation of the DBF as a result of the Serious Incident.

## 10. Next steps - what happens once a Serious Incident has been reported?

The Charity Commission, may, on receipt of a Serious Incident report:

- (a) request further information on the incident from the charity;
- (b) give regulatory advice or guidance to the reporting charity;
- (c) take such steps as it considers necessary to protect other charities, for example where the alleged perpetrator is also a trustee, or volunteers or works in another charity; or
- (d) require the charity to provide it with regular updates in relation to any on-going investigation.

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<sup>6</sup> If you are uncertain how to respond to media reports once the Serious Incident Report has been made, you can contact the Charity Commission's media team for support and advice on [pressenquiries@charitycommission.gsi.gov.uk](mailto:pressenquiries@charitycommission.gsi.gov.uk).



If, after the Serious Incident has been reported, you become aware of any material changes to the facts reported to the Charity Commission or further significant developments occur, you should make a follow-up report of the Serious Incident to the Charity Commission.

If an individual against whom allegations were made and which were reported to the Charity Commission as a Serious Incident is subsequently exonerated, or the allegations were found to be false or groundless following further investigation by the charity, police or other agency, you should inform the Charity Commission.

A record of all Serious Incident reports, as well as any follow-up correspondence and copies of any papers sent to the Charity Commission, must be retained and stored securely, so that they can be referred to at a later date if necessary.

Further guidance on Serious Incident reporting can be found on the Charity Commission website<sup>7</sup>.

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<sup>7</sup> Charity Commission Guidance for charity trustees about Serious Incidents: how to spot them and how to report (17 October 2018) <https://www.gov.uk/guidance/how-to-report-a-serious-incident-in-your-charity>

## ANNEX

### TEMPLATE FOR INDIVIDUAL SERIOUS INCIDENT REPORTS

<b>Full name of the charity</b>	
<b>Charity registration number</b>	
<b>Charity's address</b>	
<b>Date of Report's submission to the Charity Commission</b>	
<b>Name of person submitting the Report and position in the charity (or authority on which Report is being submitted)</b>	
<b>Email address of person submitting the Report</b>	
<b>Name and contact details (email and telephone) of named contact for follow-up queries</b>	
<b>Who in the trustee body is aware of the Incident</b>	
<b>Nature of the Incident<sup>8</sup></b>	
<b><u>Details of the Incident:</u></b>  <b><u>What</u> happened?</b>  <b><u>When</u> and <u>how</u> did it happen?</b>  <b><u>When</u> and <u>how</u> did the charity first become aware of it?</b>  <b>Is it an isolated incident, or part of a series of incidents? If part of a series, provide full details.</b>	
<b>Is anyone in the charity involved (trustee, office holder, employee, volunteer, beneficiary)? If so, what is their role in the charity? Are you aware of any positions they also hold in other charities?</b>	

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<sup>8</sup> E.g. fraud, theft, data protection breach etc

<p><b>Will any disciplinary action need to be taken against an individual? If so, provide details.</b></p>	
<p><b><u>Loss:</u></b></p> <p><b>What is the estimated value of the loss?</b></p> <p><b>How much of the loss (if any) might be recoverable and, if so, what steps are being taken to recover it?</b></p> <p><b>Are the charity's losses covered by insurance?</b></p>	
<p><b><u>Has the Incident been reported to the police, or to any other relevant regulator?</u> If so, provide the name of the relevant regulator and the (e.g. crime) reference number.</b></p> <p><b>Was there any delay in reporting the incident to the police or other relevant regulator? If so, please explain why.</b></p>	
<p><b>Does the charity have <u>internal policies and procedures</u> that relate to the Incident?</b></p> <ul style="list-style-type: none"> <li>- <b><u>If so</u>, have they been followed (and, if not, why not)?</b></li> <li>- <b><u>If not</u>, why were no policies/procedures in place and are steps being taken to adopt suitable policies?</b></li> <li>- <b>Are any changes to existing policies and procedures required to reduce the chances of similar incidents reoccurring? If so – explain and if not, also explain.</b></li> </ul> <p><b>Explain any lessons learned and steps being taken by the charity</b></p>	

<p><b>to reduce the chances of similar incidents reoccurring.</b></p>	
<p><b>Is it likely that the public / media will become interested in the Incident? If so, what plans have been made to respond to any media stories?</b></p> <p><b>Were the funds lost raised from a public appeal or received as a grant? If so, will the activity/project the funds were raised for be able to be delivered?</b></p>	
<p><b>Provide details of any anticipated next steps.</b></p>	
<p><b>Provide any additional information that is not provided above which is of relevance to the Serious Incident being reported.</b></p>	