

## Reporting Safeguarding Serious Incidents to the Charity Commission

### FAQs to support House of Bishops' Guidance

#### **NOTE: THESE FAQs DO NOT FORM PART OF THE HOUSE OF BISHOPS' GUIDANCE**

*These FAQs have been produced jointly by the Legal Office and National Safeguarding Team to assist Diocesan Boards of Finance (DBFs), Parochial Church Councils (PCCs), Religious Communities, cathedrals and Diocesan Boards of Education (DBEs) to support charities implementing the suite of House of Bishops' Guidance on Reporting Safeguarding Serious Incidents to the Charity Commission (HoB SIR Guidance). These FAQs do NOT form part of the HoB SIR Guidance.*

### PART 1: WHICH CHURCH BODIES DOES THE HOB SIR GUIDANCE APPLY TO?

#### **A. Why has the House of Bishops issued the HoB SIR Guidance?**

The HoB SIR Guidance seeks to assist and support the various church bodies to understand when they need to report an incident as a safeguarding Serious Incident, by tailoring the Charity Commission's own Serious Incident Reporting Guidance to the Church of England. It focuses on safeguarding Serious Incidents only.

The HoB SIR Guidance also requires copies of all safeguarding Serious Incident Reports to be sent to the National Safeguarding Team (NST), so that a central record of all safeguarding Serious Incidents can be collated and reviewed by the NST. This addresses a concern raised by IICSA about the lack of a central record of safeguarding incidents across the national church.

#### **B. Which church bodies does the HoB SIR Guidance apply to?**

The House of Bishops has approved bespoke guidance for DBFs, PCCs, Religious Communities, cathedrals and DBEs on reporting safeguarding Serious Incidents to the Charity Commission. This guidance has been approved or reviewed by the Charity Commission.

##### (i) DBEs

The DBE guidance only relates to DBEs which are charities in their own right and registered with the Charity Commission. DBEs which are legally a Statutory Committee of the DBF report Serious Incidents as part of the DBF because they form part of the DBF charity.

##### (ii) Cathedrals

Cathedrals will be required to report all Serious Incidents to the Charity Commission, including safeguarding Serious Incidents, once they are brought within the Charity Commission's regulatory jurisdiction following the implementation of the Cathedrals Measure 2021. The HoB SIR Guidance will apply to a cathedral from its "Certificate Two Date", being the date from which the charity provisions in the Cathedrals Measure 2021 apply to that cathedral. Although this date will be different for each cathedral, all cathedrals will have been brought within the Charity Commission's regulatory jurisdiction by the end of April 2024.

#### **C. What force does the HoB SIR Guidance have?**

The HoB SIR Guidance was made by the House of Bishops under s.5 of the Safeguarding and Clergy Discipline Measure 2016. This means that there is a legal duty

to have due regard to HoB SIR Guidance and those required to have due regard to it are not free to choose whether or not to follow it. As a matter of law, the HoB SIR Guidance should be given great weight and must be followed unless there are 'cogent reasons' for not doing so.

**D. Does the HoB SIR Guidance apply to church charities outside England?**

No. The guidance on reporting Serious Incidents to the Charity Commission only relates to DBFs, PCCs, Religious Communities, cathedrals and DBEs in England. This is because the Charity Commission does not regulate charities outside England and Wales, such as those in the Isle of Man or the Channel Islands.

**E. Does the HoB SIR Guidance relate to Local Ecumenical Partnerships (LEPs)?**

No. LEPs, are charities and so are required to report all Serious Incidents to the Charity Commission directly, in accordance with the Charity Commission's guidance which applies to all charities.

However, a PCC that is connected to an LEP will still need to report any safeguarding Serious Incidents in accordance with the HoB SIR Guidance, unless the trustees of that PCC consider that they have "cogent reasons" for not doing so. This is because, as the HoB SIR Guidance is House of Bishops' guidance, the trustees of the PCC must have "due regard" to it. The trustees may consider they have "cogent reasons" for not following the HoB SIR Guidance where separate arrangements are in place for safeguarding in the independent LEP charity and so, in such situations, legal advice should be sought.

**F. Does the HoB SIR Guidance relate to proprietary chapels and BMOs?**

No. Other entities, such as proprietary chapels and BMOs which are not PCCs, are not covered by the HoB SIR Guidance and so need to report their own safeguarding Serious Incidents to the Charity Commission in accordance with the Charity Commission's guidance which applies to all charities.

**G. Does the HoB SIR Guidance relate to Church of England schools?**

No. Maintained schools and Academies are regulated by OFSTED and not the Charity Commission and so do not report Serious Incidents to the Charity Commission.

## **PART 2: BACKGROUND**

**A. Is the HoB SIR Guidance available online?**

Yes. All the safeguarding related guidance is available from safeguarding portal on the CofE website<sup>1</sup>. Those parts of the guidance and related documents which are of relevance to PCCs are available for download from the Parish Resources website<sup>2</sup>.

**B. Is the requirement to report Serious Incidents to the Charity Commission new?**

No. Charities have been required to report all Serious Incidents to the Charity Commission for some years. However, the Charity Commission has increased its emphasis and focus on this requirement in recent years and, as part of this, the Charity Commission has produced a number of significant updates to its guidance on what it expects charities to report to it as a Serious Incident and how they should be reported.

Bespoke HoB SIR Guidance has been in place to support and assist with reporting Serious Incidents to the Charity Commission for DBFs, PCCs and Religious

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<sup>1</sup> [Safeguarding e-manual | The Church of England](#)

<sup>2</sup> [Serious Incident Reporting - Parish Resources](#)

Communities since 1 January 2019. Bespoke HoB SIR Guidance for DBEs and cathedrals is in place from 1 January 2022.

**C. Do we need to review our files and report Serious Incidents from previous financial years which were not reported to the Charity Commission?**

If you are a registered charity you must report any Serious Incidents, whether safeguarding or non-safeguarding, that your charity became aware of during the last financial year and have not been reported to the Charity Commission but should have been. You will need to do this so that your charity's trustees can make the declaration in the Charity Commission's annual return for the last financial year, to confirm that there are no Serious Incidents that the charity failed to report to the Charity Commission for the period covered by the annual return. You are not expected to review your files to identify and report Serious Incidents from previous financial years which were not reported to the Charity Commission. If it is an historic incident you have just become aware of, it must be reported to the Charity Commission.

If you are an excepted PCC (i.e. you are a charity but are not registered with the Charity Commission as your annual income is less than £100k) you should ensure that, from the start of this financial year, all Serious Incidents (both safeguarding and non-safeguarding) are reported to the Charity Commission in accordance with the CofE internal Guidance. You are not expected to review your files to identify and report Serious Incidents from previous financial years which were not reported to the Charity Commission.

DBEs may find it helpful to speak to their professional advisers about when and how a reference to their new Safeguarding Serious Incident Reporting Guidance may be included in their annual report.

## **PART 3: GENERAL - DELEGATION AND REPORTING**

### **SAFEGUARDING SERIOUS INCIDENTS**

**A. Where does the ultimate responsibility sit for reporting safeguarding Serious Incidents to the Charity Commission?**

The ultimate responsibility for reporting all safeguarding Serious Incidents to the Charity Commission sits with the trustees of the charity (DBF, PCC, Chapter, DBE or Religious Community) in which the safeguarding Serious Incident occurred.

The HoB SIR Guidance makes it clear that trustees are expected to delegate formally their responsibility to report safeguarding Serious Incidents to the Charity Commission in accordance with the requirements in the HoB SIR Guidance that relates to their entity. This means that the delegation should set out clearly what the parameters of the delegated responsibility are, to enable the relevant trustees to maintain an appropriate degree of oversight of the reporting process in accordance with requirements in the delegation.

**B. Can we amend the example template delegations?<sup>3</sup>**

Yes. The example template delegations are examples which DBFs, PCCs, Religious Communities, cathedrals and DBEs can tailor as required, provided that the delegations in place reflect the requirements in the HoB SIR Guidance. We are aware that some

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<sup>3</sup> Updated example template delegations (which do **not** form part of the HoB SIR Guidance) are available dated 1 January 2022.

DBFs have amended the example PCC delegation template to reflect how the process will work in their diocese and provide guidance to PCCs in relation to this.

**C. Do all the trustees need to be involved in decisions relating to reporting safeguarding Serious Incidents?**

No. Although the ultimate responsibility for reporting safeguarding Serious Incidents to the Charity Commission sits with the charity's trustees, for reasons relating to confidentiality, many charities restrict information relating to safeguarding incidents to a smaller group of trustees only. For this reason, the example template delegations include suggested wording to facilitate the delegation of the oversight of the reporting safeguarding Serious Incidents to a more limited trustee group who have responsibility for safeguarding.

**PART 4: DBFs AND PCCs - DELEGATION AND REPORTING**  
**SAFEGUARDING SERIOUS INCIDENTS**

**A. Do PCCs report ALL Serious Incidents to the Charity Commission through their DBF?**

No. PCCs only report safeguarding Serious Incidents through the DBF. PCCs should continue to report all non-safeguarding Serious Incidents directly to the Charity Commission in accordance with the HoB SIR Guidance.

**B. Does the DBF need to ensure that all PCCs in their diocese have passed a delegation resolution?**

No. In an ideal world, all PCCs would pass a delegation resolution as soon as it is reasonably practicable to do so, such as at their next PCC meeting. However, if they have not yet passed a delegation resolution when the PCC needs to inform the DSA that a safeguarding Serious Incident has occurred in the PCC, a delegation resolution can be passed at that point.<sup>4</sup>

**C. Are DSAs liable for a decision that a safeguarding incident does NOT need to be reported to the Charity Commission as a Serious Incident on behalf of a PCC where this decision is later found to have been incorrect?**

No. A DSA would not incur any sort of personal liability or penalty if the DSA decides, incorrectly, that an incident does not need to be reported to the Charity Commission as a safeguarding Serious Incident on behalf of a PCC. Ultimate responsibility for making the report remains with the PCC's trustees, which should be reflected in the terms of the delegation in place<sup>5</sup>. The example template delegations for a PCC provide that, where a decision is taken by a DSA that a safeguarding incident does NOT need to be reported to the Charity Commission as a Serious Incident on behalf of a PCC, that decision should be reported to the PCC's trustees, together with reasons for that decision, and recorded in writing. This will enable the PCC's trustees to demonstrate that they acted properly when approving the DSA's decision not to report an incident to the Charity Commission. The PCC's trustees should always have the opportunity to consider, challenge and ratify a decision by a DSA not to report an incident to the Charity Commission.

If a situation arises where the PCC's trustees consider that the DSA decision NOT to report a safeguarding incident to the Charity Commission is incorrect, they do not need to ratify that decision. Instead, the PCC's trustees may suspend the delegation and

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<sup>4</sup> A PCC can either pass a delegation resolution at a meeting or by email (see section M29 of the Church Representation Rules 2020).

<sup>5</sup> See response to Part 3, Question A, above.

report that safeguarding Serious incident directly to the Charity Commission, on the basis that they believe they have cogent reasons for departing from the HoB SIR Guidance, having had due regard to it.

**D. Are DSAs responsible for reporting a safeguarding Serious Incident to the Charity Commission on behalf of a PCC that has not informed the DSA of the incident?**

No. The responsibility placed on the DSA to report the incident flows from the Parish Safeguarding Officer (“**PSO**”) having first informed the DSA about an alleged incident, in accordance with the HoB SIR Guidance. Therefore, if a PCC does not comply with its obligations under the HoB SIR Guidance to report a safeguarding Serious Incident to the DSA, the DSA/DS are not responsible for reporting an incident which they do not know about.

**E. When a DBF makes the declaration in the Charity Commission annual return, confirming it has reported any Serious Incidents for the period covered by the annual return, does this include any safeguarding Serious Incidents in PCCs?**

No. When the DBF makes this declaration it only refers to those Serious Incidents (both safeguarding and otherwise) which need to be reported by the DBF in its own right.

Where the DBE is a Statutory Committee of the DBF, this declaration will include any Serious Incidents to be reported in relation to the DBE, as it is legally part of the DBF charity.

**F. Do DBFs have to bulk report appropriate safeguarding Serious Incidents?**

No. Bulk reporting is an OPTION, not a requirement, which is available to reduce the administration involved with reporting for those DBFs who may find it helpful. If DBFs wish to bulk report safeguarding Serious Incidents, they must use the Charity Commission’s bespoke DBF bulk reporting template<sup>6</sup>.

**G. Can a DSA report a safeguarding Serious Incident to the Charity Commission on behalf of a PCC’s trustees, where the DSA has been informed about the allegation by a third party and the PCC is not aware of the allegation?**

Yes, although some/all of the PCC’s trustees will need to be informed about the incident. When information about a safeguarding allegation is received by a DSA, the first step is to manage the safeguarding risk in accordance with the appropriate policies. Reporting to the Charity Commission follows after. As part of addressing any safeguarding risk identified in the PCC, the DSA will usually need to inform some or all of the PCC’s trustees.

Where a DSA reports a safeguarding allegation to the police, even if the PCC’s trustees cannot be informed about the nature of the allegation being investigated, or who the alleged perpetrator may be, the PCC’s trustees can still be informed that: (i) a safeguarding allegation has been made; and (ii) the allegation is being investigated by the police. As any alleged Serious Incident reported to the police also needs to be reported to the Charity Commission, the PCC’s trustees can authorise the DSA/DS to report the Serious Incident to the Charity Commission on their behalf, under the delegation.

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<sup>6</sup>This template can be downloaded from [Policy and practice guidance | The Church of England](#) or from [Safeguarding e-manual | The Church of England](#)

## PART 5: INFORMATION SHARING AND CONFIDENTIALITY

### **A. Does data protection law permit the reporting of Serious Incidents to the Charity Commission and the sending of copies of those safeguarding Serious Incident reports to the NST?**

Yes. We are confident that there is a legal basis<sup>7</sup> to permit the sharing of the special category personal data in Serious Incident reports with both the Charity Commission and the NST.

In addition, charities should put suitable Privacy Notices in place which include safeguarding and reporting to statutory agencies and regulators on the list of purposes for which data may be shared<sup>8</sup>.

### **B. Does the Charity Commission disclose any of the confidential information in a Serious Incident report to third parties?**

The Charity Commission explains at the end of its Guidance on reporting Serious Incidents<sup>9</sup> that, whilst it appreciates that the information provided in a Serious Incident report may be confidential or sensitive, sharing that information may be necessary to further its statutory functions and, in some cases, it is required by law to do so. Where it is considered that a particular matter is very sensitive or confidential, or if a particular exemption applies, you may wish to inform the Charity Commission of this in the section of the report which enables you to “*provide any other relevant information*”.

### **C. What should a charity do if the alleged perpetrator of a Serious Incident is also a trustee or senior manager of another charity, or has a role in another charity?**

It will depend on the facts in each situation. the trustees of the charity in which an alleged serious incident occurs (Charity A) would not normally be able to inform the trustees of another charity (Charity B), even if the alleged perpetrator is involved in Charity B. Legal advice should be taken where the trustees of Charity A are unsure what is required of them. Should the alleged Serious Incident be reported to the police, or to the local authority adult or children social care, the police or the local authority may decide that it is necessary to inform other parties (which may include Charity B), and the police or local authority would do this themselves.

If you are aware that the alleged perpetrator is involved in other charities, you can provide this information to the Charity Commission in the “*provide any other relevant information*” section of your report, so that the Charity Commission is made aware of the situation and can decide whether it needs to take any protective action.

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<sup>7</sup> Articles 6(1)(c) and (e) GDPR. S.10 and Schedule 1, Part 2, Data Protection Act 2018.

<sup>8</sup> If you do not yet have a Privacy Notice in place, there is a basic template Privacy Notice on the Parish Resources website which can be modified as required: [GDPR Privacy Notice - Parish Resources](#)

<sup>9</sup> [How to report a serious incident in your charity - GOV.UK \(www.gov.uk\)](#)