



THE CHURCH  
OF ENGLAND

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## Guidance for PCCs:

# Reporting non-safeguarding Serious Incidents to the Charity Commission

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## Introduction

All PCCs are charities, whether they are registered with the Charity Commission or are currently excepted from registration. The members of a PCC are the PCC's charity trustees and 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 at <https://www.churchofengland.org/safeguarding/promoting-safer-church/policy-practice-guidance>.

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.

### 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 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 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 Annual Return (for those PCCs which are registered charities) 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, registered PCCs 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>1</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>2</sup> source should be considered carefully. Unverified or suspicious donations from a single source exceeding £25k should be reported to the Charity Commission. Trustees should also consider whether such donations below £25k need to be reported, once other factors relating to the donation are considered<sup>3</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.

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<sup>1</sup> Other than safeguarding Serious Incidents which are covered in separate guidance.

<sup>2</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>

<sup>3</sup> See Section 4 below.

(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>4</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.
- 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, its reputation, staff, finances or operations.

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

## 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 as to whether an incident is sufficiently “Serious” to be reported, or if you require further assistance in preparing the report for the Charity Commission, you may wish to seek assistance from your diocese’s Diocesan Secretary, from the Diocesan Registrar or from your charity’s professional advisers, as appropriate.

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. The trustees of each PCC should delegate the responsibility for submitting Serious Incident reports to the Charity Commission to an appropriate trustee or employee. 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.

## 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.

## 8. When should a Serious Incident in a partner entity be reported to the Charity Commission?

The Charity Commission expects your charity to demonstrate that it has suitable governance structures in place to provide an appropriate level of oversight in relation to incidents which materially affect your charity's operations, finances, people or reputation and that these incidents are being properly managed by your charity. This includes consequences and risks which result from Serious Incidents that take place in partner organisations.

You should make a Serious Incident Report to the Charity Commission **when you become aware** that a Serious Incident has occurred in one of your charity's partners which materially affects your charity, its staff, operations, finances and/or reputation to such an extent that it is serious enough to be reported by your charity.

Partners in this context include the following:

- a delivery partner or sub-contractor of your charity;

- a subsidiary trading company of your charity;
- an organisation that receives funding from your charity; and
- another charity or organisation that is linked to your charity.

Trustees need to consider whether an incident in a partner organisation should be reported, taking into account their own charity's activities, size, funding and the nature of their charity's relationship with the partner, as well as the nature and severity of the incident.

When deciding whether or not a report needs to be made, you should use the guiding principles below. These principles categorise Serious Incidents which happen in a partner into three areas: (A) those which are most likely to need to be reported; (B) those which may need to be reported; and (C) those which are least likely to need to be reported.

These principles should help you to assess whether your charity needs to report an incident occurring in a partner organisation as a Serious Incident. Your assessment should take into account the specific circumstances of the event or incident, the actual or likely impact on your charity and the likely risk to your charity.

- (A) The incident involves the charity's funds or its staff/ volunteers; or it occurred during an activity or programme which the charity funds, has responsibility for or is involved with as a joint activity/programme; or the charity has the same branding as the partner.

This is considered to be the highest risk category due to the close links between your charity and the Serious Incident. However, whether a Serious Incident in this category will need to be reported by your charity as a Serious Incident will depend on:

- how serious the incident is; and
- how significant an impact the incident is likely to have on your charity, its operations, finances, people and/or reputation.

Where your charity has the same branding as the partner, so that the public may identify your charity as being part of the same entity as the partner, there may be a significant impact on the reputation of your charity, or on public trust and confidence in your charity. This is because the public may not distinguish between the two organisations. This may mean that your charity also needs to report the incident as a Serious Incident, even if there is little or no impact on your charity's activities, finances or people.

You should consider whether you need to report any incidents involving partner organisations which fall into this category. When deciding whether an incident is serious enough to be reported by your charity, the starting point should be whether the incident would have been reported as a Serious Incident if it had happened in your charity.

- (B) The incident does not involve your charity's funds, brand or people but could have an impact on your charity.

Serious Incidents in a partner organisation are less likely to need to be reported to the Charity Commission when your charity does not have close links to the partner in which the Serious incident happened. However, your charity may still need to make a report where the particular incident:

- causes or is likely to cause material reputational damage to your charity and / or;
- raises or is likely to raise material issues around due diligence in terms of whether the partner concerned remains capable of delivering your charity's work or continues to be a suitable partner for your charity to work with and / or;

- is a trigger event (as defined within your charity's funding or partnership agreement with that partner) that your charity considers to be so significant that it would trigger suspension or termination of the agreement or arrangement with the partner.
- (C) The incident does not involve your charity's funds, brand or people and is sufficiently remote from your charity's work that it has little or no impact on your charity's reputation or the partner's ability to deliver its work with your charity.

This type of incident would not usually need to be reported to the Charity Commission.

## 9. 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 PCC is accountable (fraud and cyber-crime should be reported to Action Fraud);
- report it to the Charity Commission as a Serious Incident using the Charity Commission's online form at <https://ccforms.charitycommission.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 the Diocesan Secretary and/or professional advisers, as appropriate.

## 10. What do you need to include 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. It is important that you provide the Charity Commission with enough information in your report to present a clear picture of what happened and when, the extent of any loss or harm to your charity, how you are dealing with it and what steps you may be planning to take as a result of the incident.

In order to complete the Charity Commission's online form, you will need the following information:

(A) General:

- your own contact details;
- the charity name and, if it's registered, its registration number;
- your connection to the charity (i.e. the capacity in which you are submitting the report);
- reference numbers and contact details if you've reported it to other organisations, like the police; and
- names and registration numbers of other charities involved in the incident, if relevant.

(B) Details of the incident:

- date of the incident;
- what happened;



- date the charity found out about the incident;
- how the charity found out about the incident;
- what impact the incident has had on the charity's beneficiaries, finances, staff, operations or reputation; and
- whether all or only some of the trustees are aware of the incident (for example only some of the trustees may be aware where the Serious Incident involves a trustee, someone connected to a trustee, or senior member of staff).

(C) How your charity is handling the incident:

- which of the charity's policies or procedures relate to the incident and whether they were followed;
- what steps the charity has taken to deal with the incident;
- what steps the charity has taken to prevent similar incidents; and
- where applicable, the charity's media handling or press lines, including a link to a press release if available<sup>5</sup>.

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 reported relates to an allegation against a parish priest whose stipend is paid by the DBF, the PCC should inform the Diocesan Secretary that it has made a Serious Incident report in relation to that priest (unless instructed not to do so by the police).

## 11. Next Steps: what happens once a Serious Incident has been reported?

When you submit a report to the Charity Commission, you will receive a confirmatory email with an incident reference number on it.

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.

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.

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<sup>5</sup> If you are uncertain how to respond to media reports, seek advice in the first instance from your diocese.

## 12. What if you need to update your Report?

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 update your 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 also update your report to the Charity Commission.

In order to update your report, you will need the incident reference number sent to you by the Charity Commission in the email confirming receipt of the original report. You are then able to update your report at <https://ccforms.charitycommission.gov.uk/>.

Further guidance on Serious Incident reporting can be found on the Charity Commission website<sup>6</sup>.

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<sup>6</sup> Charity Commission Guidance for charity trustees about Serious Incidents: how to spot them and how to report (14 June 2019) <https://www.gov.uk/guidance/how-to-report-a-serious-incident-in-your-charity>