

Serious Incident Reporting Policy	Date Approved: FRAC – 27 June 2017 APPCT – 18 July 2017
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1. Introduction

Trustees must comply with the legal duties of charity trustees in the administration of a charity. Trustees have a general duty to take reasonable steps to assess and manage risks to their charity's activities, beneficiaries, property, work or reputation. This policy should be read in conjunction with the Charity Commission's ("the Commission") Reporting Serious Incidents – guidance for Trustees and APPCT's Risk Management Policy and Whistleblowing Policy.

2. Background

Declaration in Annual Return

Under section 169 of the Charities Act 2011 there is a requirement for trustees to submit, as part of the Annual Return, information specified by the Commission in its regulations and sign a declaration that there are no serious incidents or other matters relating to APPCT's previous financial year that should have been brought to the Commission's attention but has not.

Reporting serious incidents demonstrates to the Commission that we have identified a risk to APPCT and that we are taking appropriate action to deal with it. This is very important because safeguarding the assets of APPCT and APPCT's beneficiaries are key trustee responsibilities.

Where it is clear that trustees are handling serious incidents appropriately and the risks are being managed by them the Commission is unlikely to take further action. If it is not clear that the incident and risks arising from it are being dealt with and that the trustees are acting responsibly, the Commission will need to engage further with APPCT. The Commission may need to use their legal powers to protect APPCT. If a serious incident that has not been reported becomes known to the Commission at a later date, they may consider taking regulatory action against the trustees, particularly if further abuse or damage has arisen.

Trustees will ensure that APPCT will report on risk management arrangements in their Annual Report.

3. Policy

Duty of Trustees

Trustees will report any serious incident that has resulted or could result in a significant loss of funds or a significant risk to APPCT's property, work, beneficiaries or reputation should be reported to the Commission immediately, not just on completion of the Annual Return. This will enable the Commission to offer APPCT guidance as soon as possible and help protect APPCT and its beneficiaries.

Charity Commission Identified Risks

The following issues have been identified as being higher risk by the Commission:

- significant financial loss to a charity
- serious criminality and/or illegal activity within or involving a charity (including fraud and money laundering)
- charities deliberately being used for significant private advantage
- where a charity's independence is seriously called into question
- other significant non-compliance, breaches of trust or abuse that otherwise impact significantly on public trust and confidence in the charity and charities generally

When to report a serious incident

Arising out of the higher risk issues detailed above, the following areas will be reported to the Commission where the matter in question causes such serious concern that due to the impact on APPCT if true, and on the reputation of APPCT, even if not true:

- the incident is also reported to the police or other statutory agencies (unless it is a technical or minor issue that poses little or no risk)
- APPCT, or individuals associated with them and in connection with their role within it, are the subject of a police or other statutory agency investigation
- the trustees decide that the incident presents a serious or significant risk to APPCT, its beneficiaries, reputation or assets
- the internal risk assessment of the incident concludes that APPCT should act to avoid a serious or significant risk to the charity, its beneficiaries, reputation, services or assets or
- APPCT's professional advisers have advised you to notify the Commission of the incident

Criminal activity

Trustees should inform the Commission of any actual or suspected criminal activity within or involving APPCT as soon as possible after the incident. Trustees must do so where an individual may have committed an offence that calls into question their suitability to be involved in or connected with APPCT, whether as a trustee, member or member of staff.

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Trustees should report crime, or suspected crime, to the police and obtain a crime reference number, this is imperative as the more serious the crime, the more difficult it is to see how trustees could discharge their duties to act in the best interests of APPCT and their duty of care to protect APPCT, its assets and beneficiaries. Where there is evidence or reasonable grounds to believe that criminality has taken place, and the trustees have failed to report this to the police, then the Commission has a duty to do so.

Fraud and theft

"Fraud" - a form of dishonesty, involving either false representation, failing to disclose information or abuse of position, undertaken in order to make a gain or cause loss to another.

"Theft" dishonestly appropriating property belonging to another with the intention of permanently depriving the other of it.

Actual or suspected serious incidents of fraud, theft and other financial crimes should be reported if you know an event has taken place or where you reasonably suspect that it happened. How to report incidents is detailed at Appendix 1.

Other significant loss

Trustees will report any significant loss due to other causes, such as fire, flood or storm damage or having to abandon property, where the value is over £25,000.00. Such significant losses will not include a decrease in the value of investment funds occurring in the ordinary course of investment business or losses such as impairments, asset write downs, pension deficits and bad debts.

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

Trustees will report any unusually large one-off donations or a series of smaller donations from a source that cannot be identified or checked. Donations may take forms other than money, for example, shares or goods totalling £25,000.00 or more.

Donations and Transactions

The Finance Act 2011 section 27 requires trustees to consider from 1 April 2011, whether the charity is in receipt of tainted charity donations. Prior to the Finance Act 2011, the Finance Act 2006, section 54, means 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 or trustees) has any known or alleged link to a proscribed (banned) organisation or to terrorist or other unlawful activity

Under section 19 of the Terrorism Act 2000 there is a 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. Non-disclosure may result in an offence being committed. This is relevant for trustees of charities, as

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'employment' has been amended to specifically include voluntary work. If it comes to your attention or you suspect that another trustee, member or member of staff, 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.

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

Some people are disqualified by law from acting as trustees, including anyone described in section 178 of the Charities Act 2011. 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
- have been removed under section 34(5)(e) of the Charities and Trustee Investment (Scotland) Act 2005 or relevant earlier legislation, from being concerned in the management or control of any body
- have been the subject of a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986 or the Company Directors Disqualification (Northern Ireland) Order 2002
- are subject to an order made under section 429(2) of the Insolvency Act 1986

It is normally an offence to act as a trustee while disqualified unless the Commission has given a waiver under section 181 of the Charities Act 2011 (or in relation to charitable companies, permission has been given by the court).

Trustees are expected to sign a declaration of their eligibility to act which shows that the trustees are discharging their legal duties and responsibilities as trustees. This form is provided at Appendix 2.

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

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. The Commission will also need to be advised of significant developments and notified of the outcome of the investigation by other agencies and the outcome of criminal court proceedings.

4. Procedure

APPENDIX 1

How to report:

Fraud

Trustees should report incidents of fraud that take place in their charity to Action Fraud and ensure they obtain a crime reference number. Action Fraud is the national reporting centre for fraud and for information relating to fraud. It has an online fraud reporting service which is available 24 hours a day, and their website includes a comprehensive A to Z of fraud types, providing information about how these frauds operate and how to report them.

Trustees should also make a serious incident report to the Commission.

Theft

Trustees should report incidents of theft to the police and obtain a crime reference number. They should also report the incident to the Commission.

What the Charity Commission need to know

When you report the incident to the Charity Commission, they will need to 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 Action Fraud or the police respectively, providing us with the crime reference number
- if you have recovered the money/goods or are taking steps to do so
- whether or not losses are covered by insurance

Section 1 Personal Details

Name	<input type="text"/>			
Address	<input type="text"/>			
	<input type="text"/>			
	<input type="text"/>			
	Postcode	<input type="text"/>		
Daytime number	telephone	<input type="text"/>	Evening telephone number	<input type="text"/>

Section 2 Charity Details

Name of Charity	<input type="text"/>
Charity registration number	<input type="text"/>

Section 3 Declaration

I declare that I am not disqualified from acting as a charity trustee and that:

- I am capable of managing and administering my own affairs;
- I do not have an unspent conviction relating to any offence involving deception or dishonesty;
- I am not an undischarged bankrupt nor have I made a composition or arrangement with, or granted a trust deed for, my creditors (ignore if discharged from such an arrangement);
- I am not subject to a disqualification order under the Company Directors Disqualification Act 1986 or to an Order made under section 429(b) of the Insolvency Act 1986;
- I have not been removed from the office of charity trustee or trustee for a charity by an Order made by the Charity Commissioners or the High Court on the grounds of any misconduct or mismanagement nor am I subject to an Order under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, preventing me from being concerned in the management or control of any relevant organisation or body.

Signed

Dated

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5. Associated documentation and further information

Charity Commission's Reporting Serious Incidents – guidance for Trustees and APPCT's Risk Management Policy and Whistleblowing Policy.

6. Status of policy

This new statutory draft policy to be considered by the FRAC for recommendation of adoption by the APPCT Board of Trustees.

Date	Version	Author	Amendments