



Briefing note

Serious incident reporting for foundations: What, why and how

Introduction

Foundations have robust due diligence processes when assessing applicants, making grants and monitoring. But even the most robust processes will not prevent serious incidents occurring in funded organisations. When they do occur, it is important that foundations have a plan in place to respond. Incidents that have had a significant impact on the foundation may need to be reported to the Charity Commission for England and Wales.

This briefing summarises the regulatory regime for reporting serious incidents and aims to answer some of the questions raised by members at an ACF Members' Policy Forum session with the regulator and law firm Russell Cooke. The Commission has since published regulatory guidance for reporting incidents that involve partner organisations, including funded organisations, [which can be found here](#) (December 2019).

Why report?

The Commission sees reporting as a way of making sure that trustees are managing incidents responsibly and complying with their duties. Reporting also allows the Commission to provide advice or guidance if necessary, and identify areas where there may be greater risk to other charities, for example in specific sub-sectors.

What is a serious incident?

According to the Commission's guidance [How to report a serious incident in your charity](#):

"A serious incident is an adverse event, whether actual or alleged, which results in or risks significant:

- harm to your charity's beneficiaries, staff, volunteers or others who come into contact with your charity through its work
- loss of your charity's money or assets
- damage to your charity's property
- harm to your charity's work or reputation."

This broad definition covers incidents involving safeguarding, financial crime, suspicious activity, significant financial loss, and extremism, amongst others. [You can read a list of examples here](#).

Whether the impact is “significant” is open to interpretation by the trustees. For example, the loss of £5,000 to a small charity would be ‘significant financial loss’. To a charity with an income of £5m, it is unlikely to be considered so.

Reporting incidents in funded organisations

When thinking about serious incidents that have occurred in a funded organisation, or a ‘partner’, foundations should consult the Commission’s [Guidance for charity trustees on when to report incidents involving the charity’s partners as a serious incident](#).

The Commission outlines three ways an incident in a charity might involve a foundation:

1. It involves the foundation’s funds or an activity that it funds or is responsible for
2. It could cause material reputation damage to the foundation
3. It raises material due diligence issues about the suitability of an organisation you fund

The funded organisation is responsible for reporting incidents to the Commission. The foundation needs to decide whether the incident constitutes a serious incident in *its own circumstances*. Trustees might ask ‘has the impact *on the foundation* been significant?’. If it has, the foundation must report the serious incident with regards to the impact on the foundation, and not duplicate the report made by the charity.

Examples

1. A safeguarding incident occurs in a charity as part of a project funded by the foundation. The incident is reported in the national press. The charity is responsible for reporting the incident to the Commission. The foundation must consider the impact the incident has had on its own operations, finances and reputation. Questions to ask include: Has there been reputational damage? Has the project had to end? In these cases, the trustees might decide that the reputational damage of press coverage or the cessation of the project constitutes a serious incident and the foundation would have a duty to report it.

2. A data breach occurs in a charity to which the foundation provided a one-off unrestricted grant. The charity is responsible for reporting the incident to the Commission. Unless the occurrence of the incident has a significant impact on the foundation, for example the breach involved data about foundation staff or data provided by the foundation, the trustees might decide that it does not constitute a serious incident. However, the foundation might ask the charity to notify it of the incident in its routine monitoring processes.

How to report

- Reports must be made using [the online form](#). The form sets out the information you will need to submit. Charities are expected to report throughout the year as and when incidents occur.
- The Commission expects trustees to keep the incident under review and update the commission if the situation changes. This can be done through the online form.

- If you have serious concerns about an organisation you fund, for example due to receiving a complaint, but do not think it is a serious incident for your charity, you can raise it as a concern so that the Commission can determine whether it has a regulatory role using [this form](#).
- The Commission has set up a whistleblowing helpline, run independently by the charity Protect, which can advise staff or volunteers on raising a concern about their charity. You may want to signpost to this if a staff member or volunteer from a charity comes to you with concerns. More information can be found [here](#).
- Foundation trustees should be clear internally who has responsibility for the process of submitting reports; this might be one of the trustees or delegated to a member of staff. However, the legal responsibility lies with the board.

When it is not a regulatory incident

Not all incidents will meet the regulatory definition of a serious incident. But incidents and issues are often brought to the foundation's attention – through its monitoring processes, conversations, or informants – that need addressing. The foundation may want to have in place plans and procedures for how to respond when that happens. This might mean asking questions like:

- What does our funding agreement say about reporting issues and incidents to us?
- What are our processes for issues and incidents to be raised and reported?
- What do we need to be notified about and why? Is it clear how a funded organisation would alert us to issues?
- What action can and would we take?
- What support are we able to provide? How flexible can our funding be when unexpected incidents happen? Can we signpost funded organisations to sources of support or guidance?

Further considerations

- The Commission may be asked to reveal information about serious incidents that have been reported under the Freedom of Information Act. Foundations might want to think about how they would handle any media or public scrutiny of their decisions relating to incidents.
- Charities that do not submit annual returns are not obliged to report serious incidents, but the Commission considers it best practice nonetheless.
- Correspondence and complaints from the public are not necessarily serious incidents, but the foundation might include how to handle these types of reports when considering its broader approach to responding to issues.

Resources

From the Charity Commission:

- [Guidance on how to report a serious incident in your charity](#)
- [Guidance on reporting a serious incident involving a partner](#)
- [Guidance on the helpline for reporting incidents as a worker or volunteer](#)
- [Examples of incidents to report](#)
- [The form for reporting serious incidents](#)
- [The form for raising concerns](#)

Other:

- [NCVO's information on reporting safeguarding concerns](#)