

## HOW SHOULD CHARITIES DEAL WITH SERIOUS INCIDENTS?

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# How should charities deal with serious incidents?

The Charity Commission has recently updated its guidance on reporting serious incidents.



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## Rosamund McCarthy and Rebecca Bruce summarise the key aspects of the new guidance

Charity trustees are required to make serious incident reports, or SIRs, to the Charity Commission; although, interestingly, the only legal basis for SIRs is that charities with an income over £25,000 must confirm in their annual return that there are no serious incidents or other matters that trustees have not reported to the commission, but should have done. Making SIRs does impose a compliance burden for charities but the commission regards reporting SIRs as a key responsibility for trustees. It has expressed concern that too many serious incidents in charities go unreported and, in September 2017, published updated serious incident reporting guidance for trustees.

### What is a 'serious incident'?

It can be difficult to decide whether an incident is 'serious' or not. The Charity Commission defines a serious incident as 'an adverse event, whether actual or alleged, which results in or risks significant:

- loss of your charity's money or assets;
- damage to your charity's property; or
- harm to your charity's work, beneficiaries or reputation.'

The guidance requires reporting of incidents that 'appear' serious, seemingly seeing this as an objective – rather than subjective – test. The new guidance also links to an examples table which sets out a non-exhaustive list of circumstances in which a charity should (or should not) make an SIR.

### Who is responsible for SIRs and when should they be made?

Under the guidance, although the trustees are ultimately responsible for ensuring that a report is made, the report can be submitted by staff or professional advisers if they confirm that they have the trustees' authority to do so. In due course, charities will be able to submit SIRs through an online portal.

There is always a tension between wanting to

make a report as soon as possible to comply with the commission's requirements, and wanting to investigate the incident first. The guidance provides that an SIR should now be made 'as soon as is reasonably possible after it happens, or immediately after you become aware of it'.

A positive response from the commission may be more likely where a charity has conducted a timely investigation and then made an SIR including information on appropriate steps it has already taken to deal with the issue, and an action plan going forwards. This does, of course, depend on the nature of the incident, and if it is very serious or high profile, filing a same day report (even if it is a holding report) is often advisable.

Although there may be no legal obligation to file an SIR, prompt reporting can be beneficial, and may mean that if the commission is asked about the incident by third parties, it is in a much better position to respond. If a charity fails to make an SIR the commission may view this as evidence of mismanagement.

What if a charity experiences lots of serious incidents? The new guidance continues to allow charities that experience more frequent serious incidents to make periodic bulk reports, although the Charity Commission stresses this bulk reporting is not appropriate for all serious incidents.

### Final thoughts

Despite their non-legal underpinning and compliance burden, the new guidance indicates that SIRs are here to stay.

In terms of the immediate steps that charities can take, adding serious incidents as a recurring item on board agendas is a good idea. Other practical steps include training for trustees and senior executives on the new guidance, deciding who is authorised to make SIR reports and setting up bulk reporting if necessary.

### Find out more

Visit [www.gov.uk/guidance/how-to-report-a-serious-incident-in-your-charity](http://www.gov.uk/guidance/how-to-report-a-serious-incident-in-your-charity) for more detail.



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**In February 2018 the commission called for as yet unreported safeguarding incidents to be reported as soon as possible: a special commission taskforce is dealing with safeguarding SIRs.**