

# Tackling abuse and mismanagement

Report of Charity Commission's investigations and compliance case work

2012-13





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# Introduction

## Foreword

Charities play a vital role in society. They enjoy high levels of public trust and receive generous tax and legal privileges. But this trust is not unconditional. In return for their privileges, the public expects charities to comply with high standards of governance and probity and to be transparent about their finances.

Mismanagement and abuse in charities are unacceptable. An important part of our role as regulator is to prevent, detect and tackle abuse and mismanagement in charities and to promote compliance with charity law. When we get involved in a charity whose trustees are not complying with charity law, our priority is to safeguard charity assets and take strong remedial action where necessary to stop the problems and correct the charity's management. This may result in intervening in a charity's affairs and taking steps to recover sums lost to charity. This report explains our approach to investigations and compliance case work, provides details of the volume and nature of cases we have dealt with this year and includes case study examples. It also explains where and how our approach to compliance case work is changing.

We hope this report helps the public understand how mismanagement in charities is tackled and resolved. It is also designed to allow trustees and their advisers learn lessons from problems and issues that have arisen in other charities.

**William Shawcross**

## About the Charity Commission

The Charity Commission is the regulator of charities in England and Wales. We are a non-ministerial government department and have quasi-judicial powers. Our mission is to ensure charities know what they must do to comply with the law, to ensure the public knows what charities do and to hold charities to account.

Our statutory objectives are set out in the Charities Act 2011; they include an objective to promote charity trustees' compliance with their legal duties in managing charities. This objective grants us the authority to identify and investigate apparent misconduct or mismanagement in charities and the legal powers necessary to prevent or stop such abuse. This in, in turn, supports the Commission's statutory objective to promote public trust and confidence in charity. More information about the Commission's role and activities is available on our website at [www.charitycommission.gov.uk](http://www.charitycommission.gov.uk)

We are not a prosecuting authority. It is for law enforcement agencies to investigate criminality.

Where criminal issues arise, or when concerns about the operation of a charity are being examined by other regulators, our role is to consider whether they indicate misconduct or mismanagement in the administration of the charity and whether we need to act to protect charity property. We therefore work very closely with other agencies and regulators to help stop abuse in charities, to assist their work, and to avoid duplication (see page 8 - working with other agencies).

## Key figures from our compliance case work in 2012-13

£138,686,060	total income of charities overseen by Investigations and Enforcement in 2012-13
£800,000	charity money directly protected in completed statutory inquiries
171,662	trustee checks undertaken
2,770	sets of accounts reviewed
1,539	times we exchanged information formally with other agencies through the statutory gateways
1,513	operational compliance cases opened
1,232	operational compliance cases completed
971	individual serious incidents reported to us by charities
216	times we used our legal compliance powers during statutory inquiries, regulatory compliance and operational compliance cases concluded in 2013 <sup>1</sup>
98	whistleblowing reports made to us
87	pre-investigation assessment cases opened
84	pre-investigation assessment cases completed
71	IAE monitoring cases completed
15	statutory inquiries opened
5	statutory inquiries completed

For explanations about the types of case work we carry out, see pages 6-7.

For more detailed statistics about our investigations and compliance case work, see Part 5.

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<sup>1</sup> This includes the powers used within all Investigations and Enforcement case work - including investigations, pre-investigations assessment, monitoring and intelligence as well as Section 52 orders used during operational compliance cases. These powers include information powers, temporary and protective powers and powers with permanent effect.

# Part 1: How we respond to problems in charities

## Our overall approach

The Charities Act 2011 makes clear that trustees are responsible for managing their charities and for accounting to the public through annual returns, accounts and reports. As regulator, we can only intervene in a charity's administration when we have concerns that trustees are not complying with charity law. Our risk framework explains how we decide whether and how to intervene in charities. In some cases, we have to make use of our formal legal powers, which allow us to direct trustees and others to take certain steps. We do not always need to use our powers to resolve problems. There are 163,000 charities on our register, managed by over 940,000 trustees and many trustees respect our authority as regulator. Most are quick to put right any failings or mistakes, allowing us to resolve the problem without recourse to our formal legal powers.

There are three areas of strategic risk facing charities, which we prioritise: fraud and financial crime, safeguarding issues and concerns about the terrorist abuse of charities. For more information about our work in these areas, see Part 3. For examples of our case work involving these problems, see Part 2.

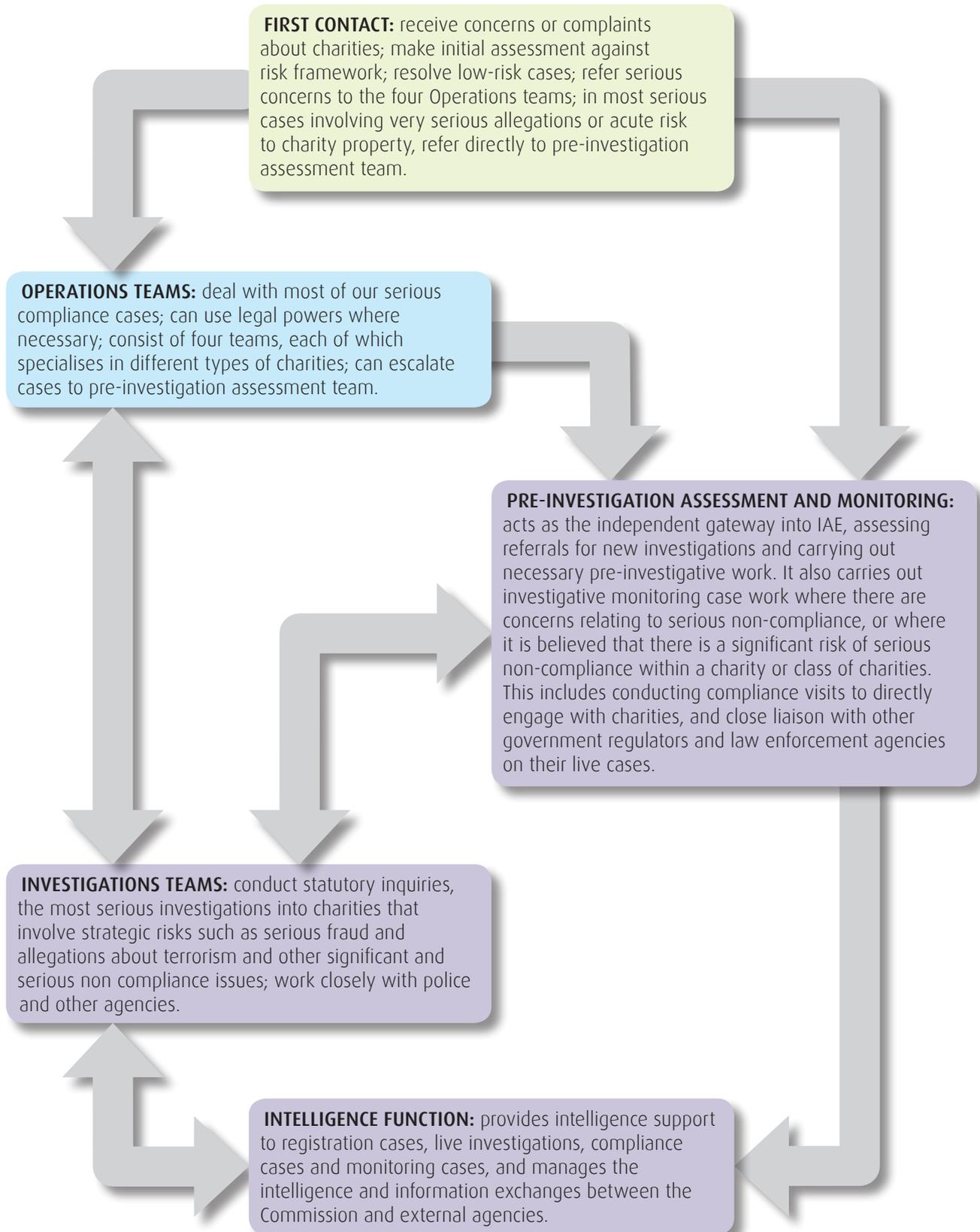
### Looking ahead

We have been continually strengthening our approach to investigations and enforcement. More recently, in October 2013, we changed our approach to using information gathering powers during statutory inquiries (see page 7 for information about statutory inquiries). We now always use our information gathering powers to require information from trustees for the purpose of a statutory inquiry. This new approach underlines the importance of the Commission's inquiry, will speed our investigations up and will help us identify trustees who refuse to co-operate by providing full and frank disclosure at an early stage. Our guidance on statutory inquiries has been updated to reflect this change. Non co-operation with the regulator and/or failure to comply with our Directions or Orders is misconduct and/or mismanagement by trustees.

We have also worked with Cabinet Office on proposals to extend and strengthen our legal powers. In December, the Cabinet Office published a consultation document setting out proposals for ways in which our powers can be improved to help us tackle mismanagement and abuse more effectively. For example, the proposals would update the current rules on trustee disqualification and close a loophole that allows trustees involved in misconduct or mismanagement to escape sanction simply by resigning, leaving them able to be a trustee of another charity. We support the proposals and encourage charities to take part in the consultation.

## Our structure as it applies to investigations and compliance case work

All our areas are supported by specialist lawyers, accountants and intelligence analysts.



## Our risk framework

Our risk framework is a published document that explains our criteria for responding to concerns in charities. It explains what factors increase and decrease the risks involved in issues that come to us. The three questions the risk framework helps us answer are:

1. Do we as regulator need to be involved?
2. What is the nature and level of the risk?
3. What is the most effective response?

We consider a range of factors in answering those questions, including the potential impact of the concerns on a charity's beneficiaries and assets, and the wider implications for other charities and public trust and confidence in charities.

## Types of compliance work that we carry out

### Operational compliance cases

Most of the serious concerns that arise in charities are dealt with as operational compliance cases. Our Operations teams deal with all types of concerns in charities, with the exception of any concerns about links to terrorism. If the issues become more serious, the case can be referred to the pre-investigation assessment team. At the conclusion of operational compliance cases, we may issue charities with an action plan which the trustees are asked to deliver within a specified period of time; we then follow-up the case after the specified period has passed to ensure the trustees have complied with our guidance. If the trustees have complied, we will disengage. If they haven't complied, the Operations team in question will open a new case to deal with regulatory issues that have arisen as a result of trustees' inaction. In 2012-13, we opened **1,513** and completed **1,232** operational compliance cases. As at 31 March 2013, **705** such cases were on-going.

### Pre-investigation assessment (PIA) cases

We undertake pre-investigation assessments to consider opening inquiries in the most serious cases. This is likely to be where the regulatory issue is in itself serious and in circumstances where there is evidence or serious suspicion of misconduct or mismanagement, or where the risk to the charity or to public confidence in charity more generally is high<sup>2</sup>. Pre-investigation assessments determine whether an inquiry should be opened or what other action is most appropriate. PIA cases may conclude that issues would be best resolved through operational compliance cases, or referred for monitoring, or may decide that no further action is necessary or that the case can be dealt with by giving immediate regulatory advice and guidance

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2 The criteria we consider are set out in our published [Risk Framework Application](#).

to correct the non-compliance or prevent it from happening again. All concerns about misuse of a charity for terrorist purposes are referred straight to PIA (including charity links with or support for terrorism, financial or otherwise, connections to proscribed organisations or designated persons or entities, or misuse of charity to foster criminal extremism). In 2012-13, we opened **87** and completed **84** PIA cases. Of the 87 PIA cases opened, **28** (32%) were referred from our operational teams. Of the 84 PIA cases closed, **15** (18%) were referred for statutory inquiry; **24** (29%) were referred for monitoring; and **6** (7%) were referred elsewhere within in the Commission.

### Monitoring cases

Regulatory supervision and monitoring is an important tool in the identification and detection of harm and abuse within charities, and in disrupting the activities of those seeking to abuse them. Monitoring cases primarily focus on the three strategic areas of risk (fraud and financial crime and abuse, failure to safeguard vulnerable beneficiaries and links to terrorism and extremism). We take a proportionate approach to regulatory supervision and monitoring of charities and target where intervention is most needed to stem abuse in the sector. Sometimes, we monitor a charity when we are not able to take immediate action, or are restricted in the action we can take because a law enforcement agency is undertaking an investigation and there is a risk our work might prejudice or frustrate the criminal investigation. In 2012-13, the Monitoring Unit opened **42** and completed **71** cases and conducted **25** monitoring visits.

### Statutory inquiries

Statutory inquiries are formal investigations under section 46 of the Charities Act 2011 and are only conducted in relation to regulatory concerns that we consider are the most serious. The purpose of a statutory inquiry is to investigate and establish the facts of the case so that we can:

- identify the extent of any misconduct and mismanagement
- establish the extent of the risk to the charity's work assets, beneficiaries and reputation
- decide what action needs to be taken to resolve the serious concerns, if necessary using our legal powers to do so

In 2012-13, we opened **15** and completed **5** statutory inquiries. As at 31 March 2013, **37** statutory inquiries were on-going. Prior to the Commission's strategic review and restructure in December 2011, the IAE investigations team also conducted regulatory compliance cases (RCC); these were investigations that are less serious than statutory inquiries. No new RCCs investigations have been opened since December 2011, but some that opened prior to the restructure are still underway. In 2012-13, **24** RCCs concluded; as at April 2013, **24** RCCs were on-going.

### Looking ahead

In October 2013, we established a new dedicated Operations function monitoring team, which will promote compliance by conducting follow-up work on behalf of all four Operations teams. Follow-up work involves cases where the Operations teams have issued trustees with an action plan, which we need to ensure has been followed. The Operations teams already conduct follow-up work as part of their case work, but the new team will provide a central service, bring more structure and ensure consistency of approach to follow-up cases. Aside from this, the new team will conduct pro active monitoring work on behalf of the Operations function. The Operations function monitoring team will not duplicate IAE monitoring work and will **not** carry out investigative monitoring or follow-up work involving charities suspected of the most serious, high risk and high impact abuse.

### Working with other agencies

We are a civil regulator responsible for enforcing charity law. We are not a prosecuting authority and we do not investigate criminality. However, our work sometimes uncovers concerns about abuse that may be criminal or concerns that are for another regulator to investigate. Equally, in the course of their investigations, other agencies and regulators often find evidence of breaches of charity law or concerns about trustees' management of risks facing their charities, which they refer to us. Where criminal issues arise, or concerns about the operation of a charity are being examined by another regulator, our role is to consider whether they indicate misconduct or mismanagement in the administration of the charity and whether we need to act to protect charity property. By working closely with other regulators, and deciding which agency should take the lead or what action each may take, we avoid duplication.

It is vitally important to our ability to regulate effectively that we maintain good working relationships with other agencies. We work closely with, among others, the Police, Her Majesty's Revenue and Customs (HMRC), the Serious Fraud Office (SFO), the new National Crime Agency, Action Fraud, the Financial Conduct Authority (formerly Financial Services Authority) the Ofsted and the Department for Education, the Higher Education Funding Council for England, the Care Quality Commission and others. This year, we exchanged information with other agencies through the formal statutory gateway on **1,539** occasions.

## Looking ahead

We have recently updated and re-signed our Memorandum of Understanding (MoU) with HMRC. This makes a renewed commitment to:

- promote a common understanding of our individual responsibilities
- promote co-operation between us
- ensure the necessary safeguards are in place for the effective investigation and exchange of information to prevent, detect and remedy misconduct or mismanagement in the administration of charities and charitable funds
- ensure appropriate consultation and co-operation on matters of mutual interest
- facilitate the undertaking of joint working where there are issues of shared regulatory interest

The new MoU is more specific about what type of information we agree to exchange with each other and when. We have agreed to work collaboratively and proactively together to identify charities where HMRC has concerns about: the suitability of individuals to be involved in a charity; the conduct of trustees in relation to the financial management of the charity; or other indications of significant misconduct or mismanagement issues. The MoU commits to regular strategic, operational and policy level staff engagement and to offering mutual secondment and shadowing opportunities.

We are also working with HMRC to explore options for developing a joint portal to allow organisations to apply simultaneously for registration as a charity with the Commission and for recognition as a 'charity for tax purposes' by HMRC. One of the main purposes of the portal would be to reduce administrative burdens on charities. We expect this work would improve the exchange of information between our two organisations and to help us identify potential abuse and risks more quickly and efficiently. The portal would not result in joint decision making. HMRC and the Commission would continue to make independent judgements based on the areas of law that we enforce.

## Examples of assisting other agencies' prosecutions 2012-13

**MSL Mountaineering Trust** - we uncovered evidence that a former trustee of the now removed charity had cheated the public purse by making fraudulent Gift Aid claims. He admitted this and charges for money laundering and has been sentenced to four years in prison. Another former trustee was found guilty of money laundering connected to the fraudulent claims. She has been sentenced to 18 months in prison, suspended for two years. HMRC's prosecution in this case rested almost exclusively on evidence gathered during our investigation into the charity. See page 13 for a full case study detailing our investigation into this charity.

**'Irish Relief'** - we supported a Metropolitan Police prosecution which secured the conviction of an individual who fraudulently engaged in public collections, purportedly for a charity by the name of 'Irish Relief'. He had claimed 'Irish Relief' was registered with us, which it was not. Our investigators provided a witness statement to support the prosecution. The offender was convicted of two counts of fraud under the Fraud Act 2006.

### **When we seek restitution**

Most trustees are volunteers and will not normally be held responsible for honest actions reasonably undertaken, even if mistaken. However, we take very seriously cases where property is lost to charity as a result of serious wrongdoing by charity trustees or others involved with a charity. We expect trustees themselves to recover these losses. However, if and when the trustees are unwilling or unable to do so, we will consider bringing legal proceedings in the public interest - with the Attorney General's consent - to recover funds lost to charity.

In considering whether we will take legal action in the public interest we:

- take account of the strength of the legal claim, the ability of those responsible to repay the sums involved and the proportionality of dealing with the matter this way and the optimum use of public funds
- consider the impact on the charity including any adverse impact on its ability to carry out its purpose effectively, on its beneficiaries and on its ability to raise funds to do this
- take account of the importance of volunteers to a healthy charity sector and the impact on people's ability to volunteer if they may be held personally liable for mistakes
- take account of the deterrent effect of ensuring that charitable funds which have been lost as a result of serious wrongdoing are recovered for charity

Our [policy on restitution and the recovery of charitable funds misappropriated or lost to charity in breach of trust](#) is available on our website.

## Part 2: Common types of non-compliance

### Financial abuse and financial mismanagement

Fraud in charities damages the reputation of the charities involved and seriously undermines trust and confidence in the wider sector - we know from [independent research](#) that the public places enormous value on knowing their donations are reaching the end cause.

Fraud affects all areas of the economy and charities are not immune. Fraud and financial crime feature heavily in our case work - many of the most serious cases we deal with involve concerns of this nature.

#### **In 2012-3 concerns about financial abuse and/or financial mismanagement featured in:**

- **398** reports of serious incidents
- **43** whistleblowing reports
- **22** completed pre-investigation assessment cases
- **23** completed investigations (statutory inquiries and regulatory compliance cases)

#### **In 2012-3 concerns about fraud and theft featured in:**

- **45** completed operational compliance cases

#### **In 2012-3 concerns about financial mismanagement or maladministration or about the misapplication of funds occurred in:**

- **64** completed operational compliance cases

Fraud and financial crime are especially damaging. When we find evidence that a criminal offence may have been committed, we will always share that evidence with the police; this may be with regional forces, Action Fraud, the Serious Fraud Office, the National Fraud Intelligence Bureau or other appropriate law enforcement agencies and we will work with them to bring those who abuse charities in this way to justice (see page 8 working with other agencies).

But not all financial mismanagement in charities involves fraud. Often, problems occur when trustees do not have effective financial controls in place and cannot account properly for their charity's income and expenditure. This creates the potential for and increases the risk of fraud. Trustees are collectively and individually legally responsible for ensuring that their charity's funds are properly used and that they manage the risk of abuse, ensuring that strong financial controls are in place and they maintain good governance and management oversight.

The best way for charities to protect themselves against fraud is to ensure they have in place robust governance, strong financial controls and effective risk assessment and management policies and procedures. Further guidance can be found on our website [www.charitycommission.gov.uk](http://www.charitycommission.gov.uk) including:

- *Fraud and financial crime* - chapter 3 of the online compliance toolkit, *Protecting Charities from Harm*
- *The Essential Trustee: What you need to know (CC3)*
- *Internal financial controls - a checklist*
- *Charity Finance Group Charity Fraud guide*
- *Podcast about how to protect your charity against fraud*

Fraud and financial abuse is an area of high risk for charities; for that reason, we have developed a public strategic response. For information about the strategy and what we have achieved against it this year, please see Part 3.

The charities featured in the case studies below all experienced problems linked to financial mismanagement of varying degrees and levels of seriousness. In several cases, the charities were deliberately abused for criminal purposes to enrich individuals; the results of these examples demonstrate that those who commit financial crime against charities will be brought to justice.

But all the cases below reveal the problems that occur when trustees do not put the basic and fundamental systems in place that help protect charities from financial mismanagement.

### **Looking ahead**

We are now taking a tougher approach to charities that repeatedly fail to file their annual reports, accounts and returns with the Commission.

In September 2013, we opened a class inquiry into charities that are in default of their statutory obligations to meet reporting requirements by failing to file their annual documents for two or more years in the last five years. We started with charities with incomes of over £500,000 that are in default. Failure to submit annual documents to the Commission is a criminal offence<sup>3</sup>. We also regard the failure to meet basic duties as a trustee as mismanagement and/or misconduct in the administration of a charity. In our experience, it is often symptomatic of wider financial mismanagement and poor governance.

<sup>3</sup> This applies only to those charities that are legally required to submit documents - see the [Commission's website](#) for information about charities' reporting requirements.

### Case study 1: MSL Mountaineering Trust

This case was substantially conducted in 2010-11, however, we were unable to report on our work until a police investigation had concluded.

**Type of case:** regulatory compliance case.

**About the charity:** The charity had objects to provide recreation facilities and to advance the education of young people; its application for registration stated that it would operate a mountaineering school for young people. However, in practice, we found no evidence that the charity carried out any activities that furthered its charitable aims. The charity was removed from the register on 7 July 2010; our investigation into the charity began at this time.

**Why we got involved:** We were contacted by a registered charity, a church, which was concerned about what it considered to be errors in the accounts of MSL Mountaineering. The accounts stated that the church had been granted a sum of over £132,000 - the trustees of the church said they had only received just over £17,000. We initially advised the church that it needed to make further checks of its own records and to take the matter up directly with MSL Mountaineering and to report back to us if issues of concern remained - often, concerns about accounting turn out to be misunderstandings about the way in which income has been accounted for. The church came back to us shortly afterwards, saying it had been unable to resolve matters. It had contacted the accountant who had supposedly audited MSL Mountaineering's accounts, who said he had never heard of the charity. It was clear we needed to investigate. We later found that one of the charity's trustees asked for the charity to be removed from the register shortly after it was contacted by the church about the discrepancies in its accounts.

**The action we took:** We opened a regulatory compliance case and began by analysing the charity's accounts. We used our powers to direct the charity's bank to provide statements and copy cheques. We held meetings with all individuals who had at any time been named as trustees of the charity and whom we could identify (several of the individuals who formally acted as trustees took no active part in managing the charity); with the charity contact, chief executive (and later trustee) Mark Scott Lewis and his wife (and later trustee) Elizabeth Laura Lewis; and with the trustees of the church that raised concerns.

**What we found:** Our analysis of the accounts raised a number of serious concerns. First, some statements in the accounts included suspect references to an entirely different charity (suggesting that they might have been the plagiarised accounts of another charity). Second, they stated that the charity's treasurer at the time was an individual who had died in 2007. Third, following concerns raised by the church, we contacted the named auditor of the accounts who confirmed to us that he had never worked with the charity.

Our analysis of the charity's banking information revealed that this in no way reflected the charity's accounts. The accounts were, in effect, fictitious. The bank statements revealed that significant Gift Aid payments had been deposited in the charity's account and also in a personal company account. However, no donations that might accrue such levels of Gift Aid were reflected in the charity's account. We also found that almost all payments from the account - totalling around £885,000 were made to Mark Lewis or organisations directly linked to him; there was no evidence of any charitable expenditure.

**The outcome:** We were concerned that there was evidence of criminal abuse. We therefore shared our concerns and evidence with HMRC, the tax authority. We worked closely with HMRC, which launched its own investigation. HMRC was able to use the evidence we gathered to obtain a warrant to enter the property of Mark Scott Lewis and his wife, who were arrested and later charged. Two other trustees were also arrested on warrant but no further action was taken in respect of them. Mark Lewis pleaded guilty to cheating the public purse in regard of thirteen Gift Aid claims; and money laundering; he has been sentenced to four years imprisonment, suspended for two years Elizabeth Lewis was found guilty of four counts of money laundering; she has been given an 18-month suspended sentence.

## Case study 2: Astonbrook Housing Association Ltd

**Type of case:** statutory inquiry.

**About the charity:** Astonbrook Housing Association provided housing and support to refugees and asylum seekers; it supported around 3,500 people in over 1,000 properties under contracts worth over £16m a year.

**Why we got involved:** We received a report suggesting that substantial sums of money were paid to staff members and organisations connected to the trustees without properly supported receipts; that there was inappropriate delegation to the charity's CEO; and that substantial funds being transferred to bodies connected to the trustees or employees of the charity. The report stated that staff members were relatives of the CEO indicating that appropriate recruitment processes might not have been in place.

We investigated to establish the extent of risk faced by the charity's vulnerable beneficiaries; whether the charity had adequate management controls and financial systems in place; whether the trustees had received inappropriate private benefit; and whether there were unmanaged conflicts of interests and unregulated connected party transactions.

**The action we took:** Our priority was to protect the charity's assets and its beneficiaries. We immediately froze the charity's bank accounts and appointed Baker Tilly as Interim Manager (IM) to take complete control of the management of the charity. We gave the IM instructions to take control of the charity's assets and funds, to secure the recovery of monies due to the charity and to ensure the welfare of the charity's beneficiaries. He took immediate steps to do so.

**What we found:** The IM found evidence of systematic and repeated fraud involving some of the charity's senior staff and trustees. For example, he found that cheques amounting to around £1.8m had been used fraudulently in payment of fictitious invoices, made out to trustees and senior staff members, as well as their extended families. He found evidence of ghost employees, some of whom were members of the CEO's family and had never worked for the charity, listed on the charity's payroll. This cost the charity around £700,000 to £1m. The police discovered that cash had been fraudulently used to buy residential properties used as personal housing or rented back to the charity. The substantial fraud was proven in the subsequent criminal trials. The IM also found the trustees failed to maintain adequate management and financial control of the charity. We therefore concluded that the trustees had failed in their legal duties and had failed manage properly the charity's services and the immediate risks posed to its vulnerable beneficiaries.

**The outcome:** The charity's beneficiaries were safely rehoused before the charity went into liquidation. The evidence of fraud uncovered during our investigation was passed on to the police. We helped the police in their criminal investigation, which led to six people, including the CEO, being convicted of fraud and money laundering offences. They were handed sentences ranging from fifteen months' to four years and six months' imprisonment. As a result of the convictions they are disqualified from acting as charity trustees again. The police have started confiscation proceedings for the recovery of the stolen funds. We continue to work closely with the liquidator to make sure that any charitable funds recovered are safeguarded for charitable purposes.

### Case study 3: Christadelphian Magazine and Publishing Association Ltd

**Type of case:** operational compliance case.

**About the charity:** Christadelphian Magazine and Publishing Association; the charity supports and promotes the Christadelphian faith, including by publishing magazines, pamphlets and books and by providing literature information and advice.

**Why we got involved:** The charity made a serious incident report, detailing the theft of around £290,000 by a trustee, who was also employed by the charity. The money had been stolen from the staff pension and grants that were intended for other charities within the Christadelphian movement.

**Our regulatory concerns:** The trustees did the right thing in reporting the matter to us and taking immediate steps to dismiss the staff member and remove him from his paid position. However, the trustees refused to report the matter to the police. This was of regulatory concern - alleged crimes must be investigated. We were also concerned that, although the individual had said he would repay the funds; the trustees had not secured a formal agreement. We also needed to make sure the trustees put proper controls in place to prevent further losses.

**The action we took:** We needed to make sure the charity's assets were not at any further risk and that the trustees fully understood their duties. We also reported the crime to the police; the individual concerned subsequently received a police caution for making false representation to make gain for self or another or cause loss to others.

**The outcome:** We ensured that that the trustees took out a formal legal charge against the home of the former trustee, which ensures that the charity is paid back the remaining charitable funds once it is sold (an anonymous donor had already paid the charity a substantial amount in lieu of its loss). We also ensured the trustees fully understood their legal duties, including the duty to put in place proper internal financial controls to protect the charity's assets. The charity is now fully operating.

#### Case study 4: Futureversity

**Type of case:** operational compliance case.

**About the charity:** The charity's working name is Futureversity. It provides and promotes educational opportunities for young people in London, aimed at raising aspirations, reducing youth crime, breaking down racial tensions and getting unemployed young people into work.

**Why we got involved:** In September 2012 one of the charity's trustees contacted us to raise concerns about two issues: first, that money was being stolen from the charity's petty cash system and second, that there were problems with the charity's trading subsidiary. The trustee said the trading subsidiary owed the charity money, that the charity was not properly monitoring the activities of the trading subsidiary and that there was a lack of clarity about the authorisation of payments made by the charity to the trading subsidiary. We needed to investigate these concerns, which represent potentially serious governance failures and serious financial mismanagement.

**The action we took:** We instructed the trustees to provide detailed information about the issues raised, analysed the reports and other evidence provided and ensured that the trustees took appropriate steps to address our concerns.

**What we found:** Regarding the theft, we found that a total of £650 was stolen from the charity's petty cash systems due to wholly inadequate financial controls. The theft was reported to the police, but the culprit was not identified.

We also found that the trustees had failed to properly oversee the charity's relationship with the trading subsidiary, which was managed by the charity's CEO. We found the performance of the subsidiary was unsatisfactory. The trustees established that the trading subsidiary owed the charity £70,000 and undertook to devise a business plan to ensure that the debt was paid off over 2-3 years.

**The outcome:** Shortly before we became involved, new trustees were appointed. We worked with the trustees, including the individual who raised concerns, to ensure they introduced new systems of control and governance aimed at stopping the problems and preventing them from reoccurring. For example, the charity reviewed its system of financial delegation and petty cash management, putting in place tighter controls and safeguards. The charity's staff members were warned that, if the culprit was found to be a staff member he or she would be immediately dismissed.

We made sure the trustees regularised the charity's relationship with the trading subsidiary, including by taking action to improve the transparency and accountability of the trading subsidiary. The CEO who was in post while the failings occurred resigned and a successor was appointed. We closed our case on the basis that the trustees were implementing the improvements and would monitor the charity's management to avoid similar problems recurring. We made clear to the trustees that we would consider intervening again should further problems come to light.

### Case study 5: Torbay and South West of England Festival

**Type of case:** operational compliance case.

**About the charity:** The charity's objects are to promote the arts and its main activity is to hold an Annual Competitive Festival of Performing Arts for children and young people.

**Why we got involved:** We became aware, through a press article, that the charity had been defrauded by its treasurer (a trustee position). It was not for us to investigate the alleged crime itself which was a police matter. By this time the treasurer had been convicted, having admitted defrauding and stealing from the charity - the total loss to the charity was over £25,000. He was later jailed for 10 months. Our focus was on the charity's management: we needed to establish how the fraud could have occurred, whether the trustees had responded appropriately and whether they were implementing adequate systems of financial control. We also needed to make sure the charity's assets were not at any further risk. There were also concerns about the fact that the charity was overdue in filing its accounts and that it hadn't reported to fraud to us as a serious incident.

**The action we took:** We instructed the trustees to provide information, including how the fraud could have occurred and whether the individual was still involved in the charity. We also established the names of another charity the offender was involved in and proactively followed this up with that charity. We instructed the trustees to explain what financial controls the charity has in place and what changes the trustees would be making to ensure no further fraud can occur. In addition, we asked the charity for an explanation as to why their accounts were overdue.

**What we found:** The charity's systems of financial control had been poor. The treasurer had been at the charity for 15 years and was a respected member of the community. This led the charity to operate on the basis of trust - which runs counter to trustees' duties and the Commission's guidance. For example, a charity trustee had on occasion pre-signed blank cheques to allow the treasurer to pay for bills, which the treasurer abused to commit fraud.

The treasurer had failed to produce accounts for the financial year in which he began to defraud the charity and the trustees did not sufficiently challenge him over this and so the charity failed to file on time with the Commission. It took over a year for the charity's remaining trustees to fully challenge the treasurer on these points - at which point the fraud was discovered.

The trustees had considered our guidance on serious incidents and advised that they were in the process of making a report when the Commission contacted them. At the time the trustees were contacted by the Commission they had taken appropriate steps in relation to the incident, including contacting the police who investigated.

**The outcome:** These findings represented serious regulatory concern. The trustees recognised the seriousness of the situation and had eventually taken appropriate steps, such as making a report to the police as soon as the fraud was suspected.

We ensured that the trustees' completely reviewed the charity's finance and accounting systems and put in place robust new systems to prevent any further abuse. We also ensured the trustees fully understood their legal duties, including to report serious incidents to us. Because the trustees understood how they had failed in their duties and took action to ensure they fulfilled legal requirements in future, we did not take further regulatory action.

The charity later recovered £25,000 - the vast majority of the funds lost to the fraud - by accepting a donation from the treasurer's family. The trustees advised that the charity was in a sound financial position despite the fraud. The trustees also prepared and submitted accurate accounts for the outstanding period.

## Concerns about safeguarding

Sadly, on occasion, people who are intent on abusing others try to gain access to charities that help vulnerable people, such as children. Where abuses against children and young people take place, they must be dealt with by the police and other law enforcement agencies. The Commission is not a regulator responsible for the safeguarding of children and young people. However, we sometimes have a limited but important role in cases where a charity is concerned.

Trustees have a duty of care towards their charity. If they work with vulnerable groups such as children, this means they must take steps to safeguard these beneficiaries and take responsibility for them.

We sometimes see problems arising in charities because trustees have not put safeguards in place to protect vulnerable people from abuse, and prevent abuse happening in the first place.

Safeguards are internal procedures and policies, for example:

- making trustees, staff and volunteers aware of what abuse is and how to spot it
- having a clear system of reporting concerns as soon as abuse is identified or suspected
- responding to abuse rapidly and carrying out investigations confidentially
- preventing harm and abuse with a rigorous recruitment and interview process and ensuring appropriate CRB checks are carried out on people that have unsupervised access to children and vulnerable adults

When problems around failures to safeguard occur, trustees must report the serious incident in question to us, and report any allegations of criminal offences to the police. A failure to do that can amount to dereliction of duty. The case studies below, which we concluded in 2012-13, demonstrate how safeguarding vulnerable people is linked to trustees' duties in charity law. Further guidance can be found on our website:

- [Protecting vulnerable groups including children](#)
- [Safeguarding children - detailed guidance](#)

Safeguarding issues are among the three areas of greatest risk facing charities; for that reason, we have developed a public strategy for addressing the problem. For information about the strategy and what we have achieved against it this year, please see Part 3.

### In 2012-3 concerns about safeguarding featured in:

- **474** reports of serious incidents
- **11** whistleblowing reports
- **17** Operational compliance cases
- **9** completed pre-investigation assessment cases
- **2** completed investigations (statutory inquiries and regulatory compliance cases)

### Case study 1: A church charity

Due to the risk of identifying the complainant and the respondent, who was eventually found not guilty, we have anonymised this case study.

**Type of case:** pre-investigation assessment.

**About the charity:** The charity has objects to advance the Christian faith, to relieve hardship and to advance other charitable purposes. In practice, the charity operates a church that offers religious services, bible study sessions and prayer meetings.

**Why we got involved:** We were contacted by a former member of the congregation who made an allegation that a young member of the congregation had been sexually assaulted by a charity trustee during a Church activity. The complainant expressed her concerns about the way the trustees had dealt with the allegations; and she also expressed concern about the safety of other vulnerable beneficiaries of the Church. The complainant had already reported the alleged crime to the police, who put the accused on bail. We needed to establish whether there was any immediate and on-going risk to the charity's vulnerable beneficiaries; whether the charity had adequate safeguarding policies in place and whether the trustees had responded to the allegations appropriately.

**The action we took:** We required the trustees to provide information, including to explain what action they had taken since the allegations were made; what the charity's safeguarding policies and procedures were and whether these had been followed in this case.

**What we found:** Bail conditions imposed on the accused ensured there was no immediate risk to the charity's beneficiaries. The trustees confirmed that they had removed the accused as a trustee and that he would not be involved in the charity's work. They also told us they had a safeguarding policy in place. However, when we pressed the trustees for details as to the nature of the policy and the trustees' initial response to the allegations, the trustees admitted that they did not have a safeguarding policy in place prior to the incident and had not reported the allegations to the police or social services. Following the Commission's engagement, the trustees consulted with the Churches' Child Protection Advisory Service (CCPAS) and put a safeguarding policy in place and arranged training in safeguarding responsibilities for all charity personnel. We independently verified with CCPAS that the charity had indeed sought its advice and that they were satisfied the policy was adequate.

**The outcome/impact:** Trustees had initially failed in their duties in not having an adequate safeguarding policy in place and in not responding properly to the allegations of abuse. However, following our direction, they had recognised their legal duties, put an effective policy and procedures in place and ensured all charity personnel were trained in implementing them. They also confirmed that they would report any future safeguarding incidents to us. On that basis, we decided that we did not need to open a statutory inquiry. The trustees have been advised that, should any concerns come to light in the future about the trustees handling of safeguarding allegations, the fact that regulatory advice and guidance has been provided to the trustees will be taken into account.

Eight months after the Commission's engagement in this matter the trustees advised that the accused was found not guilty of the charges against him. They confirmed the charity's safeguarding policies remain in place and will be subject to annual review.

## Case study 2: National Bullying Helpline

**Type of case:** statutory inquiry.

**About the charity:** The charity had objects to preserve and protect the health of those affected by bullying in the workplace and other environments. It operated a website and a confidential helpline for victims of bullying.

**Why we got involved:** We opened an inquiry following media statements made in February 2010 by the charity's Chief Executive Officer ('CEO') in response to a story about allegations of bullying at Number 10 Downing Street. In these statements, comments were made about the existence of calls to the charity's helpline from employees at Number 10 and the Office of the Deputy Prime Minister. We had received a large number of complaints which identified a risk that the statements may have allowed callers to the helpline to be identified. We also received complaints about conflicts of interest between the charity and a company founded by the charity's Chair and the CEO (the connected company); alleged links between the charity and a political party; and the overall negative impact of the statements on the public's trust in the confidential nature of helplines in general. We examined a number of issues, including concerns as to whether the statements made were in line with the charity's policies on confidentiality and privacy; the conduct of the trustees and the CEO; the management of conflicts of interest and the general governance of the charity.

**The action we took:** We needed to ensure the trustees continued to safeguard information about its beneficiaries. We therefore used our regulatory powers and issued an Order to prevent the charity, its trustees, officers, agents and employees from disclosing information obtained from the operation of the charity's helpline. We referred the data protection issues to the Information Commissioner's Office and on receipt of their confirmation that all personal data held by the charity had been securely destroyed, we discharged this Order. We interviewed the chair and CEO, current and former trustees and the former company secretary. We also conducted a books and records inspection and an analysis of the charity's financial accounts. Upon completion of the substantive part of the investigation, we issued an Order requiring the charity to undertake certain actions in a specified timescale to ensure that the charity was capable of operating constitutionally and to regularise its governance. The trustees subsequently decided to wind up the charity, therefore removing the need for the governance review. We then gave the trustees advice on the safeguards needed so that the public understood that the charity was not operating and that if the website was maintained, this was no longer a charity activity, but rather, run by the connected company. Once we were satisfied that the charity had ceased to operate, we removed it from the Register.

**What we found:** We concluded that comments made on behalf of the charity in response to the media story had the clear potential to undermine public trust and confidence in charity generally, the reputation and work of this charity and also other helplines. We concluded that the statements resulted in a risk that individuals may have been identified, although that risk was not realised. We further concluded that the statements were contrary to the charity's own Code of Conduct and its published position on privacy and that the trustees did not take sufficient steps to assert their authority as trustees to protect information held by the charity as a result of its operation of the helpline. We found no evidence to suggest the statements were politically motivated. The inquiry looked at two areas of conflict of interest, namely: the relationship between the charity and the connected company; and the relationship between the charity's Chair and CEO, who were husband and wife. We concluded that, while there was no evidence that the company had benefited financially from its association with the charity, the charity had failed to address adequately on-going conflicts of interest which we had previously highlighted to it and which had the potential to undermine public trust and confidence in the charity. With regard to general governance, although it was appreciated that this was a small charity with limited resources, we concluded that the charity was not operating in accordance with its governing document (relating to the appointment of trustees and the holding of trustee meetings) and that the trustees did not take steps to remedy this. Also, the trustee body lacked cohesion and individual trustees were unaware of their role and responsibilities.

**The outcome/impact:** We took swift action to safeguard information provided to and held by the charity as a result of the operation of the helpline. This case highlights the importance of protecting information that may be given in confidence and having in place and following effective policies and procedures to protect this information.

### Case study 3: St Thomas Handshake to Kware

**Type of case:** operational compliance case.

**About the charity:** The charity provides funds and services to provide health, education and welfare services to people living in the Kware slum area of the Kenyan capital Nairobi. The charity supports a health clinic and two schools.

**Why we got involved:** In October 2011, the charity made a serious incident report detailing allegations of child abuse carried out by a partner organisation with which the charity collaborated in Kenya. The allegations were not linked to the charity itself or its premises - the crimes were alleged to have taken place in the home of the accused. The report also suggested that donations from the charity had been used by the same individual in Kenya to support his own family. Other agencies were investigating the actual alleged abuse. Our focus as charity regulator the trustees' on-going management of the charity. Specifically, we needed to make sure none of the charity's beneficiaries were at risk, that the trustees had taken appropriate action when they learnt of the allegations, that the charity's funds had been used for charitable purposes, and that the charity had adequate safeguarding procedures and financial controls in place.

**The action we took:** We opened an operational compliance case and asked the trustees to provide us with a wide range of evidence and information about the charity's policies and management. Separately, we liaised with other agencies to establish the veracity of the claims against the individual in Uganda.

**What we found:** We found that there was no evidence of abuse of vulnerable beneficiaries by the charity's agent in Kware. We found that neither the UK nor the Ugandan police were taking any action in relation to the allegations for that reason. We found no evidence that funds had been misappropriated.

However, we found that one of the charity's trustees had known about the allegations against the individual in Kenya for some time without informing his fellow trustees. This amounted to serious breach of trust and was a cause of serious regulatory concern. Regarding the charity's approach to safeguarding, we found that while adequate policies had been agreed, these were not then properly implemented by trustees. We found the charity's internal financial controls were adequate.

**The outcome/impact:** The trustee who was guilty of breach of trust admitted this and resigned as trustee. For reasons unrelated to our case, the individual against whom allegations were made was dismissed from the charity's partner organisation and plays no further role with the charity. We provided the charity with corrective regulatory advice, explaining trustees' duties in preventing and responding to allegations about abuse or the misapplication of funds and about the crucial importance of implementing and following procedures aimed at safeguarding beneficiaries. The trustees cooperated with us throughout and were concluded our case satisfied that the trustees are now acting in the charity's interests.

#### Case study 4: The Freemantle Trust

**Type of case:** operational compliance case.

**About the charity:** The Freemantle Trust provides care and support to older people and people with learning disabilities, including by providing care homes, nursing homes, specialist dementia care and day care and community services.

**Why we got involved:** In December 2012, we received two serious incident reports from the charity. One report detailed the death of a resident at one of the charity's care homes. The other report related to a substantial fraud carried out within the charity's finance department. The police and other regulators and agencies were involved, making sure there was no imminent risk to the charity's beneficiaries, and investigating the alleged fraud. Our focus was on trustees. It was right of the trustees to report the serious incident to us but we needed to make sure that they were complying with their duties towards their charity, including by having proper oversight of the charity's governance, its safeguarding procedures and its finances. We needed to rule out any general failings on the part of the trustees.

**The action we took:** We undertook an examination of the charity's governance controls, including through interviews with the charity's trustees and staff. We asked the trustees to provide a range of documents, including its risk analysis document and minutes of meetings, as well as copies of the job descriptions of managers working at the care home in question.

**What we found:** We found weaknesses in the charity's structure and governance processes which may have exposed the charity to serious risk and which they needed to address urgently. The charity's own investigation revealed the fraud was carried out systematically over a number of years by a single individual. An inquest found that the death of the resident occurred because the charity had failed to check her room after it had been refurbished.

**The outcome/impact:** We issued the trustees with an 11-point action plan with directions for improving the charity's governance and management; we monitored the charity over a six month period. We were satisfied that the charity's trustees had acted on our plan and there was no need for further regulatory action.

## Concerns about abuse of charity for terrorist or extremist purposes

Charities, like other types of organisation, can be vulnerable to criminal and terrorist abuse or to misuse for extremist purposes. The number of proven criminal cases of terrorist abuse involving charities is small when set against the number of charities there are (there have been two high profile criminal cases involving convictions over the last few years)<sup>4</sup>. However, such abuse when it does occur is deplorable and corrodes public confidence in charities.

The abuse of charities for terrorist purposes can take a variety of forms, including exploiting charity funding, misusing a charity name and status and inappropriate expressions of support by those involved in a charity for a proscribed organisation or designated person or entity. We have published other examples in our guidance of how extremists might seek to abuse charities<sup>5</sup>.

There have been occasions when terrorists, and those with extremist views who encourage and support terrorism and terrorist ideology, have used charity events to make those views known, or have used charities to promote or distribute their literature. Trustees need to be vigilant, particularly if they regularly run events and use literature which is controversial. They need to put appropriate policies and procedures in place and ensure they take reasonable steps to protect their charity. Someone with controversial views can be invited to a charity event to speak but the trustees will need to be clear about how this will further the charity's objects and take active steps to manage the risks.

Our guidance explains the risks facing charities:

- [Charities and terrorism](#) - chapter 1 of the online compliance toolkit, *Protecting Charities from Harm*
- [Protecting charities from abuse for extremist purposes and managing the risks at events and in activities](#) - chapter 5 of the online compliance toolkit, *Protecting Charities from Harm*
- [Due diligence monitoring and end use of funds](#) - chapter 2 of the online compliance toolkit, *Protecting Charities from Harm*
- [Holding moving and receiving funds safely in the UK and internationally](#) - chapter 4 of the online compliance toolkit, *Protecting Charities from Harm*

We have published our strategic response to dealing with concerns about the terrorist abuse of charities. For information about the strategy and what we have achieved against it this year, please see Part 3.

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4 On 2 August 2012: Mohammed and Shafiq Ali were convicted of raising money to fund terrorism and sentenced to three years imprisonment by the Central Criminal Court. The twin brothers carried out street collections supposedly for charity. They pleaded guilty to raising £3,000 which they sent to a family member in Somalia for terrorist training/fighting.

On 21 February 2013, Ashik Ali, Ifran Khalid and Ifran Naseer were convicted at Woolwich Crown Court of committing acts in preparation for terrorist attacks - the particulars of the offence included collecting money for terrorism. They raised funds by fraudulently presenting themselves as charity fundraisers using high visibility vests and collections buckets bearing the name of the charity Muslim Aid.

5 See section F in chapter 5 of our online toolkit 'Protecting Charities from abuse for extremist purposes and managing the risks at events and in activities: guidance for trustees.

### In 2012-13 concerns about abuse of charities for terrorist purposes featured in:

- 1 report of a serious incident
- 1 whistleblowing report
- 29 completed pre-investigation assessment cases<sup>6</sup>
- 37 monitoring cases<sup>7</sup>
- 4 statutory inquiry cases, 2 of which were new cases opened during the year<sup>8</sup>

A total of **1,539** disclosures took place between the Commission and other agencies. Of these overall exchanges **196**, or 13%, related to terrorism and extremism issues:

- **83** Section 54 disclosures to the Commission
- **113** Section 56 disclosures made by the Commission

#### Case study 1: a charity with links to extremist speakers

**Type of case:** Investigations and Enforcement monitoring case.

**About the charity:** The charity has objects to advance religion and education; in practice, it hosts events, produced research and hosted an educational website.

**Why we got involved:** The charity was planning an event involving an address by an individual widely reported to hold radical views which would not be appropriate for a charity to be associated with. The proposed event attracted considerable adverse media coverage. Although the event was eventually cancelled by the venue, we needed to establish that the trustees had robust policies and procedures in place for managing risks - including reputational risks associated with giving a platform to controversial speakers.

**The action we took:** We instructed the trustees to explain how they made decisions around events and speakers, what policies and procedures they had in place and how they managed risks.

**What we found:** Initially, the trustees told us that they had systems and policies in place. We checked this by carrying out a monitoring visit. The trustees were unable to produce any evidence that the charity had formal written policies or processes in place to assess the suitability of speakers or run events, or indeed any evidence that the trustees took a systematic approach to risk management. It became clear to our officers that the trustees did not understand their duties or responsibilities and were unable to reassure us that they were protecting their charity against the risk of being seen to support or promote views inappropriate for a charity to be associated with. This represented a serious concern.

**The outcome:** The trustees acknowledged that they had failed in their duties and, following our involvement, ceased operating the charity until proper policies and procedures had been put in place. At the time of writing, this is still on-going and the charity remains non-operational. The charity continues to be monitored by the Commission.

<sup>6</sup> These include cases that may have been opened or have been on-going during the year 2012-13. These are not necessarily completed cases.

<sup>7</sup> These include cases that may have been opened or have been on-going during the year 2012-13. These are not necessarily completed cases.

<sup>8</sup> These figures do not relate to completed cases.

### Case study 2: a charity being used to promote a terrorist organisation

**Type of case:** Investigations and Enforcement monitoring case.

**About the charity:** The charity has objects to promote education among the residents of an English city, in particular among members of a certain cultural community.

**Why we opened our case:** Concerns were raised with us that the charity appeared to be supporting a proscribed terrorist organisation. We needed to get involved to establish exactly what was going on and to ensure that the trustees understood and were fulfilling their legal duties.

**What we found:** We visited the charity's premises and saw images of the leader of the group that is a proscribed terrorist organisation were displayed on the walls of the charity's offices. We also identified that the charity had organised marches at which supporters of the proscribed organisation were present.

**The action we took:** We instructed the trustees to take down the material and to take other steps to ensure they are not appearing to support a proscribed terrorist group. We also instructed the trustees to develop and implement robust controls to manage the charity's activities and the use of its premises.

**The outcome:** The charity has removed the offending material supporting the proscribed organisation from its premises. We continue to monitor the charity to make sure its trustees are implementing the changes we instructed them to make.

### Case study 3: a charity promoting extremist and terrorist views

**Type of case:** Investigations and Enforcement monitoring case.

**About the charity:** The charity has objects to advance religion and education amongst members of a particular religion.

**Why we got involved:** The charity's website included a video of a talk during which extremist chanting - in support of a proscribed organisation - is clearly audible.

**What we found:** It appeared the chants were not those of or organised by the charity. They appeared to be spontaneously started by members of the audience at the event. However, we saw no evidence that the chanting was challenged by the charity or the trustees later considered that hosting the video gave the impression the charity may support its contents or other risks it created for the charity.

**The action we took:** We instructed the charity to put in place robust controls - including on the content of its website - to ensure that no materials that could be seen to promote extremist views or terrorism are included in future. We also visited the charity and conducted a financial inspection and monitoring. This identified weaknesses in the charity's financial controls and systems.

**The outcome:** The charity has removed the offensive material from its website. We continue to monitor the charity over concerns about its financial controls and systems.

#### Case study 4: Cambridge Union Society

**Type of case:** monitoring case.

**About the charity:** The charity has objects to advance education by promoting the skill of debating and the consideration of matters of public life or importance, hosting educational events, and training members of the public in debating.

**Why we got involved:** We received a number of complaints about the charity's decision to host Marine Le Pen, the leader of the French political party Front National, at one of its speaker events.

**Our regulatory concerns:** Charity law recognises and values free speech - in democracies individuals are entitled to hold controversial views. But charity trustees have legal duties. They must act reasonably and prudently in the best interests of their charity, and must ensure the charity's funds, assets and reputation are not placed at undue risk. Trustees cannot use a charity's name to promote views or activities inappropriate for a charity. Concerns about a charity involved in promoting, supporting or giving a platform to inappropriate radical and extremist views would call into question whether what it was doing was lawful, was in furtherance of its purposes and for the public benefit.

**The action we took:** We instructed the trustees to explain how they considered hosting the event furthered the charity's stated objects; what action they took to manage the risks to the charity and its reputation; what procedures the trustees follow before inviting any speaker to the charity, and how the trustees ensured that speakers do not express inappropriate or illegal views whilst taking part in their charity's events.

**What we found:** The trustees responded promptly to our queries. They were able to explain that they considered very carefully which speakers to invite to debates to promote their charity's educational objects and its mission to 'invite anyone, regardless of age, gender, race or religion, to hear what they have to say and to challenge their ideas'. The trustees sought appropriate legal advice before making invitations and, where necessary, asked speakers to provide copies of their text in advance so that a lawyer can assess whether the text breaks any UK laws. The trustees explained the charity's policy of warning speakers that they would be interrupted should their words break UK law. The trustees also explained the charity's extensive security measures that protect the charity against the threat of harm coming to speakers or others during controversial or high profile events. We followed this up by visiting the charity to speak to the trustees and test their procedures.

**The outcome:** We were satisfied that the trustees followed a rigorous procedure for making decisions about which speakers to invite in furtherance of the charity's objects and for managing risks associated with controversial speakers. We were reassured during our visits that the trustees understood and fulfilled their duties towards their charity. On that basis, we closed our case.

## Serious governance failures

### Including conflicts of interest, unauthorised trustee benefits and breaches of governing document

Charity law makes clear that trustees must follow certain principles when making decisions on behalf of their charity. These principles are the bedrock of good governance. When they are not followed - whether through ignorance or wilful non-compliance - serious problems inevitably follow. In fact, poor governance is often at the root of other concerns, such as fraud, financial mismanagement, failures to safeguard beneficiaries and serious accounting failures.

Sadly, our case work continues to demonstrate that trustees often do not get the basics right. Typical problems include:

- trustees acting outside their powers - for instance by breaching the rules set out in their charity's governing document
- conflicts of interest
- unauthorised trustee benefits

Trustees are required to act exclusively in the best interests of their charity. It is an important principle of charity law that trustees should not put themselves in a position where their personal interests may conflict with their duties as trustees. In exceptional cases this may be expressly authorised by the governing document or by the Commission, such as in the case of remuneration, but even then trustees must be vigilant to see that any conflict is effectively managed. Some of the most serious cases of mismanagement arise where these principles are not followed. Several of the case studies below include situations in which trustees put themselves in a position of benefiting from the work of their charity inappropriately and/or without the necessary authorisation. Such situations are a breach of charity law and can seriously undermine trust in the probity of charity and often require a robust regulatory response.

Our guidance explains the principles that trustees must follow. We expect all trustees to be familiar with the following publications, which set out the core duties of trustees and basic tenets of good governance and trusteeship:

- *It's your decision*
- *The Essential trustee: what you need to know (CC3)*
- *Hallmarks of an effective charity (CC10)*

**In 2012-13 serious governance concerns featured in:**

- **29** reports of serious incidents
- **16** completed pre-investigation assessment cases
- **24** completed investigations

**General concerns about poor governance featured in:**

- **78** Operational compliance cases

**Concerns about unmanaged conflicts of interest and trustee benefits featured in:**

- **3** completed pre-investigation and assessment cases
- **9** completed investigations (statutory inquiries and regulatory compliance cases)

**Concerns about breaches of governing document featured in:**

- **3** pre-investigation and assessment cases
- **3** reports of serious incidents
- **10** whistleblowing reports
- **40** Operational compliance cases
- **6** completed investigations (statutory inquiries and regulatory compliance cases)

### Case study 1: AA Hamilton College Ltd

**Type of case:** statutory inquiry.

**About the charity:** AA Hamilton College Ltd runs a college in Central London providing higher education to UK and international students.

**Why we got involved:** Following a complaint by a member of the public about the charity's operation and management, we opened an investigation to address the financial controls, potential unauthorised trustee benefit, trustee decision making and the non-submission of accounts. A books and records check at the charity showed significant failings in the charity's record keeping and financial management.

We issued the trustees with regulatory advice and an action plan, setting out the steps they should take to resolve these problems. However, the trustees failed properly to address any of our regulatory concerns and as a result we escalated the investigation to a statutory inquiry. This focused on the charity's inadequate financial controls and the unauthorised benefits received by two of the charity's three trustees for their positions as paid employees.

**The action we took:** Following a meeting with the trustees we issued them a revised action plan, specifying the steps required to return the charity to a secure legal footing. The two trustees resigned from their paid posts and also as trustees after they were advised that their payments had been unauthorised. Two new trustees were appointed and the trustees later confirmed that they had complied with the steps set out in the revised plan. We then conducted a second books and records inspection to assess the progress made.

**What we found:** Originally, there had been significant failings in the charity's financial controls and record keeping, with instances of a lack of evidence in support of expenditure. However, our second inspection of the charity found that its book keeping and accounting procedures had improved and that there was a procedure in place to keep all trustees informed of the charity's finances.

We established that a number of unauthorised payments had been made to the two trustees in their role as paid employees. There was no evidence of any active management of the conflicts of interest and we could not see how the trustees could have made quorate and appropriate decisions relating to their salaries.

**The outcome:** The trustees have complied with the revised action plan and have introduced significant improvements to the management of the charity. The non-conflicted appointed trustees have considered the issue of restitution from the two former trustees who had received benefit and, having considered all the circumstances, have decided not to seek repayment from them.

### Case study 2: Mission for Christ

This investigation was substantially concluded in 2011. We will be publishing a full report of the inquiry shortly; it has been on hold because further actions were required of the trustees.

**Type of case:** statutory inquiry.

**About the charity:** The Charity has objects to further the Christian faith.

**Why we got involved:** We received a complaint about the charity's governance and administration; the complainant provided evidence to suggest that the charity's assets might be at risk. We assessed the complaint and found evidence of further regulatory concerns, including that substantial payments had been made to trustees of the charity without authorisation. We also found that the charity had only two trustees, despite its governing document specifying that there should be four, meaning that the charity was unable to make legally valid decisions.

**The action we took:** During the course of the statutory inquiry, we took a range of regulatory action, including freezing the charity's accounts, ordering the charity's bank to provide copies of statements and other information and directing the trustees to take certain action. We had to take this action, because the trustees did not co-operate in a full and timely manner at all times during the course of the inquiry.

**What we found:** We found that two of the charity's trustees had received significant benefits from the charity. One trustee had received payments totalling around £180,000 (around £119,000 for his employee role as interim executive director and £60,000 for services provided to the charity). This was a concern, for three reasons. First, the charity did not have the necessary authority to make the payment. The charity's governing document (GD) does not allow for trustees to be employed by the charity and the trustees had not sought authorisation from the courts or the Commission. The trustees said they assumed that this was permitted, because the GD allowed for the payment of trustees for professional services. We did not accept this, based on the trustee's qualifications and the role he played in the charity. Second, the charity could not have made the decision to pay the trustee validly, because the GD required there to be four trustees to make a quorate decision, and at the time at which the decision to pay the trustee was made, there were only three non-conflicted trustees present. In addition, the original decision was to pay the trustee for 6 months; in practice, he was paid for over two years without a further decision. There is no evidence of these extensions having been agreed at a quorate meeting; the trustee in question was in a position to self-authorise the payments - a very serious failure of governance and control that put the charity's assets at considerable risk.

Third, we were concerned about the level of the payment, which we found was not commensurate with the size of the charity or the nature of the work involved. We examined the benchmarked figure for comparable roles at similar charities and found that the trustee was being paid significantly more than was customary at other charities. We also found that another trustee was receiving pension payments totalling £590 a month from the charity, which it was under no obligation to provide. In addition, we found evidence of wider governance failures, including the failure to submit accounts for several years and problems with the overall governance of the charity. All in all, we found evidence of serious mismanagement at the charity.

**The outcome:** We ensured that the unauthorised payments to the trustees stopped. We also instructed the charity to appoint new trustees to ensure quorate, valid decisions could be made; we directed the trustees to put in place robust internal financial controls and wider systems of management, including protocols around the preparation of meeting minutes. We have followed up the trustees' progress against the steps we required them to take; we are satisfied that the trustees are now complying with their legal duties and responsibilities.

### Case study 3: Palestinians Relief and Development Fund (Interpal)

**About the charity:** The charity was set up to provide aid to those suffering as a consequence of civil or military action or national disasters, including through the provision of social welfare for refugees. In practice, Interpal delivers aid and charitable relief to Palestinians, mainly in the occupied Palestinian Territories, Jordan and Lebanon, sending funding to partner organisations working on the ground.

**Background:** Between 2006-2009, the Commission conducted an investigation into the charity to examine a number of regulatory concerns, in particular allegations about the application of the charity's funds and the activities of local partner organisations funded by the charity. The investigation was unable to verify the material about the partner organisations' activities, so the material was of insufficient evidential value to support the allegations, but concluded that the trustees had not taken sufficiently rigorous steps to investigate allegations about their partners. It also concluded that the charity's membership of, and links to, an organisation called the Union for Good, were inappropriate given that its members included designated entities. Consequently, on conclusion of the investigation, we served an Order directing the trustees to undertake a number of specified actions to resolve our regulatory concerns.

**Why we became involved again:** We re-engaged with the charity to check it had complied with the actions we required. We monitored the trustees' compliance with the Order, which required them to: undertake a review of their due diligence and monitoring procedures; end the charity's membership of and in all other respects, disassociate with the Union for Good; ensure that no trustee of the charity holds any office or has any role whatsoever within the Union for Good.

**The action we took:** We met the trustees on four occasions. To ensure that the trustees continued to comply with their legal duties we also undertook a follow-up inspection to check that they had implemented in practice the procedures that they had established.

**Outcome:** Following our review we were satisfied that the trustees had complied with our Order, having severed all links to the Union for Good, and having put in place procedures for the selection, due diligence and monitoring of their partners and beneficiaries, so as to safeguard the charity's funds and its reputation. Our inspection examined evidence of the implementation of the charity's due diligence and monitoring procedures as of that date, and we were satisfied on the evidence we saw that the trustees had demonstrated that they had developed appropriate systems to meet their obligations as charity trustees, and to carry out due diligence on the charity's partners.

**Case study 4: An animal shelter in England**

We have anonymised this case study, as the trustee most affected by our concerns died before she was able to explain the situation or defend herself.

**Type of case:** operational compliance case.

**About the charity:** The charity is an animal shelter providing care and rehabilitation for rescued animals in a region of England.

**Why we got involved:** We received a number of complaints and a serious incident report from the charity stating that a trustee's son had been paid £70,000 in cash for carrying out work at the shelter. The charity's governing documents contained a prohibition on trustee payments. Not all trustees had been made aware of these payments and conflicts of interest were not managed.

**The action we took:** We instructed the trustees to provide information about the payments and to provide evidence that conflicts of interest were being properly managed.

**What we found:** The trustees' responses highlighted that they had no financial controls in place, that trustee decisions were not made properly and that conflicts of interest had not been managed. It soon emerged that the trustee's son had actually been paid £100,000 for work that was later valued as being worth no more than £40,000. We also found that the charity was lacking a number of other key policies and legal documents (such as employment contracts and tenancy agreements); while these matters are outside our remit as charity regulator, they point towards poor governance at the charity.

**The outcome:** Several new trustees were appointed at an AGM and we worked with them to ensure that the necessary steps were taken to improve the charity's governance and to put in place robust financial controls. They also were supported through this process by their local Community and Voluntary Service ('CVS'), which is still providing advice to further improve governance. (CVSs are umbrella bodies that support and advise charities.) The trustees are also seeking legal advice as to whether any losses to charity funds can be recovered.

### Case study 5: Crescent Relief

**Type of case:** IAE monitoring case (following a statutory inquiry).

**About the charity:** The charity has objects to help people suffering from hardship, sickness, distress or who are otherwise in need. In practice, the charity's main activities included emergency relief and reconstruction work in Pakistan following the 2005 earthquake and in Indonesia following the 2004 tsunami.

**Background:** In 2011, we concluded an inquiry which looked at the charity's financial management and its supervision of overseas activities to investigate concerns that the trustees may have used its funds unlawfully. The investigation concluded that there was no evidence that the trustees diverted charitable funds for unlawful or non-charitable purposes. However, we found that the trustees were unable to verify satisfactorily the end use of funds in Pakistan and Indonesia. We also found that the trustees had taken insufficient measures to control, monitor and document the use of charitable funds overseas by third parties. We made an Order directing the trustees to take action. The first part of the Order directed the trustees to carry out a governance review of the administration and management of the charity, and implement the outcomes of the review, such as putting in place proper due diligence procedures and policies for donors, beneficiaries and partners. The second part of the Order directed the trustees to submit a report to us outlining the activities the charity had undertaken since the inquiry was closed and how they had ensured the charity's assets had been and would continue to be protected.

**Why we got involved again:** We needed to satisfy ourselves that the trustees had implemented both parts of the Order.

**What we found:** The trustees confirmed in writing that they had completed the first part of the Order. They also provided us with copies of their revised governing policies and confirmed that these were being implemented. After reviewing the documents submitted by the charity we were satisfied that they had complied with the first part of our Order. Subsequently, the trustees submitted a report outlining the activities the charity had undertaken since the Order was made and how the trustees had ensured that its assets had been and would continue to be protected. To make sure this was the case and the trustees had complied with the second part of the Order we conducted a records inspection at the charity's premises to review its finances and its records relating to due diligence and monitoring. The charity's records demonstrated that the trustees had considered and implemented the requirements our Order. We saw evidence that new partnership agreements had been introduced: monitoring visits to Pakistan, Bangladesh and Indonesia were supported by feedback reports; and the charity had introduced due diligence procedures in relation to staff and contractors both in the UK and Pakistan. The charity had also implemented risk management and anti money-laundering policies, addressing the risks associated with the areas in which the charity operates. The charity had put internal financial controls in place, ensuring the charity's assets are protected even when it operates in areas without access to formalised banking facilities. The financial testing conducted by our accountant found no cause for concern as all bank payments tested were traced to supporting documents. The charity's book keeping was of a good standard and was being kept up to date.

**Outcome:** Based on the information viewed during the inspection we were satisfied that the charity had taken all necessary steps to implement the outcomes of the governance review and comply with our Order.

## Concerns about campaigning and political activity

The law makes clear that charities are free to campaign and to take part in political activities to further their purposes. Indeed campaigning can be a valuable and effective way for charities to help their beneficiaries. But charity law sets limits. Political campaigning and activity must only be undertaken by a charity in the context of supporting the delivery of its charitable purposes.

Trustees must also guard their charity's independence and ensure that any involvement with political parties is balanced. A charity must not give support or funding to a political party, candidate or politician. Nor can a charity be used as a vehicle for the expression of the political views of individual trustees or staff members.

Concerns about campaigning and political activity do not occur frequently in our compliance case work. But when trustees do cross the mark and allow their charity to be seen to be misused for political purposes, they risk undermining support for their own charity and trust in the sector as a whole.

### **In 2012-13 concerns about campaigning and political activity featured in:**

- **4** completed pre investigation assessment cases
- **3** monitoring cases
- **1** completed investigation
- **10** completed operational compliance cases

Sometimes, charities' campaigning activity causes offence to some people. This does not necessarily mean these are a cause for regulatory concern. Sometimes, our role as regulator is to reassure the public as to the discretion and freedoms that trustees do have.

### Case study 1: London Cycling Campaign

**Type of case:** operational compliance case.

**About the charity:** The London Cycling Campaign promotes cycling for the benefit of the public by providing expert advocacy for improvements to cycling infrastructure and policy and encouraging people to cycle for health, fun, environmental, social and economic reasons.

**Why we got involved:** A member of the public raised concerns about a campaign run by the charity in the run-up to the London Mayoral election in 2012. The concerns revolved around materials the charity published before the election, which the complainant felt had encouraged support for two particular candidates.

**Our regulatory concerns:** Our guidance on *Charities, elections and referendums* and *Campaigning and political activity by charities* makes clear that charities may not give support to political parties or particular candidates. We needed to establish whether our guidance had been followed in this case.

**What we found:** We examined the material and found that a section had gone beyond what our guidance permits by including statements that could be interpreted as advocating support for particular candidates. We wrote to the trustees, telling them to ensure they comply with our guidance. We made clear that any further breaches by the charity that came to our attention would prompt us to consider taking regulatory action.

After writing to the trustees, a complainant raised further concerns with us about statements the charity had made or endorsed in its Twitter account. We found further statements in the charity's Twitter account which appeared to condone a comparison between one of the candidates in the 2012 Mayoral election and Hitler or Goebbels. We also found a comment made on the charity's blog by a member of the public which appeared to insult one of the candidates in the 2012 Mayoral election and could be seen as defamatory. These issues, coming so shortly after the issues in the charity's campaigning materials, caused serious regulatory concern and prompted us to take further action.

**The action we took:** We directed the trustees to explain, by a deadline we set:

- what action they had taken in response to our earlier letter to ensure they complied with our guidance on campaigning
- whether the charity had a policy and guidelines on tweets and re-tweets by the charity
- whether the trustees monitored the charity's Twitter account and blog to ensure that these are within Commission guidelines and would not damage the reputation of the charity
- whether they felt any of the comments were defamatory

**The outcome:** We were informed that the charity had recently appointed a new board of trustees. The new board answered our questions in full, explaining how they had responded to our initial letter. They confirmed that the charity's staff members had been trained as to the charity law issues around campaigning and that the chief executive would in future check all campaign materials taking legal advice into account. The trustees also responded to our additional concerns about social media, explaining that they had improved the charity's risk management procedures relating to new media including by producing new guidelines for staff members on using Twitter. They confirmed that they agreed the tweets in question were not acceptable. We accepted that the trustees had taken our concerns seriously and responded appropriately. However, before closing our case, we provided further regulatory advice, including by strongly recommending that the trustees develop a strategy and receive regular formal reports on the use of social media. We made very clear that we would deal decisively with any further breaches.

### Case study 2: Stonewall

**Type of case:** operational compliance case - no regulatory concerns found.

**About the charity:** Stonewall Equality is a charity which promotes equality and human rights for lesbian, gay and bisexual people.

**Why we got involved:** We received a complaint about the charity's 'Bigot of the Year Award'. The complainant was unhappy that the charity had given the award to the leader of the Roman Catholic Church in Scotland, because of his stance on same sex marriage. The complainant found the charity's actions offensive and questioned whether a charity should be able to make comments of this kind about a church leader. The award also received some unfavourable press coverage. Charities are free to campaign to further their objects. But when we receive complaints about a charity's campaigning activities, we have to look into the case to make sure that the charity is acting within its objects and in line with our guidance on campaigning and political activity.

**The action we took:** We opened an operational compliance case and assessed the concerns by looking at what the charity's 'Bigot of the Year Award' aims at achieving and what the charity's objects are.

**What we found:** We found that the campaign in question was capable of furthering the charity's objects to 'to promote equality and diversity in the United Kingdom and in particular the elimination of discrimination on the grounds of sexual orientation for the benefit of the public'. The charity's objects make clear that one of the ways it will pursue that aim is to 'cultivate a sentiment in favour of equality and diversity by the use of publications, codes of practice, schemes for employers, award schemes, the media and public advocacy'. We concluded therefore that the charity was acting within its objects and that there were no regulatory concerns.

**The outcome:** We wrote to the complainant explaining why we would take no regulatory action, and recommending that she take her concerns up with the charity's trustees directly. This case demonstrates that part of our value as an independent regulator is that we can set the record straight in cases where a charity has been criticised for actions that, while perhaps controversial, do not conflict with charity law. This does not mean that the Commission in any way endorses or approves of a charity's activities.

## Concerns about fundraising

The Commission does not regulate fundraising as an activity in its own right; like other areas of charity activity fundraising decisions are for trustees to make. Fundraising practice is subject to self-regulation by charities. The [Fundraising Standards Board \(FRSB\)](#) is the independent self-regulatory body that works with member charities, suppliers and the wider charity sector to encourage best practice.

Trustees must ensure their charity complies with the law relating to fundraising and follows best practice. This includes all aspects of fundraising including fundraising methods, the costs involved, the financial risk and how the money raised is spent. Trustees need to think about the impact their fundraising methods will have on public opinion and the reputation of their charity. Trustees must make sure they and any commercial companies they use get the right balance between promoting their cause and maintaining the trust and confidence that the public has in charities.

While the Commission doesn't regulate fundraising methods, we may need to get involved when trustees' approach to fundraising raises concerns about their charity's governance or their oversight over the charity's activities. We may also get involved when there signs of funds raised for charitable purposes or in the name of the charity being misappropriated, or when public trust and confidence has been damaged by a charity's activities.

### **In 2012-13 concerns about fundraising issues featured in:**

- **3** reports of serious incidents
- **2** completed pre investigation assessment cases
- **5** completed investigations

All trustees whose charities engage in fundraising activities must ensure they understand the law, which is explained in our guidance:

- [Charities and Fundraising \(CC20\)](#)
- [Disaster Appeals - guidance on starting, running and supporting charitable disaster appeals \(CC40\)](#)

Certain types of fundraising are covered by specific laws and regulations, such as door-to-door collections, running a lottery or a raffle. The Institute of Fundraising, which is the professional membership body for fundraising has produced a codes of practice that we recommend charities follow.

- [Codes of fundraising practice - Institute of Fundraising](#)

### Case study 1: Cancer Care Foundation

**Type of case:** statutory inquiry.

**About the charity:** The main objects of the charity are to relieve, support and assist people and families with cancer, a cancer-related illness or similar illness.

**Why we got involved:** The Inquiry examined the following issues: whether the acquisition by the charity of a subsidiary company, Caring Together Ltd, and the subsequent fundraising agreements were in the best interests of the charity; whether there were unauthorised trustee benefits; whether some of the charity's funds were held on special trusts for particular children's hospices.

**The action we took:** This was an unusually involved investigation, which comprised complex legal issues, litigation by concerned parties, the appointment of an Interim Manager (IM), insolvency proceedings and new trustees being appointed to the charity.

What we found: The trustees did not act in the best interests of the charity in its acquisition and the subsequent fundraising agreements; there were a number of unauthorised benefits received by former trustees and members of their families which were made in breach of trust; and on the facts no conclusion could be reached as to whether or not any of the charity's funds were held on special trusts.

**The outcome:** The impact of the Commission's intervention and the appointment of an IM resulted in a number of outcomes, including securing the future of the charity and its income stream preserved for the benefit of people suffering from cancer, cancer related illnesses or similar illnesses and their families. Due to the Commission's intervention, all the charity's overdue accounts were submitted.

The Interim Managers' intervention included safeguarding donations, making efficiency savings, securing gift aid payments and preserving a well established income stream for when new trustees were appointed.

Since the appointment of the new trustees to the date of the publication of the inquiry report in November 2012 the charity has made £3,555,384 of charitable donations to a number of children's hospices.

### Case study 2: Marie Curie Cancer Care

**Type of case:** operational compliance case.

**About the charity:** The charity's objects are to attack and allay cancer and other life threatening diseases.

**Why we got involved:** In December 2012 the Fundraising Standards Board (FRSB) published a report into the fundraising practices of the company 'TAG Campaigns' (TAG). TAG undertook fundraising initiatives under contract for Marie Curie (MC). The FRSB identified that TAG has breached charity law by failing to provide solicitation statements to potential donors before money was handed over. Companies raising funds to charities must provide such statements, which must clearly say how much the charity will receive. This allows donors to make informed decisions, knowing how much of their donation will reach the charity and the proportion that will be received by the professional fundraiser or commercial participator. Because of the potential reputational implications for the wider sector when a household name charity is associated with poor fundraising practices, we needed to look into this matter.

**The action we took:** The Commission met the charity to discuss the FRSB report and the charity's procedures surrounding sub-contracting with fundraising companies.

**What we found:** The charity explained that it had agreed a solicitation statement with the company, but the company failed to use it; this was in breach of its contract with the charity. We also found that the charity had required in its contract that the company train its staff properly, including in the use of solicitation statements. Overall we found the charity could not have done anything to avoid the issues; the company in question had failed to comply with its obligations under the contract.

**Outcome/impact:** We made recommendations for the charity to consider to further improve its fundraising practices. For example, we suggested that the charity should use its weekly contact sessions with agencies to reassure itself that solicitation statements were being used and all staff were trained in their use.

### Looking ahead

Fundraising is a critical activity for most charities and new, innovative campaigns can be the key to success. This is why, in future, we have proposed to publish information about whether charities are members of the FRSB on the online register of charities. Membership of FRSB demonstrates that charities have taken good fundraising practice seriously, and promotes public confidence.

## Part 3: Strategic risks facing charities

Non-compliance in charities takes various forms and charities can experience a wide range of problems (see Part 2). But some types of problems are particularly serious, both in terms of the damage they cause individual charities and their potential for undermining public trust and confidence in charities generally. We have identified the three problems or **strategic risks** that fall into this category. They are:

- fraud and financial crime
- safeguarding failures (including failures to protect vulnerable beneficiaries such as children) and
- the abuse of charity for terrorist purposes

Our strategies for dealing with these risks are available on our website. Here we explain why these problems represent strategic risks and what we have achieved this year against the strategies. It is important to note that we are not a prosecuting authority; when crimes are committed, it is for law enforcement agencies to pursue those responsible. Our aim is to help trustees prevent their charities being abused for these purposes and to intervene to stop abuse when it does occur. Our strategies further explain our role in dealing with each of these areas of abuse.

### Strategy for dealing with fraud, financial crime and financial abuse

Fraud and other financial crimes affect all parts of the UK economy and the charity sector is no exception. Our case work demonstrates that it is among the most common problems occurring in charities. The National Fraud Authority's 2013 Annual Fraud Indicator found that one in ten charities with an income over £100,000 say they detected fraud in the last financial year. Financial abuse comes in various forms. Sometimes, small scale theft and fraud can occur because of a lack of oversight and control by trustees. More serious cases would involve the misuse of funds resulting from mismanagement, negligence or recklessness. The most serious cases are likely to involve serious misconduct, misuse or deliberate abuse of funds for improper purposes or for criminal and fraudulent purposes. The case studies included in Part 2 provide examples of financial abuse that we see and explain how we respond to such problems when they occur. We work closely with other agencies, including HMRC, Action Fraud, the Serious Fraud Office, the former Serious and Organised Crime Agency (SOCA) and new National Crime Agency, various police forces, and the National Fraud Intelligence Bureau.

Preventing such abuse is also an important part of our strategy. We have continued to develop our partnership with the Voluntary Sector Fraud Group, which brings together a range of agencies and charities to promote awareness of fraud risks in the charity sector and to promote good practice, so that charities get better at preventing, detecting and reporting fraud and financial crime. In 2012-13, we issued alerts to charities about the risks when getting involved in arrangements to enter into tenancy agreements and take advantage of business rates relief, and about being aware of suspect donations. We also issued alerts to the public, advising them how to give safely during Ramadan and the Olympic games and on supporting humanitarian work in Syria.

## Counter-terrorism strategy

Terrorism is a serious and continuing threat at home and internationally. This threat affects the charity sector as much as any other type of organisation. The exact scale of abuse of charity for terrorism purposes - whether through the diversion of funds or charity links with terrorist activities - is difficult to identify and be precise about. However, it is known that the sector is vulnerable and that abuse can take a number of forms. The number of proven criminal cases of terrorist abuse involving charities is small when set against the number of charities. However, even once case of abuse is completely unacceptable, and it negatively impacts on public trust and confidence not just in that charity but the sector more widely.

This year we updated our counter-terrorism strategy, originally published in 2008, to take account of updates to the government's counter-terrorism strategy, CONTEST and, in particular, the formal review of the Prevent work stream. This aims to stop people becoming terrorists or supporting terrorism, and highlighted various sector, including the charity sector, as priority areas to work with. The review identified how the charity sector, along with others, plays an important part in supporting the Prevent strategy and our counter-terrorism strategy under the 'Awareness' strand encompasses and complements these aims.

Our strategy for tackling the risk of terrorist abuse in the charity sector remains unchanged and we continue to follow a four strand approach:

- **Awareness** - raising awareness in the sector to build on charities' existing safeguards
- **Oversight** - proactive monitoring of the sector, analysing trends and profiling risks and vulnerabilities
- **Co-operation** - strengthening partnerships with government regulators and law enforcement agencies both nationally and internationally
- **Intervention** - dealing effectively and robustly when abuse, or the risk of abuse, is apparent

There have also been changes to UK legislation relevant to counter-terrorism, including the Terrorist Asset Freezing etc Act 2010, the Terrorism Prevention and Investigations Measures Act 2011 and the Protection of Freedoms Act 2012. We updated both our counter-terrorism strategy and chapter 1 of our online toolkit to protect charities from harm '*Charities and Terrorism*' to reflect these legislative changes.

We published the new chapter 5 of our online toolkit '*Protecting charities from abuse for extremist purposes and managing the risks at events and in activities: guidance for trustees*'. This guidance is for charity trustees, staff and volunteers, to help them protect their charities from abuse by anyone encouraging or condoning extremism, terrorism or illegal activity. The guidance explains what trustees' legal duties are under charity law, including around managing risks so they protect their charity, act lawfully, and maintain public trust and confidence. It also aims to raise awareness amongst trustees of the legal requirements placed on them in relation to both criminal law and charity law so that they can properly discharge their duties in the interests of their charity.

We developed and ran a series of outreach events with universities and student's unions to promote our new guidance and to raise awareness of the issues involved in dealing with and managing extremism risks associated with speakers and publications. The events provided a useful opportunity for the sharing of experiences and discussion of approaches which was appreciated by participants. Analysis of feedback from the events at universities showed a consistently high level of positive reactions and impact. 78% of those attending described themselves as well prepared in how to apply charity law in the context of extremism after the event compared to 27% before the event. 82% of those attending self-assessed as being well or very well equipped to manage the issues of speakers, events and literature after the event compared to 48% before the event. This is important as one of the aims of the outreach work is to better equip trustees in charities to identify and act responsibly when issues come to light. The events were attended by over 200 participants representing 169 organisations.

We continue to build strong relationships with other regulators, law enforcement and other government agencies, and collaborate effectively together to act on identified concerns and disrupt those that seek to exploit charities for terrorist ends. Where we have evidence or serious suspicion of terrorist abuse involving charities we will investigate proactively and swiftly. We also deal with counter-terrorism related issues (as well as other regulatory issues) in our monitoring visits programme.

We submitted evidence to the Home Affairs Select Committee inquiry into counter-terrorism which focuses on the **Pursue** strand of CONTEST in October 2013.

## Safeguarding matters

Trustees have a duty of care towards their charity. This means they must take the necessary steps to safeguard any children and vulnerable adults their charity might work with. They must always act in their best interests and ensure they take all reasonable steps to prevent harm to them. We are not responsible for responding to incidents of actual abuse and we do not administer the legislation on safeguarding children and vulnerable adults. However, as the regulator of charities, we have a role in ensuring that trustees of charities that work with vulnerable beneficiaries comply with their duties as trustees, protect beneficiaries as best they can and minimize the risk of abuse. Over the course of the last year there have been a number of changes relating to the disclosure and barring regime affecting safeguarding issues. These include:

- the implementation of certain provisions of the Protection of Freedoms Act 2012 that took effect in early September 2012 and which introduced a range of key changes affecting criminal records checks and disclosure and barring arrangements
- the establishment on 1 December 2012 of the Disclosure and Barring Service ('DBS') - (a merger of the Criminal Records Bureau and the Independent Safeguarding Authority)

- the filtering by the DBS of certain old and minor cautions, convictions, reprimands and warnings from criminal record certificates
- the introduction by the DBS of a new Update Service so that for a small annual subscription an individual can have their DBS certificate kept up-to-date and take it with them from role to role, within the same workforce, where the same type and level of check is required

We have updated our online guidance and information to reflect these changes. This includes our [Strategy for dealing with safeguarding vulnerable groups including children issues in charities](#), which explains our role and approach in dealing with the high risk area of safeguarding issues in relation to charities and also sets out trustees' safeguarding responsibilities. We have also updated the information relating to the Protection of Freedoms Act 2012 within our [Serious Incident Reporting](#) guidance for trustees which sets out which incidents affecting a charity are serious and how to report these to us. Our website provides further information about the barring and disclosure regime and also signposts to external sources of information.

## Part 4: Accounts monitoring and review

### Our accounts monitoring policy

We have a legal duty to make publically available the accounts of charities that are required to submit their accounts to us (charities with annual incomes of over £25,000). We do this by publishing the accounts for these charities as an attachment to a charity's online register entry. We also aim to promote public trust and confidence in charities and ensure they are well run. Good quality financial reporting contributes to this aim and promotes accountability within the sector.

Each year, our operational accountancy team monitors a sample of charity accounts to determine how far charities are complying with best charity accounting practice as set out in our guidance and the Charities SoRP (Statement of Recommended Practice). In some cases the monitoring is connected to case work referrals and in other instances it is carried out as part of a specific exercise.

When our monitoring work identifies a serious problem, the team refers the case to one of the Operational teams or to the pre-investigation assessment team for further consideration.

This work acts as a deterrent to poor accounting practices and so raises overall standards of charity reporting.

More specifically, it will also provide the following:

- an understanding of the quality and content of sector financial reporting with a view to improving the quality of the data held on the register
- evidence about particular specific thematic or sector risks from the sector's financial reporting which can inform where Commission guidance is most needed and
- information about specific issues or aspects of charity financial reporting which can be used to inform development of SoRP and outreach work with stakeholders

### Our approach in 2012-13

This year, our monitoring work included the following:

- monitoring the accuracy of data held on the Register by checking Annual Return Part B submissions against charity accounts where potential errors have been identified. We contacted charities to advise of material errors in the return and accounts where issues of non compliance were identified
- checking the compliance of small charities (with incomes under £25k, including under £10k) with the requirement to prepare accounts and make them available on request. An automated email request was sent to a random sample of 400 charities in February 2013 asking them to submit accounts to us. Where charities fail to contact us or material issues are identified with the accounts, we will contact them and signpost the trustees to our online guidance. The accounts collected are passed to NCVO as part of our data sharing agreement with them
- carrying out accounts scrutiny to support case work

- carrying out three research exercises to give insights into particular risk areas. Areas of research in 2012-13 were:
  - reserves and reserve policies
  - late filing charities and
  - charities with accounts characteristics similar to those of The Cup Trust

In total, we reviewed 2,770 sets of accounts which represent a sample of 1.7%<sup>9</sup> of charities on the register and 6.5% of total incoming resource. We have exceeded our target of 1,500 for the period.

## Results of account monitoring and review

As a result of our accounts scrutiny work this year we have:

- gained insights that have supported our case work
- cause to believe that charities under £25,000 are not fully complying with statutory reporting requirements and awareness needs to be raised in this area
- encouraged charities to do more to prepare and report their policies on reserves
- learned that many charities that file late with the Commission may have prepared their accounts on time so this points to there being other reasons for late compliance
- while we can never have total assurance, we are confident that, based on the accounts profile work we have conducted, tax avoidance schemes such as that practiced by The Cup Trust are rare. We have no reason to suspect many other charities are operating in a similar fashion

## Summary of monitoring and reviews 2012-13

	Note	Number of accounts	Income
Accounts requests 0k to 25k	1	254	3,393,617
Review of accounts identified from Part B errors	2	18	34,320,066
Random sample accounts review	3	70	38,441,310
Other (includes accounts scrutiny for case work and CRM referrals)	4	901	2,012,038,201
Reserves research	5	286	305,869,795
Late filers research	6	400	194,734,437
Review for tax avoidance	7	157	1,321,298,012
Gateway validation checks	8	684	not collected
<b>Total</b>		<b>2,770</b>	<b>3,910,095,438</b>

<sup>9</sup> Based on the number of charities on the register as at 31 March 2013: 163,083 with a total incoming resource of £59.9bn.

### **Small charities review**

The purpose of this review was to check the compliance of small charities with the requirement to prepare accounts and make them available on request and review of the general quality of accounts submitted. In 2009 the threshold for accounts submission was raised to £25,000 and so we wanted to assure ourselves that accounts were being prepared to a reasonable standard. We requested accounts from 400 charities with income between £0 and £25,000 and received 254 (64%). A review of these accounts showed that 177 (69%) were not prepared to an acceptable standard, the most prevalent issue being a missing or incomplete Trustees' Annual Report. These will be contacted by email signposting them to the appropriate guidance on our website.

### **Annual Return Part B**

The purpose of this work was to monitor the financial data submitted in Part B of the Annual Return by a number of charities with incomes over £500,000 (18 sets of accounts were reviewed). No serious issues giving rise to regulatory concerns were identified. We did identify a number of SoRP errors and contacted the relevant charities to provide regulatory guidance.

### **Random sample review**

We reviewed 70 accounts from a random sample of charities taken from the register; this focused on general quality and compliance with SoRP. 74% were found to be prepared to an acceptable standard. No regulatory issues requiring further investigation were identified but 17 (28%) were found to have SoRP errors and will be contacted to signpost to them to appropriate guidance on our website.

### **Individual scrutiny**

We carried out detailed individual scrutiny of 770 accounts. This work was generated from a variety of internal and external sources including emails from charities and their advisors referred from First Contact and referrals from case workers from all areas in the Commission. This accountancy input was critical to much of the case work, see many of the case studies above. As part of this work, we made two referrals to professional accountancy bodies to highlight serious concerns about the standard of accountancy or audit work.

### **Reserves review**

At the request of our policy division, we reviewed a sample of 286 charity accounts looking specifically at reserves and the quality of reserves reporting in the Trustees' Annual Report. It was found that there has been significant improvement in this area since the last research carried out by the Commission in 2006 but that charities still have some way to go before being fully compliant. In particular smaller charities are less likely to have a policy in spite of the evidence showing they hold proportionately more reserves than larger charities. Evidence also suggests there is a high level of unexplained reserves in the sector and charities may simply be unaware of their statutory responsibility to report in this regard. The findings and recommendations for trustees and their advisors were published both within the Commission and in the wider sector press.

## Late filing review

We reviewed a sample of 400 accounts of charities that missed their filing deadline. The key findings were that some types of charities are more likely to file late than others, particularly faith organisations and charities working with children, such as playgroups. Over a third appeared to be experiencing financial difficulty and as expected the general quality of a high proportion of accounts were poor. More surprisingly however, many charities (40% of smaller charities and 31% of larger) had prepared and signed off their accounts in advance of our deadline. Furthermore, 39% of those charities identified in the sample as being companies had filed on time with Companies House but still failed to comply with the Commission's deadline. These findings have been disseminated to the charity sector, including through articles, speeches and presentations.

## Charities whose accounts shared certain characteristics with the accounts of The Cup Trust

Following concerns raised about the case of The Cup Trust, we searched the Register for charities whose accounts had characteristics similar to those present in The Cup Trust's accounts - namely low charitable expenditure as a proportion of total income, a high cost of generating voluntary income as a percentage of the voluntary income generated; a corporate trustee registered outside the UK, and an income of over £500,000. We reviewed the accounts of 190 of these charities to see if there were any indications the charity may be involved in similar activities. In the process, we identified 17 charities to look into further and as a result opened 13 cases, of which three have now been closed.

## Quality sample

The Commission has put in place electronic checks to identify the likelihood that a document submitted by a charity is a set of accounts. The number of documents flagged through our gateway validation checks of accounts submitted online and by email/paper was 684 for the year. Of these, 60 were identified as not being accounts and were replaced. This work was carried out by a non-accountant in First Contact and the review won't have considered general quality or content.

## Looking ahead

We have stepped up our accounts monitoring and review work for the year 2013-14. We have both increased the number of accounts we are reviewing (to over 6% of the register and over 88% of charities' total income) and are focusing the themes of the review more closely on areas of regulatory risk. For example, we will look at charities with pension deficits and at high reported governance costs to examine why some charities report proportionately higher governance costs than others. We will continue to check the compliance of charities with incomes under £25,000 with the requirement to prepare accounts and will increase the size of the wholly random sample.

# Part 5: Statistical analysis

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## Annex 1: Investigations and Enforcement performance headlines and impacts 2012-13

Performance headlines	2013 <small>As at 30/09/13</small>	2012-13	2011-12	2010-11	2009-10	2008-09	2007-08
Number of new assessment cases opened	71	87 <sup>10</sup>	1252	1845	2434	1504	988
Number of assessment cases closed	63	84 <sup>11</sup>	1374	1912	2615	848	799
Number of new investigations opened <sup>12</sup>	26 <sup>13</sup>	15	54	144	180	168	170
Total number of investigations closed	9 <sup>14</sup>	29	85	167	121	188	200
Number of statutory inquiries opened	26	15	12	3	9	19	19
Number of statutory inquiries closed	5	5	9	9	15	21	29
Average duration of closed statutory inquiries (days)	76 <sup>15</sup>	261	715	519	395	358	414
Number of statutory inquiries closed which had significant involvement from other regulators	0	1	0	0 <sup>16</sup>	2	5	5
Average duration of closed statutory inquiries involving other regulators (days)	N/A	353	N/A	N/A	703	457	351
Number of statutory inquiry reports published	0	6	43 <sup>17</sup>	13	15	23	42
Percentage of investigation reports published within 3 month target	N/A	29%	95%	81%	80%	74%	31%
Number of regulatory case reports	0	1	12 <sup>18</sup>	8	5	4	-
Number of new regulatory compliance cases opened	N/A	N/A	42	141	171	149	153
Number of regulatory compliance cases closed	4	22 <sup>19</sup>	76 <sup>20</sup>	156	106	167	171
Average duration of closed regulatory compliance cases (days)	474	537	282	172	162	158	149
Number of active investigations at year end	78 <sup>21</sup>	61	64	119	140	77	104
Number of new monitoring cases opened	30	42 <sup>22</sup>	72	276	306	211	-
Number of monitoring cases closed	26	71	215	297	141	81	-
Number of monitoring visits	29	25	12	21	20	14	-
Number of accounts scrutinies	649	770	203	277	236	320	-

10 The 87 assessment cases opened in 2012-13 (under the business model implemented after 1 December 2011) are only the pre-investigation assessment cases; the other cases that would have been previously dealt with in Compliance Assessment, are now dealt with in the First Contact and Operations teams and are not included in this figure.

11 See footnote 10 - the 84 cases closed in 2012-13 do not include cases that would have been previously dealt with in Compliance Assessment, which are now dealt with in the First Contact and Operations teams.

12 Prior to 1 December 2011 under the previous business model, there were two types of investigation - statutory inquiries and regulatory compliance case investigations; these figures include both types of investigation. Operational compliance case figures are not included in this table - in 2012-13, we opened 1,513 and completed 1,232 compliance cases in Operations.

13 12 of these inquiries formed part of the double defaulter class inquiry.

14 The 9 investigations closed during this period include 5 inquiries (of which 4 related to the double defaulter class inquiry) and a further 4 regulatory compliance investigation cases.

15 The average duration is the average of all 5 inquiries closed during this period.

Performance impacts <sup>23</sup>	2012-13	2011-12	2010-11	2009-10	2008-09	2007-08
Charity assets directly protected in our investigation work	£800k	£5m	£8m	£29m	£47m	£16m
Charity income directly overseen through either statutory inquiry or regulatory compliance cases	£12m	£255m	£900m	£521m	£461m	£106m
Number of cases where Commission action protected vulnerable beneficiaries	2	6	49	20	30	9
Number of cases protecting the reputation of individual charities	5	20	71	50	70	38
Number of cases protecting the reputation of the sector	9	27	49	35	41	27
Number of cases dealing with issues arising from conflicts of interest	6	6	20	19	21	26
Number of cases where advice and guidance provided to ensure the charity's governance improved	7	26	59	43	47	61
Number of cases involving concerns about fundraisers	5	5	11	8	11	9
Number of cases where an internal dispute was resolved and the charity is properly functioning again	1 <sup>24</sup>	7	10	11	21	11
Charity no longer operating or applying funds outside its trusts <sup>25</sup>	7	17	8	-	-	-
Useful and effective regulatory advice and guidance given	11	49	91	-	-	-
Charity is now complying with the legal requirements	0	1	2	-	-	-
Greater transparency in the charity's operations and published reports and accounts	0	1	3	-	-	-
Moribund charity is now functioning	<b>0</b>	0	0	-	-	-
Charity's relationships with third parties is now properly managed in the best interests of the charity	<b>1</b>	1	1	-	-	-
Direct charitable expenditure has increased or targets are in place to increase this expenditure	<b>0</b>	0	0	-	-	-

These impact measures relate to IAE investigation cases closed during the year (and do not include any Operations cases).

16 There were also 2 regulatory compliance cases closed during 2010-11 where there were delays because of the involvement of other regulators.

17 7 reports for statutory inquiries were published in 2011-12 and these reports covered 43 inquiries, as some reports covered more than one inquiry and more than one charity.

18 6 reports for RCRs were published in 2011-12. In total, these reports covered 12 regulatory compliance cases, as some reports covered more than one case and more than one charity.

19 In addition, there were two other regulatory compliance case investigations closed which had significant involvement from other regulators, making 24 in total.

20 In addition, there were two regulatory compliance cases closed which had significant involvement from other regulators, making 158 in total.

21 8 of these relate to inquiries that form part of the double defaulter class inquiry.

22 The statistics for monitoring cases for 2012 onwards these figures only include the monitoring cases conducted in IAE; not any compliance case follow ups and monitoring in the Operations teams.

23 Impacts, incomes and protections in this table relate solely to investigations concluded in the relevant year.

24 Disputes cases from 1 December 2011 would normally be dealt with as compliance cases by the Operations teams.

25 This indicator and the following six indicators were first introduced in 2010-11.

## Performance measures

We report on the performance of our investigations and related regulatory work with performance measures divided into three areas:

- detection
- investigation, sanction and redress
- prevention and deterrence

### Detection

	Target	Achievement
Average duration of pre-investigation assessments - (target: average of 30 working days)	30 working days	32 working days
Carry out a minimum number of compliance visits annually, to charities which are subject to monitoring and identified following a risk assessment	18 visits	25 visits
Report on the number of exchanges of information with other regulators and agencies, made via the Commission's statutory gateway	No target	1,539 exchanges
Respond to requests for information via the statutory gateway within 15 working days, or three working days for issues relating to strategic priorities <sup>26</sup>	90%	86%

### Investigation, sanction and redress

	Target	Achievement
Report on the number of powers used within Investigations and Enforcement case work	No target	75 powers <sup>27</sup>
<i>Ensure 90% of all investigations result in at least one of the specified beneficial impacts (see above table) which protect charities from mismanagement, misconduct or abuse</i>	90%	92% <sup>28</sup>

### Prevention and deterrence

	Target	Achievement
Publish 90% of reports on the results of investigations within three months of the end of the substantive investigation process	90%	29% <sup>29</sup>
Publish an annual report on the 'Themes and Lessons from the Charity Commission's Compliance Work' which includes the duration of each statutory inquiry, the impact of investigations, the use of sanctions (including legal powers of remedy and protection), and the operation of our investigatory work	Publish report before end of third quarter of financial year	Published 24 October 2012

<sup>26</sup> The Commission's three strategic priorities are: fraud, financial crime and financial abuse; safeguarding; and counter-terrorism.

<sup>27</sup> This figure refers solely to powers used within Investigations and Enforcement and does not include any that were used within Operational compliance cases. Please see Annex 5 for further information.

<sup>28</sup> In 2012-13, we trialled measuring impact measures for pre investigation assessment cases and monitoring cases and this was the first full year of doing so. The results for pre-investigation and assessment was 82% and for IAE monitoring cases 75%, making an overall average when added to investigation impacts of 82%.

<sup>29</sup> 7 reports were published, of which 2 could be published within the 3 month period. Reasons for publication beyond that date included the need to extend the time given to trustees to comment on factual accuracy and carefully consider their replies and due to some trustees being resident overseas.

## Annex 2: Published statutory inquiry reports and regulatory case reports 2012-13

This table highlights key issues of concern in these investigation cases; notes the use of Charity Commission powers; and records the overall duration of investigations.

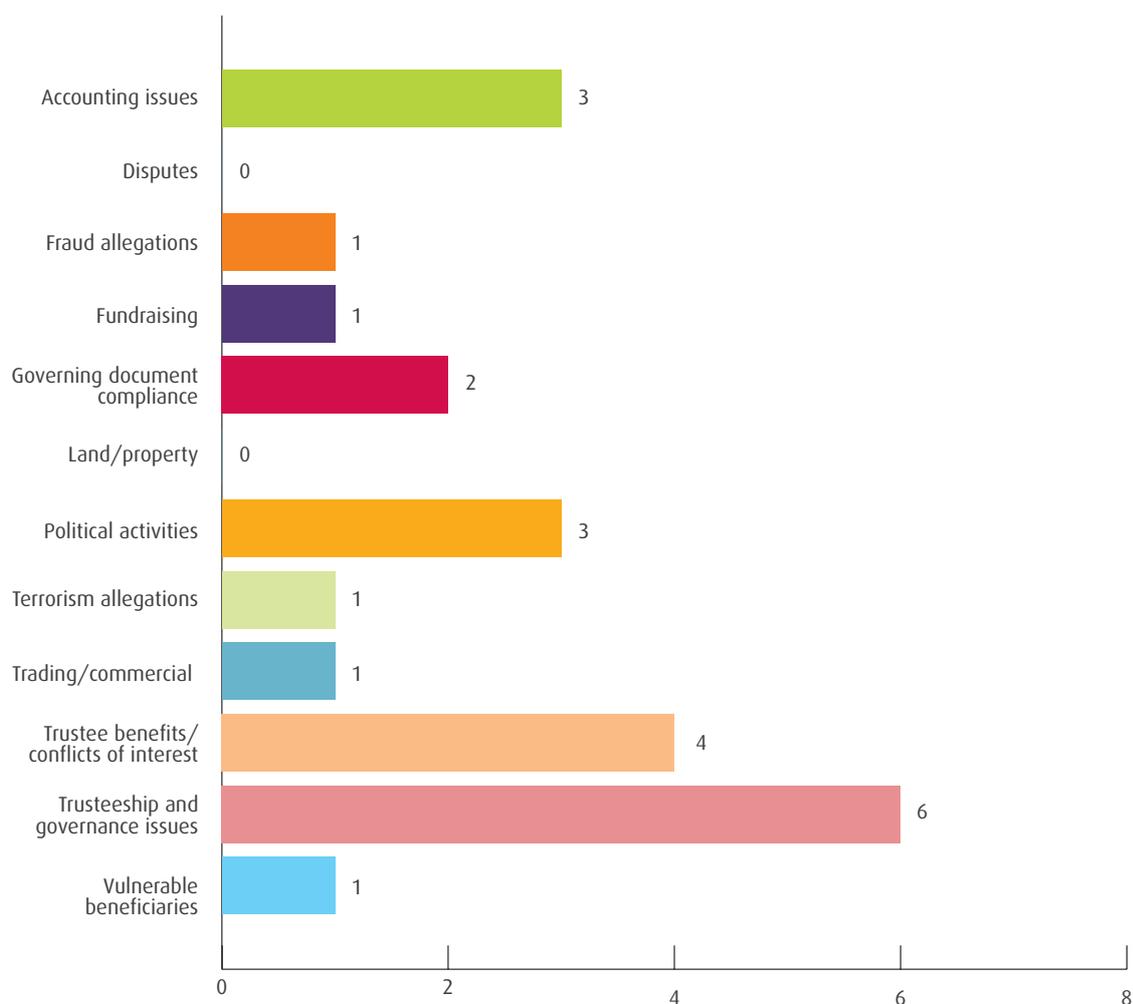
CHARITY	ISSUES <sup>30</sup>											STATUTORY POWERS							Statutory inquiry durations <sup>31</sup>		
	Accounting issues	Disputes	Fraud allegations	Fundraising	Governing document compliance	Land/property	Political activities	Terrorism allegations	Trading/commercial	Trustee benefits/conflicts of interest	Trusteeship and governance issues	Vulnerable beneficiaries	Orders/Directions for information/evidence	Suspend trustees, officers etc	Remove trustees, officers etc	Freeze bank accounts	Interim manager	Direct trustees to Act	Other Orders and Schemes	No powers used	Months
National Bullying Helpline (inquiry report)					✓	✓				✓	✓							✓	✓		19.4 months
Cancer Care Foundation (inquiry report)	✓			✓					✓	✓	✓	✓						✓		✓	31.5 months
Interpal (supplementary inquiry report)							✓	✓			✓								✓		4 months
Crescent Relief London (supplementary inquiry report)											✓							✓			4.3 months
AA Hamilton College (inquiry report)	✓				✓					✓	✓									✓	7.6 months
Astonbrook Housing Association (inquiry report)	✓		✓							✓	✓	✓	✓		✓	✓			✓		48.1 months
Atlantic Bridge Education and Research Scheme (regulatory case report)						✓														✓	8.5 months
TOTALS	3	0	1	1	2	0	3	1	1	4	6	1	2	0	0	1	2	3	3	2	

<sup>30</sup> The issues noted within this chart detail the concerns that the investigations examined, it is not necessarily the case that these concerns were upheld.

<sup>31</sup> The case duration shown in this column is the **total** period from the opening of a statutory inquiry to the date on which the substantive inquiry was closed, disregarding any delay which may have been related to the work of other regulators or legal proceedings or other external factors.

## Annex 2.1: Published statutory inquiry reports and regulatory case reports - the type and frequency of issues of concern

Note that most statutory inquiries involve more than one issue.<sup>32</sup>

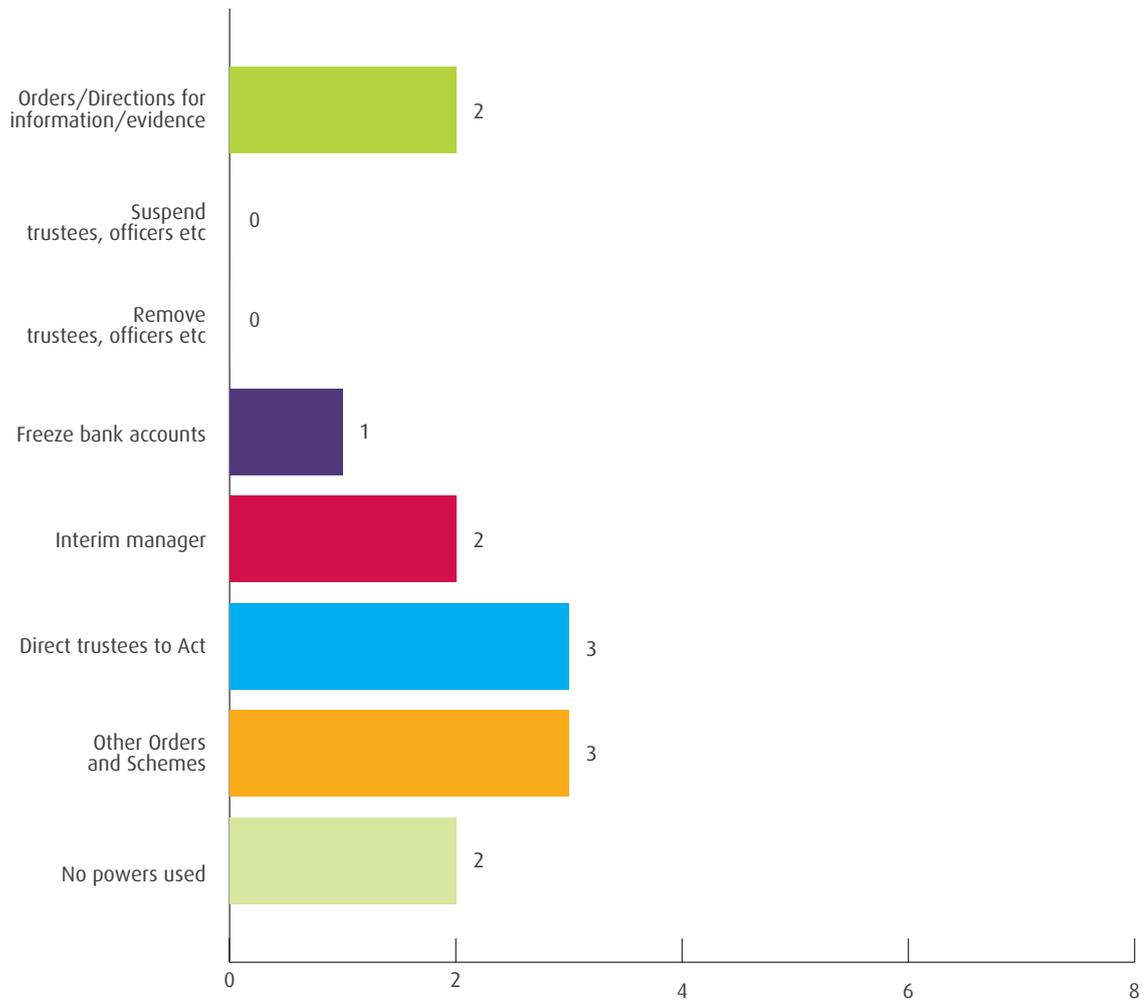


Baseline: 7 reports

<sup>32</sup> The heading 'Trusteeship and Governance issues' includes issues such as: suitability, eligibility, management controls, financial controls, non co-operation of trustees, and dominant trustee.

## Annex 2.2: Published statutory inquiry reports and regulatory case reports - the frequency of use of different Charity Commission powers

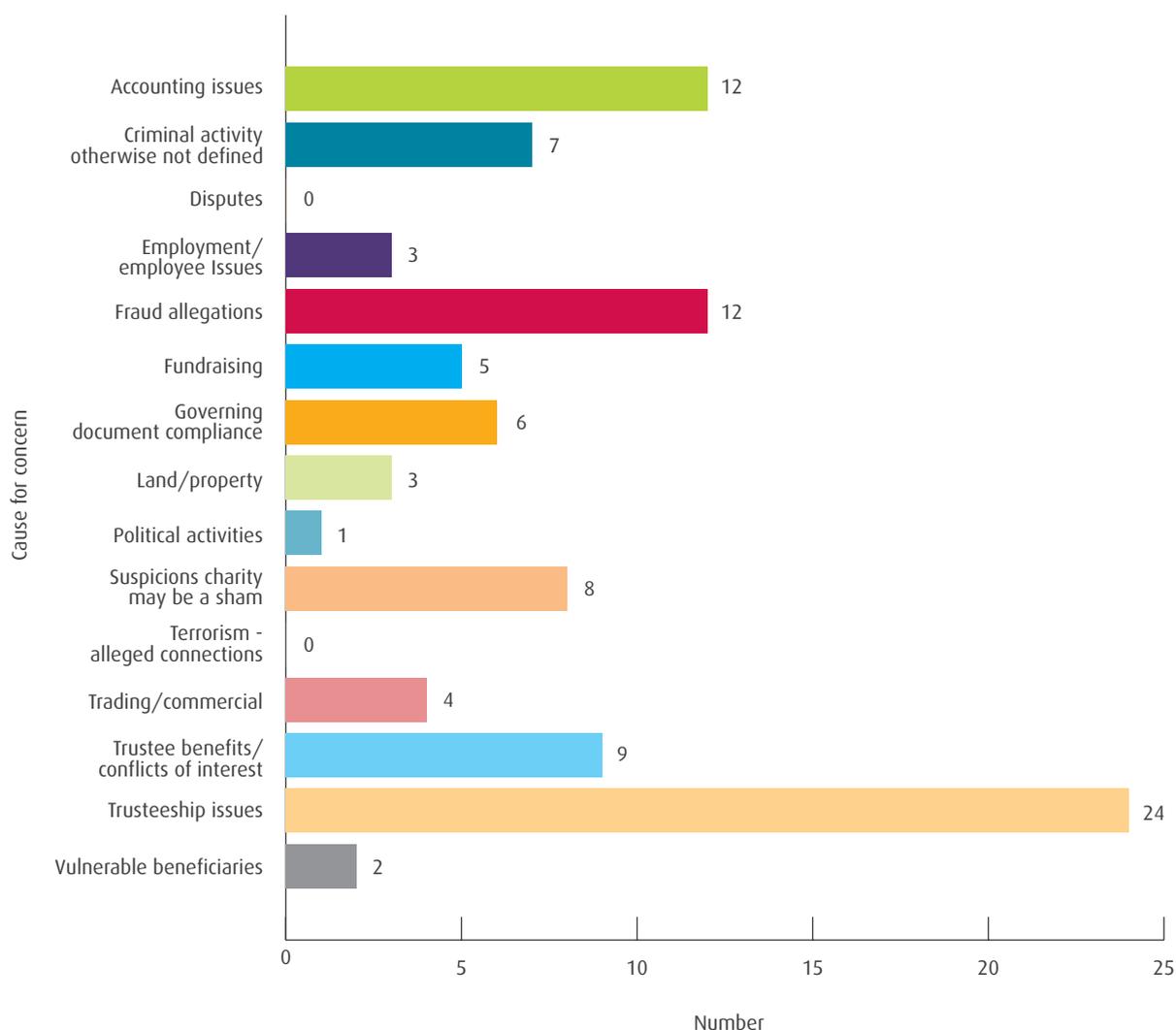
Note that more than one power is used in most cases.



Baseline: 7 reports

## Annex 3: Investigations completed 2012-13 - the type and frequency of issues of concern

Note that most cases involve more than one issue.<sup>33</sup>

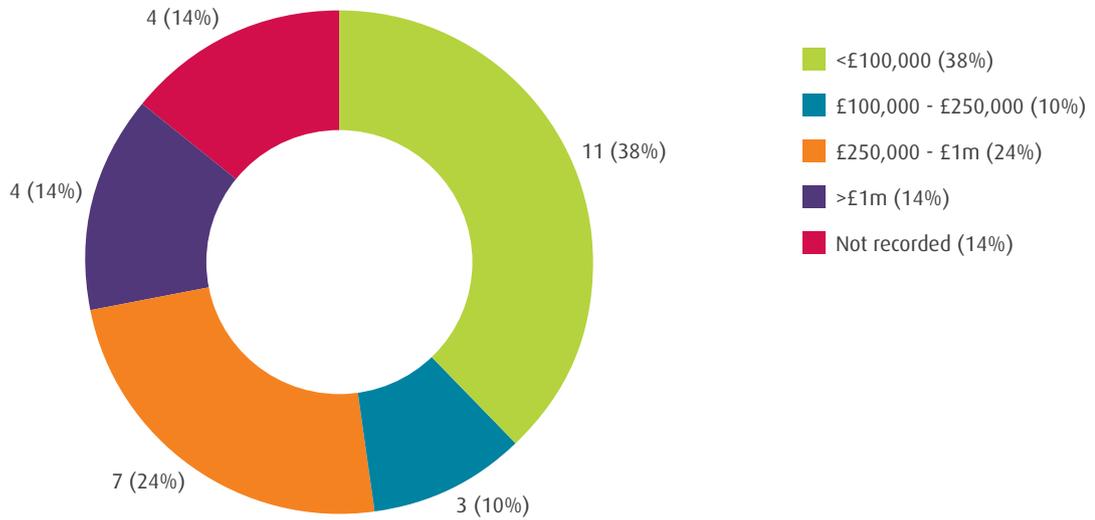


Baseline: 29 investigations

<sup>33</sup> The heading 'Trusteeship and Governance issues' includes issues such as: suitability, eligibility, management controls, financial controls, non co-operation of trustees, and dominant trustee.

## Annex 4: Investigations 2012-13 - the number of charities by income band<sup>34</sup>

### Cases by income of charity



For information about the income profile of the charity sector at large, please see the [Commission's website](#).

<sup>34</sup> Income may not be recorded for a variety of reasons, such as the charity is non-compliant, or is newly registered and so has not been required to submit accounts.

## Annex 5: Use of Commission powers in compliance cases 2012-13

Statutory inquiry and (regulatory) compliance cases - breakdown of the number of <i>individual</i> Orders or Directions under the Charities Act 2011 (or equivalent in 2003 Act)	2013 (at end of 09/13)	2012-13 <sup>35</sup>	2011-12	2010-11	2009-10	2008-09	2007-08
S47 (2) - (a) Furnish information/ answers	10	2	2	0	11	9	40
S47 (2) - (b) Furnish copies/documents	9	3	0	2	4	3	25
S47 (2) - (c) Attend and give evidence	6	0	0	0	11	7	5
S52 (1) - (a) Furnish information	25	195	23 <sup>36</sup>	18	94	75	50
S52 (1) - (b) Furnish copies/documents	128		82 <sup>37</sup>	140	288	543	246
S76(3) - (a) Suspend trustee, officer, etc	4	0	1	1	1	1	7
S76(3) - (b) Appoint additional trustee	0	0	0	0	1	1	3
S76(3) - (c) Vest property in the Official Custodian for Charities	0	0	1	0	22	1	0
S76(3) - (d) Not to part with property	8	3	2	4	12	11	18
S76(3) - (e) Not to make payment	0	0	0	1	0	0	0
S76(3) - (f) Restrict transactions	1	0	2	5	7	0	10
S76(3) - (g) Appoint Interim Managers	2	0	0	1	2	2	2
Issue Notice of Intention to Remove Trustee	3	N/A <sup>38</sup>	N/A	N/A	N/A	N/A	N/A
S79(2) - (a) Remove trustee, officer, etc	0	0	0	0	0	1	6
S79(2) - (b) Establish a scheme	0	0	0	0	0	1	0
S80 Appoint trustee(s)	0	0	11	3	11	11	9
S84 Specific Direction to protect charity	12	0	8	4	7	4	0
S105 Regulatory consent	not available at 6 months	6	24	8	9	9	8
Others (including Discharge Orders)	4	7	42	21	34	28	61
<b>TOTAL</b> Orders/Directions issued in period	<b>212<sup>39</sup></b>	<b>216</b>	<b>188</b>	<b>208</b>	<b>514</b>	<b>707</b>	<b>490</b>
<b>Other measures</b>							
Witness statements	14						
Formal referrals to agency	5						
Meetings on cases	76+						
Action plans made	22						

35 For the years 2011-12 and 2012-13 and 2013 to date, the statistics include occasions when compliance powers (eg information gathering powers) have been used by the cases in Operations teams as well as IAE.

36 Including 2 information gathering powers that were used in cases in the Operations teams.

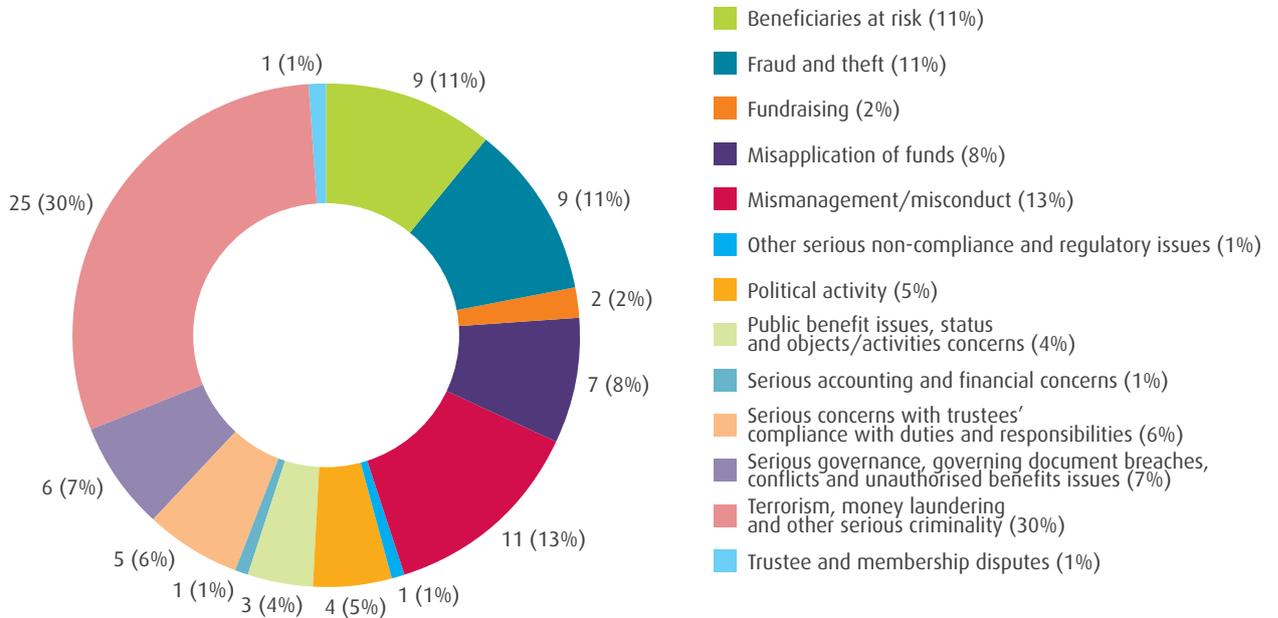
37 Including 8 information gathering powers that were used in cases in the Operations teams.

38 Statistical records not monitored until 1 April 2013.

39 The only powers used during Operational compliance cases in 2012-13 and 2013 to date included in this total are Section 52 Orders.

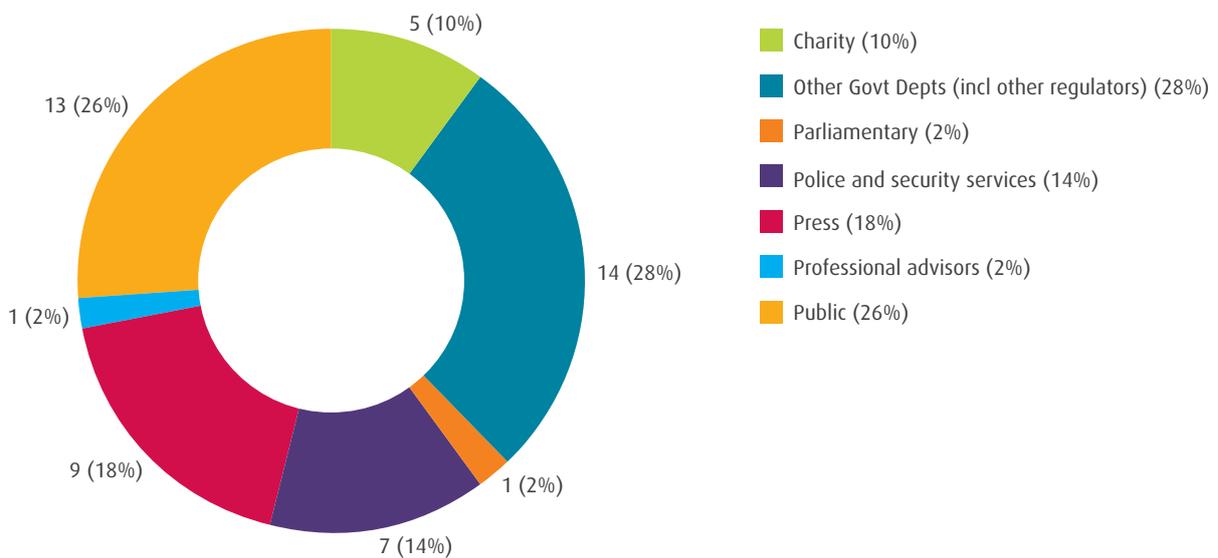
## Annex 6: Analysis of all completed assessment cases 2012-13

### Annex 6.1: Causes of serious concern dealt with by our Compliance function



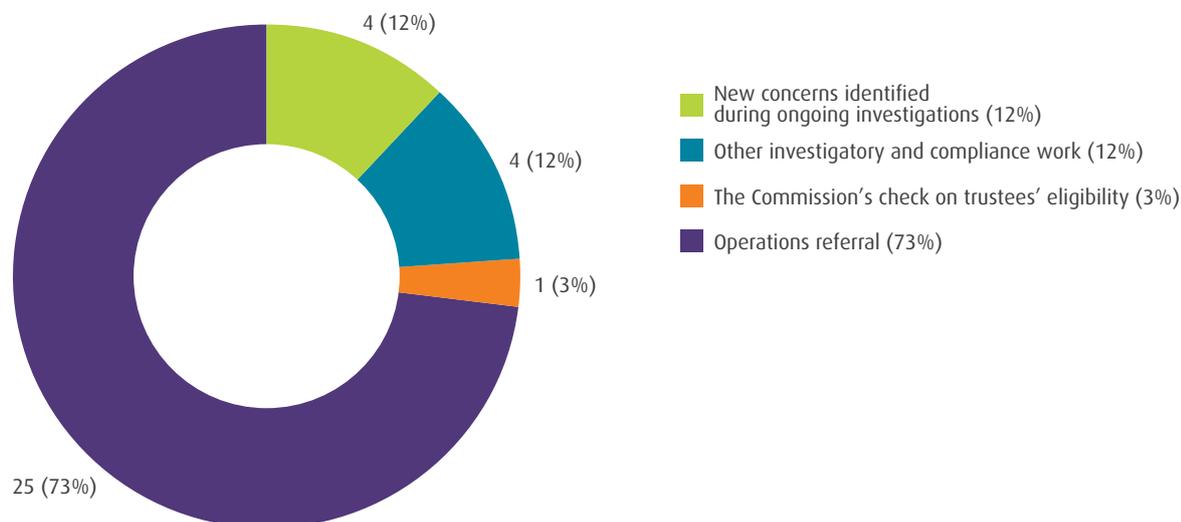
Baseline: 84 completed pre-investigation assessment cases.

### Annex 6.2: Sources of serious concern - external sources



Baseline: 50 closed pre-investigation assessment cases

## Annex 6.3: Sources of concern - identified proactively by the Commission

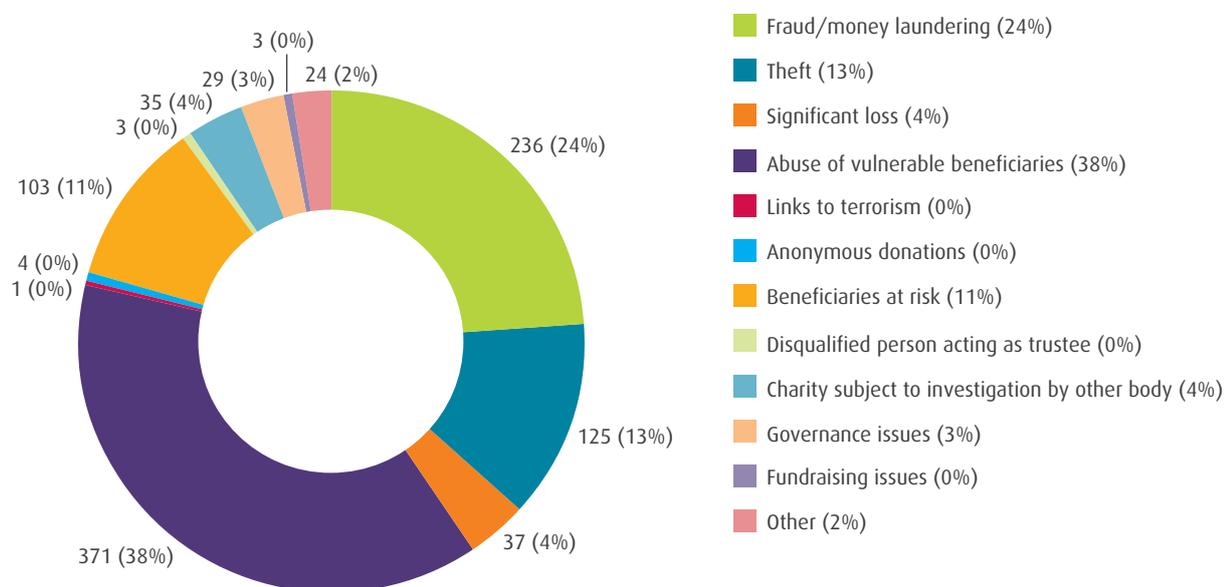


Baseline: 34 closed pre-investigation assessment cases

## Annex 7: Reported concerns about charities 2012-13

### Annex 7.1: Reports of serious incidents

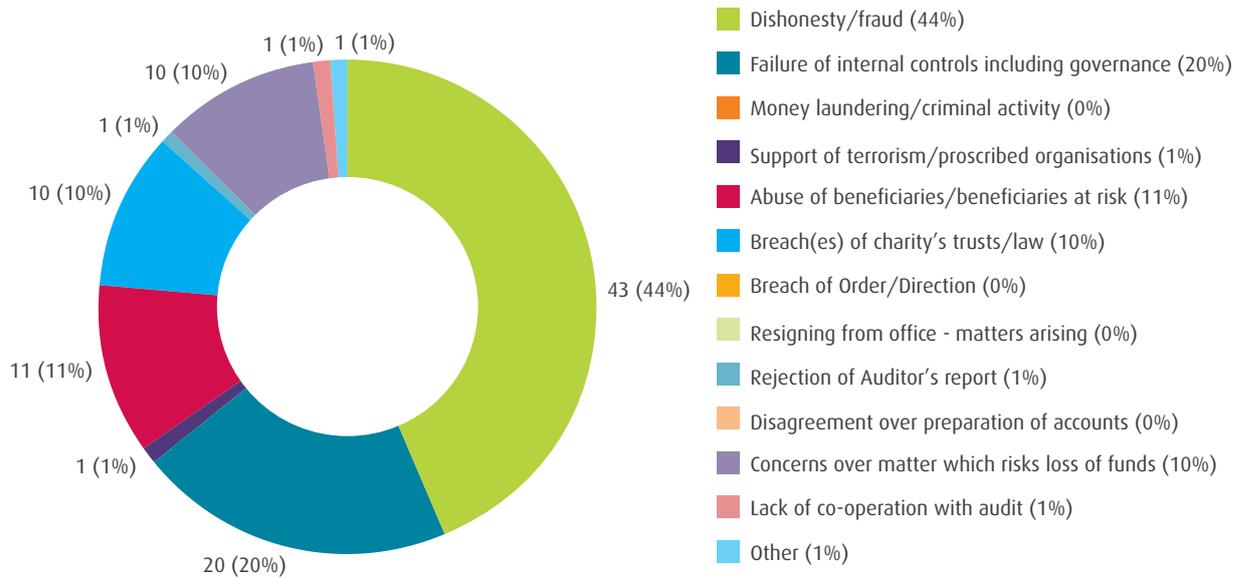
The following chart shows the principal issue only.



Baseline: 971

## Annex 7.2: Whistleblowing reports

There were 98 whistleblowing reports received by the Commission in the year (121 last year), the majority of which were dealt with by the Assessment Unit. The key issues in these reports were as follows, showing the principal issue only.



Baseline: 98 reports



