

When an employment issue is a ‘serious incident’

Charities are required to report all ‘serious incidents’ to the Charity Commission. The definition of ‘serious incident’ is far wider than you might think, and includes employment issues, such as dismissal or potential fraud.



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Thea Longley and Melvyna Mumunie examine the implications of Charity Commission reporting for charities dealing with employment issues

If your charity is dealing with a dismissal, fraud, or investigations by regulatory authorities you need to consider if this is a serious incident that should be reported to the Charity Commission. The commission’s definition of a serious incident is broader than you might imagine. The commission has stated that there are ‘too many instances where serious incidents that have occurred in charities have not been reported’.

Although there is no legislative requirement to report a serious incident, there is a requirement to submit an annual return to the commission, in which they ask if the charity has had any serious incidents in the previous year. They also want to encourage charities as a matter of best practice to submit serious incident reports throughout the year. Charities and their trustees need to be proactive in recognising and reporting incidents involving employees, when required.

What is a serious incident?

A serious incident is an incident that results in, or risks:

- Significant loss of a charity’s money or assets;
- Damage to a charity’s property; or
- Harm to a charity’s work, beneficiaries or reputation.

The definition is a broad one and many incidents will be caught by it.

Why does the commission want to know?

The commission’s primary concerns are:

- Whether trustees are fulfilling their legal duties and responsibilities;
- The protection of charities; and
- Public trust and confidence in charities.

Should you report and when?

The commission expects a report to be filed as soon as is reasonably possible; however, as mentioned

above, the obligation is in fact an annual one. There is an understanding that trustees will need time to gather information to establish the facts following an incident. The board can err on the side of caution and inform the commission that it is looking into a matter that may or may not be serious and that it will follow up with a report if necessary.

However, do be aware that not every dismissal or staffing problem will be a serious incident that you have to report. BWB can help advise on the particular circumstances. Always remember that reports could be made public as they are subject to Freedom of Information Act requests, so you need to be careful not to make defamatory comments, for example. Our advice is that if you are reporting a serious incident it is helpful to include brief details of how the charity has dealt with the incident in an appropriate way and what measures it has put in place to prevent similar risks or incidents in the future.

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Who is responsible?

The trustees have ultimate responsibility for reporting incidents. However, they will often rely on a charity’s HR and management teams to inform them of any possible serious incidents relating to employees of the charity.

An example: London Philharmonic Orchestra

The commission published a report in January 2011 on its investigation into the London Philharmonic Orchestra. The charity failed to submit a serious incident report on a substantial fraud by its former finance director. The charity had taken immediate action, received professional advice, and managed reputational risks. However, the commission concluded that, while it was satisfied that the trustees had fulfilled their legal duties and responsibilities, it ‘*would have been good practice to inform the commission of the fraud as soon as it was discovered by making a serious incident report*’.

Find out more

The Charity Commission is available at www.gov.uk/guidance/how-to-report-a-serious-incident-in-your-charity