



Charity Commission's

Strategy for dealing with safeguarding vulnerable groups including children issues in charities

This strategy document describes the Charity Commission's role and approach in dealing with safeguarding issues in relation to charities.

It explains how the commission:

- works with the sector and other agencies to prevent safeguarding concerns arising in the first place
- responds to allegations or reports of abuse of children and vulnerable adults within a charity
- deals with concerns about someone who is currently acting as a charity trustee, employee, volunteer or contractor and their suitability to hold that position

Contents

1. Introduction	2
2. Trustees have primary responsibility for safeguarding in their charity	5
3. The commission's strategy – the four strand approach	6
4. The commission's approach to dealing with regulatory concerns about safeguarding vulnerable groups and children in charities	10
5. The purpose and scope of the commission's regulatory engagement	11
6. Confidential or sensitive information	12

1. Introduction

What is the Charity Commission?

The Charity Commission is established by law as the independent regulator and registrar for charities in England and Wales. Its aim is to provide the best possible regulation of charities in England and Wales in order to increase the effectiveness of charities and public trust and confidence in them.

The commission's statutory objectives include the promotion of compliance by charity trustees with their legal obligations in exercising control and management of the administration of their charities, and to increase public trust and confidence in charities. Since the Charities Act 2006, the commission has a specific statutory function to identify, as well as investigate, apparent misconduct or mismanagement in the administration of charities.

The commission is a non-ministerial government department that operates independently. Further information on its role, responsibilities and how it goes about its work is available on the [GOV.UK](https://www.gov.uk) website.

What does the commission mean by 'vulnerable' and 'safeguarding'?

A significant number of charities come into contact, work with or provide activities for vulnerable beneficiaries. For the purpose of this document, by 'vulnerable' the commission is referring to children and young people under 18 years of age or to adults who are in receipt of a regulated activity¹.

The commission defines safeguarding and promoting the welfare of vulnerable groups and children as:

- protecting from maltreatment
- preventing impairment of health or development
- for children - ensuring children are growing up in circumstances consistent with the provision of safe and effective care

Protection is a part of safeguarding and promoting welfare. It refers to the activity that is undertaken to protect specific groups or children who are suffering, or are likely to suffer, significant harm. Effective protection is essential as part of wider work to safeguard and promote the welfare of vulnerable groups and children. However, all charities should aim to proactively safeguard and promote the welfare of their beneficiaries so that the need for action to protect them from harm is reduced.

1 The definition of Regulated Activity for adults defines the activities provided to any adult as those which, if any adult requires them, will mean that the adult will be considered vulnerable at that particular time. These activities are: the provision of healthcare, personal care, and/ or social work; assistance with general household matters and/ or in the conduct of the adult's own affairs; and/or an adult who is conveyed to, from, or between places, where they receive healthcare, relevant personal care or social work because of their age, illness or disability. Please see [Department of Health](#) factual note on Regulated activity (adults) available on their website.

What is the commission's regulatory role?

The commission is not responsible for safeguarding matters or dealing with incidents of actual abuse and it does not administer the legislation on safeguarding children and vulnerable adults. The police, local authorities and the Disclosure and Barring Service ('DBS') - a merger of the former Independent Safeguarding Authority and Criminal Records Bureau ('CRB')² - have particular statutory roles. In addition, some charities, such as those providing educational activities, may be regulated by other agencies and regulators for certain activities and which take the lead on the safeguarding duties and responsibilities for those charities. However, there are charities which provide some activities involving vulnerable beneficiaries and which are not otherwise regulated.

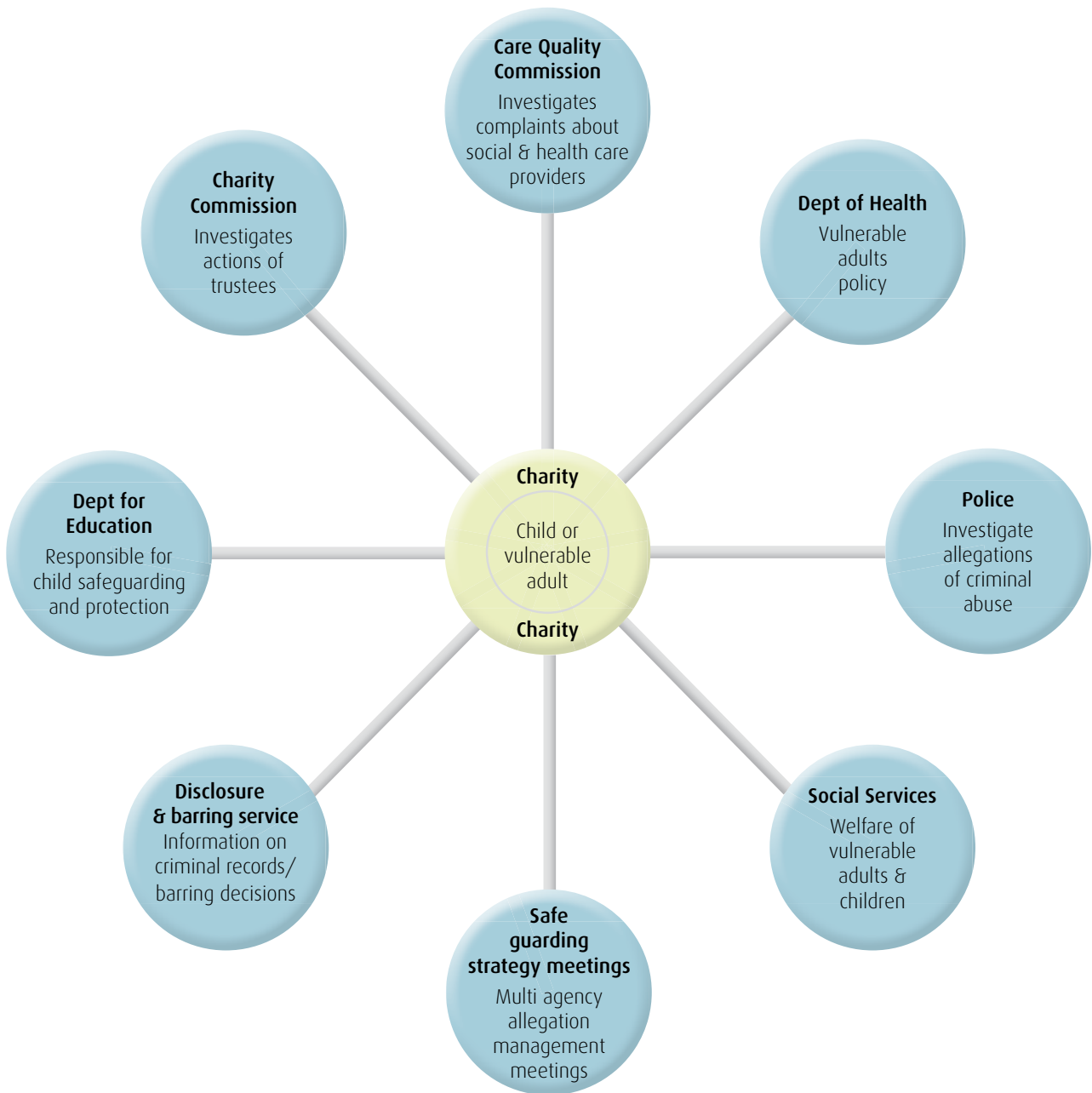
The commission has an important regulatory role in ensuring that trustees comply with their legal duties and responsibilities as trustees in managing and administering their charity. Its aim is to protect public confidence in the integrity of charities. In the context of safeguarding issues, it has a limited and very specific regulatory role which is focused on the conduct of the trustees and the steps they take to protect the charity and its beneficiaries now and in the future. The commission's remit often covers just one area of a much wider investigation involving or being led by other agencies.

The commission's risk-based approach

The commission applies a risk-based approach to regulation. The commission's [Risk framework](#) explains its approach to assessing and managing risk. As that explains, charities are publicly accountable for the funds they receive and privileges they enjoy because of their charitable status. The responsibility for their administration and management rests with the trustees. The commission has to prioritise its actions to ensure that its resources are used to best effect. Its overall approach to regulation therefore places an emphasis on preventing problems as well as ensuring that charities and their trustees comply with their legal obligations.

The commission will intervene in serious cases or where there has been non compliance or abuse, and will not do so where there is action others can take that will have a greater impact. In safeguarding matters, its awareness and clarity about which other agencies are involved and why, is vitally important. It is equally important that those agencies understand the commission's role. Where it does act, it will use its powers proportionately, according to the nature and level of the risk and its potential impact.

2 The provisions of the Protection of Freedoms Act 2012 introduce a range of key changes to disclosure and barring services including the merger of the Independent Safeguarding Authority and the Criminal Records Bureau, creating a single, new, non-departmental public body - the Disclosure and Barring Service. There is more information at <https://www.gov.uk/disclosure-barring-service-check>



2. Trustees have primary responsibility for safeguarding in their charity

Prevention

Trustees of charities which work with vulnerable groups and children have a duty of care to their charity which will include taking the necessary steps to safeguard and take responsibility for those children and vulnerable adults. They must always act in their best interests and ensure they take all reasonable steps to prevent any harm to them. Trustees also have duties to manage risk and to protect the reputation and assets of the charity.

It is therefore vital that trustees assess the risks that arise from the charity's activities and operations involving children and vulnerable people and develop and put in place appropriate safeguarding policies and procedures to protect them. They must also undertake on-going monitoring to ensure that these safeguards are being effectively implemented in practice. This is critically important because on occasion charities may be targeted by people who abuse their position and privileges to gain access to vulnerable people or their records for inappropriate or illegal purposes.

The commission's aim is to ensure that charities that work with or provide services to vulnerable beneficiaries protect them as best they can and minimise the risk of abuse. It may consider any failure to do so as misconduct or mismanagement, or both, in the administration of the charity.

Dealing with allegations

The commission expects trustees to act responsibly in responding to allegations of abuse and to take steps to ensure they and the people working in the charity know how to deal with incidents of abuse if they arise. This includes making sure that charities have adequate systems in place to handle allegations and deal with them responsibly and, where appropriate, report incidents to the police, social services and other agencies, including the commission³. The commission also expects trustees to manage and minimise the risk of further incidents happening as far as this is reasonably possible, by making any necessary changes to policies, procedures and work practices.

Appointing trustees and staff

There are legal restrictions on who can be a trustee, which are set out in the commission's guidance [Finding new trustees \(CC30\)](#). There are also other legal restrictions in safeguarding legislation on who can be involved in working with children and vulnerable adults. This is a complex area, which other agencies, such as the DBS, lead on and which continues to change and be affected by new legislation and regulations. It is therefore vital that trustees inform themselves of the latest position.

³ Where such concerns arise, the commission expects trustees to report them to it as serious incidents. The commission's [published guidance](#) explains how trustees should report serious incidents to it and what information it needs

Trustees must put systems in place to make the necessary checks to ensure individuals who are trustees, staff (including contractors) and volunteers are legally able to act in positions involving vulnerable beneficiaries. Any failure to do so would be of regulatory concern to the commission. Those who through your charity will come into contact with vulnerable groups, including children, may be eligible for an Enhanced DBS Check. If they have close contact, they may be eligible for an Enhanced DBS Check that also includes a check against the Children's Barred List and/or the Adults' Barred List where applicable to their role. It is good safeguarding practice to obtain an enhanced DBS check on those people who are engaged in regulated activity before they work with children or vulnerable adults. The position of trustee of a vulnerable groups' or children's charity is not a regulated activity in itself. It is only if trustees have close contact with these vulnerable beneficiaries that they would fall within the scope of regulated activity and be eligible to obtain an enhanced DBS check and barred list check. A trustee of a charity who no longer falls within the definition of regulated activity would be eligible to obtain an enhanced DBS check, (but without a barred list check).

The commission recommends that trustees always obtain a DBS check when they can as it an important tool in ensuring that the person is suitable to act. In addition, the recruitment methods of staff, volunteers and trustees should be sufficiently robust and appropriately reviewed.

Safeguarding policies

The contents and detail of a charity's safeguarding policy will depend on the charity's activities and how great the risks are. The risks will be higher the more central the activities involving vulnerable beneficiaries are to the charity's core purposes and services, or the more frequently these activities take place. In such cases, the policy will need to be more detailed and the trustees will need to do more to fulfil their legal duties.

Ensuring Public Trust and Confidence

Most people would agree that incidents of abuse against vulnerable beneficiaries are wholly unacceptable. Such incidents are even more of a concern where they are connected to the organisations and people whose work is meant to help vulnerable groups or children and in which these people and the public place their trust. When an incident takes place, and where there are poor safeguarding standards in the charity concerned, this damages public trust and confidence both in that charity and in charities more generally. This is particularly so if the trustees could have done more to prevent the incident or did not deal with it responsibly. It is for these reasons that safeguarding is an important issue for the commission. It is also why trustees should take their duties seriously, particularly those of charities whose work is primarily with vulnerable groups or children.

3. The commission's strategy – the four strand approach

Overview

The commission's aim is to ensure charities properly safeguard their beneficiaries from harm. Its strategy for minimising the risk of charities failing to safeguard vulnerable beneficiaries from harm and abuse has a four-strand approach. This approach emphasises prevention and makes clear when the commission might intervene, why and how.

The commission places great emphasis on action being taken by trustees to prevent abuse of vulnerable beneficiaries or failures to safeguard them from happening in the first place. This includes ensuring trustees know and are clear about their responsibilities. The commission will continue to engage with charities over regulatory concerns on safeguarding issues in appropriate cases and will investigate and intervene in the most serious and highest risk cases. It will continue to develop and consolidate its working relationships with other agencies in this area and seek to minimise instances of dual or multiple regulation.

The commission will also seek to monitor the risks to the sector in this area to ensure wider lessons are disseminated and the results continually inform and refine its approach to improve the impact it has where it does engage.

The commission will engage with experts working in this field from the sector and other agencies through an external Safeguarding Advisory Group. It will use this resource to help it keep up to date and ensure that its approach to safeguarding issues in charities is considered and effective.

The four strands of this strategic approach are:

Awareness and Prevention

This strand places an emphasis on preventing problems arising in the first place. Prevention is primarily the responsibility of trustees, and the commission expects those who run activities for vulnerable beneficiaries to have the expertise, knowledge and skills to do so properly and to take very seriously their safeguarding responsibilities.

The commission has published guidance and information, the aim of which is to inform and assist trustees to understand and discharge their legal duty of care to safeguard their charity and take responsibility for their beneficiaries. This guidance includes:

- [Safeguarding children and young people](#)
- [How to report a serious incident in your charity](#)
- [The essential trustee \(CC3\)](#)
- [How to set up a charity \(CC21a\)](#)
- [Finding new trustees \(CC30\)](#) (in particular, the section on vetting and DBS checks)

The commission's guidance [safeguarding children](#) also signposts trustees to other sources of information including specialist advice and guidance provided by the sector and other parts of government. Going forward it will continue to update this guidance and work on collating it for easier access and navigation.

The commission also publishes annual reports on its investigatory and regulatory work [Tackling abuse and mismanagement in charities](#). Using case studies from its work, the commission aims to improve trustees' awareness of the common problems that can arise in charities, and provide guidance on how to avoid similar situations from happening in their charities. This includes case studies and analysis on safeguarding vulnerable beneficiaries issues.

To help charities learn from the mistakes and experiences of other charities, when the commission publishes the outcome of its investigations it will continue to include issues for the wider sector. At the end of a statutory inquiry the commission usually publishes a report. The commission will also publish a report on the conclusion of some of its other casework, where the commission thinks it is helpful to other charities and/or it is in the public interest. These reports set out publicly the sources of concern, the findings and conclusions from its investigations and other casework including any regulatory action that it has taken. They also inform the public about the impact of its intervention and the relevant issues for other charities.

Oversight and supervision

The commission is kept informed of and monitors abuse and safeguarding failings in a number of ways including through the commission's serious incident reporting regime. Reporting serious incidents by charities is extremely important because it demonstrates that trustees have identified a serious risk to their charity and are taking appropriate action to deal with it. It helps the commission focus its engagement and resources where the risks are highest, and allows it to provide assistance at the earliest opportunity where serious problems arise in charities. It also enables the commission to check whether anyone who is unsuitable as a result of safeguarding concerns is a trustee of another charity.

At registration, where an applicant declares the organisation works with children or vulnerable adults, they are required to confirm that the trustees jointly and individually declare they have carried out all trustee eligibility checks that are required by law.

The commission monitors compliance by charities where they have been asked as a result of engagement with the commission to take steps to improve safeguarding in their charity.

The commission monitors the safeguarding issues that it deals with and where appropriate it analyses trends and profile the risks arising from those issues. Any risk indicators will be reviewed in the context of its risk framework in light of developments within the sector, its own operational experience, and information from other agencies involved in this work. The commission will monitor trends in case work and referrals so that where appropriate, it can alert the sector to possible risks, update guidance and ensure its intervention is targeted in serious cases, or where there has been non compliance or abuse.

Co-operation

The aim of this strand is to strengthen the commission's co-operation and liaison with other agencies to better disrupt the activities of those who seek to exploit charities to abuse children and vulnerable adults. Because the commission's role in vulnerable beneficiary abuse cases is very specific, it places great importance on developing effective relationships with other government regulators, law enforcement agencies and local authorities which are responsible for investigating the actual abuse and dealing with specialist safeguarding issues.

The publication of this strategy will help ensure there is clarity for those agencies about the commission's regulatory role in safeguarding matters. The role of the police, social services and local safeguarding strategy meetings in investigating criminal matters and ensuring the welfare and safety of individuals at risk is paramount and takes priority over and above the remit of the commission.

However, even if the police or another agency decides not to pursue a case, there may still be serious concerns about the charity, the conduct of its trustees or its systems to safeguard beneficiaries that the commission needs to look into. The commission aims to carry out its regulatory responsibilities in ensuring charities and their trustees comply with their legal obligations, while not duplicating the role of other agencies and keeping the administrative burden for charities to a minimum.

The commission refers matters of concern to the police and other agencies and will continue to strengthen its operational arrangements for doing so. It also relies on them sharing information and intelligence, so that it can properly carry out its regulatory role. The commission is able to exchange information about individual cases and incidents with these agencies under powers in section 54 and section 56 of the Charities Act 2011 ('the 2011 Act'). The commission ensures it has appropriate protocols and identified points of contact in place with agencies where there is frequent regulatory exchange.

From time to time the commission will arrange reciprocal awareness raising sessions to help other agencies better understand its role and that of the sector when they are investigating abuse connected with it.

The commission works closely with the DBS to ensure that it is kept up to date about changes to the legislative requirements, including the implementation of changes to disclosure and barring services.

It will also ensure it is clear when another agency is better placed to lead on and deal with safeguarding issues where the charity's activities are specialist in nature, such as schools or health.

The commission will continue to build links with local safeguarding boards and partnerships to raise awareness about its role and remit. This will enable them to bring the commission in at the appropriate stage and means it can more effectively decide whether commission intervention is needed.

Intervention

The commission will intervene in serious cases, or where there has been non compliance or abuse, and it will not intervene where there is action that others can take that will have a greater impact. When any safeguarding concerns about a charity come to its attention, they are assessed against the commission's [risk framework](#) and in accordance with its risk assessment procedures to decide the most proportionate and effective response. When it undertakes an initial examination, it looks at the concern raised, the source, the risk posed to the charity and its beneficiaries, the evidence there is to support the concern, the strength of this evidence and the potential impact of the issues raised on the charity concerned.

Where allegations or instances of abuse have taken place in charities or with people closely connected to a charity, the commission's regulatory interest is whether:

- there is an immediate risk to beneficiaries in the charity that means the commission has to take swift regulatory action
- the trustees have handled the suspicions, allegations or actual instances of abuse properly, responsibly and appropriately
- there are adequate safeguarding measures in place and these are properly implemented. For example, child protection and safeguarding policies and vetting procedures and checks for trustees, staff and volunteers

A key priority is identifying early on whether the police or another agency is involved and best placed to deal with the issues. If there is, the commission may not become involved or it may await the outcome of their investigations and then decide if it needs to engage. Even if there is a regulatory issue, in most cases it is likely to be best resolved through regulatory and/or corrective advice. In the most serious cases it may consider opening a statutory inquiry under section 46 of the 2011 Act and may need to use its powers to protect the charity. Where it does, the commission will use its powers proportionately according to the nature and level of the risk and will continue to assess this risk throughout the investigation.

4. The commission's approach to dealing with regulatory concerns about safeguarding vulnerable groups and children in charities

The commission regards as serious regulatory issues⁴:

- concerns about serious harm to and the abuse of vulnerable beneficiaries in a charity
- the failure by a charity which works with vulnerable beneficiaries to have adequate and effective safeguarding policies and procedures in place

This means that the commission will deal with them as a priority. It gives cases where there is an immediate or on-going risk of harm to vulnerable beneficiaries an even higher priority.

In practice, the commission is likely to become involved in one-to-one engagement with charities:

- if there is a concern that someone who is currently acting as a trustee, employee or is otherwise involved in the charity, is unsuitable to hold that position (for example, because of relevant criminal convictions), particularly if the work of the charity is with vulnerable beneficiaries
- when there are concerns or allegations that a vulnerable beneficiary has been abused or mistreated, and that these are in connection with the activities of a charity or someone closely involved in the charity
- when there is serious cause for concern because measures are not in place, or are inadequate, to protect vulnerable beneficiaries (eg safeguarding policies and appropriate vetting procedures)

The commission is not an expert in child or adult protection. Its concerns about the adequacy of procedures are confined to the key elements it is reasonable to expect basic charity safeguarding policies and procedures to have. In some circumstances the commission may regard failure to take up DBS checks or implement adequate safeguarding policies as evidence of misconduct and/or mismanagement in the administration of the charity.

The commission will focus on:

- ensuring the risk to the charity's current and future beneficiaries and services is being properly managed by the trustees
- the protection of the charity's assets, including its reputation
- ensuring that trustees are complying with their legal duties and responsibilities in the management and administration of the charity

4 See the commission's [risk framework](#), [Complaints about charities \(CC47\)](#) and [How to report a serious incident in your charity](#)

5. The purpose and scope of the commission's regulatory engagement

Where there are concerns or allegations about safeguarding issues in charities, apart from ensuring that appropriate action is being taken so that vulnerable beneficiaries are not subjected to further harm, the commission's regulatory interest is usually one or more of the following:

- clarifying the extent to which the charity is connected with, or its personnel are involved in, or responsible for any alleged incident
- assessing whether there is an immediate risk to current beneficiaries in the charity that means the commission may need to take swift regulatory action
- establishing whether the trustees have handled any allegations or concerns appropriately
- ascertaining whether the trustees have proper and adequate safeguarding policies, procedures and other appropriate measures in place to safeguard the charity and its beneficiaries, and whether they are being implemented in practice
- assessing whether the trustees have taken reasonable steps to address any shortfalls in the charity's safeguarding policies and procedures
- verifying whether the trustees are complying with the Safeguarding Vulnerable Groups Act 2006 ('the SVGA'). This includes:
 - their duty as employers to refer cases to the DBS where they dismissed or ceased using an employee or volunteer because they think they have harmed or posed a risk of harm to children or vulnerable adults
 - fulfilling good safeguarding practice for individuals working in regulated activity with vulnerable groups and children to have an enhanced DBS check and barred lists check as well as carrying out robust recruitment practices including referee and career history checks
 - establishing whether the trustees have considered the damage to the charity's reputation that the incident or allegation may have caused and how they are handling the matter

If there are concurrent criminal or civil proceedings, the commission has an interest in knowing the outcome of those proceedings and in ensuring the impact or consequences of these on the charity are considered and dealt with properly by the trustees.

What the commission does not do

The commission does not investigate the actual abuse – investigations of physical or sexual harm against individuals are matters for the police and/or social services.

It cannot prosecute or bring criminal proceedings, although it can and does refer any serious concerns it has to other agencies and the police.

The commission cannot approve or provide detailed expert advice to charities on the content of individual safeguarding policies. Its guidance [Safeguarding children and young people](#) provides some help to charities about what the key elements are it is reasonable to expect any safeguarding policy to cover, and signposts charities to other sources of specialist information where appropriate.

The roles of other agencies

The commission does not administer legislation on safeguarding children and vulnerable adults. The Department for Education is responsible for government policy on child safeguarding and protection in England. You can obtain more information on the [Department of Education website](#).

The Department of Health is responsible for government policy on safeguarding vulnerable adults in England. There is more information on the [Department of Health website](#).

In Wales, the Welsh Government is responsible for safeguarding children and vulnerable adults. There is more information on the [Welsh Government website](#).

The provisions of the Protection of Freedoms Act 2012 introduce a range of key changes to disclosure and barring services, some of which came into force on 10 September 2012. In December 2012, the services of the ISA and the Criminal Records Bureau ('CRB') merged, and a single, new, non-departmental public body (the Disclosure and Barring Service ('DBS')) was created. More information can be found on the [DBS website](#).

Where incidents of abuse are alleged, it is the role of the police to investigate concerns that a criminal offence may have been committed. Local authorities investigate reports of abuse. In practice, multi-agency panels/ strategy meetings are set up which consider each case and the needs of the vulnerable people. These strategy meetings usually comprise a range of practitioners and can include education welfare officers, health visitors, youth workers, police, social workers, doctors, voluntary sector workers and family support workers. If these cases are related to charities, the commission may be asked by these organisations to attend to ensure a joined-up approach.

The commission does therefore not investigate incidents of abuse from the point of establishing any criminal culpability; this responsibility lies with other statutory authorities. Other authorities which regulate particular activities of charities are likely to lead on safeguarding matters. Where it does engage, its focus is on the trustees and what they have done to ensure they have complied with their legal duties and responsibilities towards the charity, including how they are managing allegations of this nature.

In some instances the police or another agency may decide not to pursue a case. However there may still be serious concerns that the commission needs to look into either about the charity, the conduct of its trustees or its systems to safeguard vulnerable beneficiaries. On some occasions the commission is the only agency that can take action against a trustee(s), especially if the concerns centre on their conduct. In addition, the commission has a distinct and important role to play being the only agency that is able to check if someone of concern is a trustee of another charity.

6. Confidential or sensitive information

When dealing with these sorts of concerns, in order to discharge its regulatory function properly, the commission requires and have access to sensitive information which may well be personal data under the Data Protection Act 1998 ('the DPA'). When the commission asks for such information, it undertakes to treat and handle this appropriately and with care. The commission asks for it only so that it has a better understanding of the nature of the concern and to fulfil its statutory functions as the regulator of charities.

As a public authority, the Freedom of Information Act 2000 applies to the commission. However, a range of exemptions may apply to this kind of information, for example data protection, commercially sensitive information and information that the law gives a quality of confidentiality. The commission's ability to share information with other regulators and agencies is also regulated under section 56 of the 2011 Act. If the information a charity provides to the commission is particularly sensitive or confidential and this is not likely to be evident, to be sure that this can be protected, charities should ensure they tell the commission and explain why this is so.

The DPA regulates the use of 'personal data', which is essentially any information, however stored, about identifiable living individuals. As a 'data controller' under the DPA, the commission must comply with its requirements.

Any information you give to the commission will be held securely and processed only in accordance with the rules on data protection. The commission will not disclose your personal details to anyone unconnected to it unless:

- you have consented to their release
- the commission is legally obliged to disclose them
- the commission regards disclosure as necessary so that it can properly carry out its statutory functions.

The commission may also disclose information about you to another relevant public authority but only where it can lawfully do so, and it determines that for purposes of national security, law enforcement, or other issues of overriding public interest, such disclosure is necessary or appropriate.

The commission will ensure that any such disclosure is proportionate; considers your right to respect for your private life; and is done fairly and lawfully in accordance with the data protection principles of the Data Protection Act.