Chapter 1: Charities and terrorism

What this chapter is about and how to use it

This chapter, Charities and terrorism, is designed to help you and your co-trustees familiarise yourselves with the legal framework which aims to protect the UK from terrorist abuse and understand how this affects charities. It provides summary information on key aspects of the UK’s counter-terrorism legislation and highlights how particular provisions are likely to affect charities and their work. It explains the various ‘terrorism lists’ and provides advice on what you should do if you discover your charity may be working with or connected to people or organisations on those lists. Following the advice within this guidance will also help you show you are complying with your legal duties and responsibilities under charity law.

What the Commission means by ‘must’ and ‘should’

In this guidance:

- ‘must’ means something is a legal or regulatory requirement or duty that trustees must comply with
- ‘should’ means something is good practice that the Commission expects trustees to follow and apply to their charity

Following the good practice specified in this guide will help you to run your charity effectively, avoid difficulties and comply with your legal duties. Charities vary in terms of their size and activities. Consider and decide how best to apply this good practice to your charity’s circumstances. The Commission expects you to be able to explain and justify your approach, particularly if you decide not to follow good practice in this guide.

In some cases you will be unable to comply with your legal duties if you don’t follow the good practice. For example:

<table>
<thead>
<tr>
<th>Your legal duty:</th>
<th>It’s vital that you:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act in your charity’s best interests</td>
<td>Implement realistic and reasonable risk management strategies to identify and mitigate risks to the charity’s funds, assets and reputation.</td>
</tr>
<tr>
<td>Manage your charity’s resources responsibly</td>
<td>Implement robust and effective financial controls, including undertaking appropriate due diligence on partner organisations which includes checking the appropriate lists to ensure that they’re not designated or proscribed.</td>
</tr>
<tr>
<td>Act with reasonable care and skill</td>
<td>Take appropriate professional advice on matters where there may be material risk to the charity (eg before entering into a high risk activity such as funding a project in a country where terrorists are known to operate).</td>
</tr>
</tbody>
</table>
Trustees who act in breach of their legal duties can be held responsible for consequences that flow from such a breach and for any loss the charity incurs as a result. When the Commission looks into cases of potential breach of trust or duty or other misconduct or mismanagement, it may take account of evidence that trustees have exposed the charity, its assets or its beneficiaries to harm or undue risk by not following good practice.

Using this guidance
In answer to any anticipated questions, there are short answers and explanations in more detail. There are links to other websites, documents, further information and useful tools for charities.

Other Commission guidance on terrorism
This guidance supplements existing operational guidance: OG410 Charities and terrorism and the Commission’s policy statement on charities and their alleged links to terrorism.

Scope of this guidance
This guidance provides summary information on key aspects of the UK’s counter-terrorism legislation and highlights how particular provisions are likely to affect charities and their work. It explains the various ‘terrorism lists’ that exist and provides advice to trustees on what they should do if they discover their charity may be working with or connected to people or organisations on those lists.

Terrorism law is a complex area. It’s governed by different pieces of legislation. Additional requirements and international regulations apply if a charity operates or works with partners who are based or work internationally.

It’s not the Commission’s role to provide trustees with legal advice on the operation and impact of counter-terrorism legislation on specific situations or individual charities. However, the Compliance toolkit provides a general introduction and overview, and highlights areas where trustees may need further advice from the Commission, other government agencies or from the charity’s professional advisers. If you’re in doubt about your legal duties and responsibilities as a charity trustee, you can approach the Commission for regulatory advice and guidance about what to do, including getting formal advice under s.110 Charities Act 2011.

Technical terms used
Some technical terms are used in this guidance. This list explains what they mean:

Beneficiary: A person who receives benefit, financial or otherwise, from a charity.

CONTEST: The UK Government’s strategy for Countering International Terrorism.

Designated individual or entity: An individual (or group) who is subject to financial restrictions in the UK, for example, because they’re considered to be someone who commits, attempts to commit, participates in or facilitates the Commission of acts of terrorism. Individuals (or groups) can also be subject to country-based sanctions.

Governing document: A legal document setting out the charity’s purposes and, usually, how it’s to be administered. It may be a trust deed, constitution, memorandum and articles of association, will, conveyance, Royal Charter, scheme of the Commission, or other formal document.

Property: Includes not only land and buildings, but also investments, cash and other assets.

Proscribed organisation: A proscribed organisation is an organisation which the Home Secretary believes to be concerned in terrorism as defined by the Terrorism Act 2000. It is a criminal offence for a person to be a member of, or invite support for, or arrange a meeting for, a proscribed organisation. Proscription means that the financial assets of the organisation become terrorist property and can be subject to freezing and seizure.

Serious incident: An incident that has taken place in a charity is considered as serious if it has resulted or could result in a significant loss of funds or a significant risk to the charity’s property, work, beneficiaries or reputation.

If a charity has an income over £25,000 you must, as part of the annual return, sign a declaration that there are no serious incidents that they should have brought to the Commission’s attention but have not. If you’re unable to make this declaration then the annual return will not be complete and you’ll have defaulted on your legal requirements.

Read more about how to report a serious incident in your charity.

Terrorism lists: The various lists of people or organisations that are proscribed organisations or designated individuals under UK legislation, or which are banned by another government: (1) The proscribed organisations list, which is kept updated on the Home Office, Office for Security and Counter Terrorism’s website; (2) The Consolidated List of Financial Sanctions Targets in the UK, which is available on the financial sanctions pages of HM Treasury’s website; (3) The lists of those designated or restricted by another government (which have no effect in UK law).

Terrorist financing: The raising, moving, storing and using of financial resources for the purposes of terrorism.

Trustees: Charity trustees are the people who serve on the governing body of a charity. They may be known variously as trustees, directors, board members, governors or committee members. Charity trustees are responsible for the general control, management and administration of a charity.