



Interim Managers: Code of Practice

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Introduction

1. This code sets out the basic principles that apply when appointing an Interim Manager (IM), made by the Charity Commission ("the Commission") under Section 76(3)(g) of the Act. These powers may only be used where an inquiry has been opened under Section 46 of the Act. The appointment may limit the IM to specific tasks or require him/her to administer the charity to the exclusion of the charity trustees Section 78 (4)(a) and (b) of the Act refer.

2. Its purpose is to ensure that work undertaken in accordance with the Charities Receiver & Manager Regulations 1992 ("the Regulations"):

- is proportionate in terms of potential loss to charity funds, danger to beneficiaries and damage to the reputation of charity;
- provides a sound basis to move forward in terms of identification of case issue and features that can be legally defined;
- is practical, robust and performed in a consistent manner;
- delivers measurable outcomes that demonstrate value for money;
- demonstrates due professional care.

3. The provisions of this code apply to IMs.

Status

4. The appointment of an IM under the Acts does not constitute a contract between the Commission (or the Charity) and the IM. Statutory entitlement to remuneration is conferred under Section 78 (8)(b) and Regulation 3 of the Charities (Receiver and Manager regulations) 1992.
5. Individuals seeking appointment shall be within the Court's supervisory jurisdiction and resident within England or Wales.
6. The Commission undertakes to issue Case enquires¹ to approved firms and individuals as signatories to this code. However, approved status does not constitute any guarantee of appointment.

General Principles

7. In implementing the code, approved IMs will:

- demonstrate their integrity through honest and fair dealings with the charity community and all external contacts;
- undertake not to receive, or agree to receive, from any person, or offer or agree to give to any person, or procure for any person, any gift or consideration of any kind as an inducement or reward for doing or not doing anything, or for showing favour or disfavour to any person, in the discharge of their functions;
- respond promptly to invitations issued by the Commission for case proposals and give reasons for not providing a proposal, to the extent possible;²
- ensure that clear and effective lines of communication are established and maintained with the Commission's case officer;
- provide written information that is concise and uses language that the intended audience can understand and act upon;
- ensure sufficient resource, time and commitment is given to the appointment and that Contingency Arrangements³ are in place;
- comply with their statutory obligations under the Data Protection Act; and
- where a charity relies wholly or in part, on donations from the public IMs must ensure that the donor's trust in the charity is not misplaced. Where possible IMs should keep donors informed, either on a collective or individual basis, regarding the current and future position of the charity.

The Commission:

- confirms that the IM is independent of the Commission and has a duty to form his or her own views;
- may offer general advice based on its experience to inform the IM's views;
- may, on request by the IM, give advice or its opinion on any matter affecting the performance of his duties as such.

Conflict of Interest

8. Individuals should be sufficiently independent to perform any case appointment in a manner which facilitates impartial and effective professional judgement and actions. Objectivity is presumed to be impaired, and a conflict of interest must be declared, when an individual or firm has within the last three years:

- acted in the capacity of auditor, reporting accountant or independent examiner for the charity or any of its related parties;
- been retained to act as a professional advisor or consultant to the charity or any of its related parties (for any purpose);
- been a connected person in respect of the charity, its assets or its trustees (Section 118 of the Act).

9. Adequate records and checks should be in place to identify potential conflicts of interest before individuals are nominated for case appointments.

Cases Involving Vulnerable Beneficiaries

10. Certain cases involving children and vulnerable beneficiaries will require routine checks of individuals through the Disclosure and Barring Service (DBS). When nominating individuals for appointments of this nature in a case proposal, IMs shall ensure that evidence of the check results for that individual are current (e.g valid within the last three months) and made available to the Commission.⁴

Avoiding Discrimination

11. In performing their roles, individuals shall respect the sensitivity, customs and diversity of a charity's community and its representatives at all times.

12. They shall not knowingly engage in behaviour that is harassing or demeaning to trustees, the congregation or members with whom they interact in their work based on factors such as those persons' age, gender, gender identity, race, ethnicity, culture, national origin, religion, sexual orientation, disability, language, or socioeconomic status.

13. Appointed individuals will not engage in unfair discrimination on any basis proscribed by law.

Confidentiality and Disclosure

14. Individuals and firms shall maintain adequate records and safeguard the information they receive when submitting case proposals and carrying out case appointments. Information supplied by the Commission is commercially restricted. IMs must comply with legal and professional requirements concerning confidentiality and disclosure.⁵

15. Commercially sensitive information obtained in the normal course of IM work shall not be used for personal or commercial gain.

Demonstrating Competencies

16. Individuals put forward for appointments will demonstrate their knowledge, skills and experience through case selection interviews, as and when required.

17. No individual (involved in case actions) will accept or perform work that they are not competent to undertake unless they receive direct advice and support from key individuals to competently carry out the work.

18. In carrying out their role, individuals will have regard to all considerations that are relevant to the case outcome and will act in the best interests of the charity. Appropriate technical and professional based competencies will be secured and applied in a timely manner on a case by case basis.

19. Co-operative relationships with Commission case officers will be evidenced through effective planning, progress reports, emerging risk and issue updates and regular review meetings.

Response to Case Enquiries

20. Case Enquiries will be made to firms and individuals in accordance with their approved status within pre-determined case categories. Invitations to submit a case proposal will be based on:

- the nature of the charity case;
- the match of experience, qualifications and expertise of “Key Individuals”;
- the prevailing fee options, fee structure and maximum fee rates;
- regional considerations and needs;
- timing and availability;
- whether a full or limited appointment has been determined; and (where applicable)
- case monitoring results.

21. Relevant case information will be marked and handled as ‘commercial in confidence’ at all times. A maximum of three invitations will be issued for any case.

22. Response to an invitation (a “case proposal”) shall:

- detail the approach to the work and ability to achieve the case specification within the given timeframe. The approach shall be informed by risk assessment derived from case information;
- provide details of nominated individuals who would conduct the work, including details of their respective roles;
- lay out the costing proposal for the specified work. This may be factored or discounted to reflect a suitable remuneration to meet the charities needs, but individual fees used in the composition of each proposal will not exceed the prevailing maximum fee rate;
- confirm that potential conflicts of interest have been reviewed and no conflict exists for the specified work; and
- (when requested) provide CRB evidence for nominated individuals.

Nominated individuals shall be available for interview.

Obtaining instructions

23. Upon receipt of an Order raised by the Commission, appointments are governed by the Regulations. An Order will set out the scope of appointment and the functions to be discharged. A copy of the Regulations will accompany each Order.

Professional Indemnity Arrangements

24. Evidence of appropriate security to indemnify a charity against loss by negligent administration or by misappropriation of funds shall be provided prior to any Order for an appointment. IMs shall ensure that the necessary bonding is in place and provides appropriate security for discharge of a specific appointment.

Communications

25. Apart from documents that must be issued under seal in accordance with the Regulations, IMs shall make use of all modern forms of communication for the creation and transfer of written information and submission of reports.

Case Information

26. The Commission will manage IM cases in accordance with Case Management Procedures. These include:

- providing case information and updates in a timely manner;
- case reviews;
- impact of decisions in terms of the future of the charity;
- open communications;
- Debrief; and
- monitoring case outcomes.

Reporting

27. Under the code, IMs shall meet the minimum requirements for satisfactory reporting for the relevant charity by:

- submitting an initial report to the case officer within one month of appointment that:
 - provides an estimate of the total value of the property;
 - sets out the strategy for discharging the functions (the “exit strategy”);
 - incorporates information about the property and affairs (the “status report”); and
 - includes particulars of any matters to be brought to the attention of the case officer (the “highlight” report)

- providing monthly reports, to be submitted within 12 days of month end, that:
 - update the status report and value estimates as necessary;
 - identify changes to the exit strategy and associated impacts;
 - include a monthly highlight report; and
 - provide a statement of resources used in the month.
- attending regular progress review meetings with the case officer. In addition, a review should be held for any substantive change to the exit strategy.

Case Fees

28. Fee rates submitted in a case proposal will be calculated in accordance with the prevailing fee structure approved by the Commission and will not exceed the maximum fee levels.

29. Fee rates submitted in the prevailing fee structure will remain valid for a period of twelve months and will be subject to annual review. Any proposed adjustment to maximum fee rates or the underlying fee structure will be subject to written approval from the Commission prior to implementation. Fee rates may not be adjusted retrospectively.

30. Billing information will contain sufficient detail and be presented in such a way that fees, expenses and disbursements can be verified against the cost proposal.

Remuneration

31. Arrangements for remuneration are dependent on the circumstances of the charity, the level of financial risk and the final outcome of the case. Remuneration may be apportioned or fixed:

- as a staged progression of the case;
- upon completion of a specific action;
- upon formal discharge of the case;
- following wind-up;
- In exceptional circumstances, handling procedures may be approved by Senior Executives in the Commission, or subject to adjustment as a result of new information or circumstance reported on a case.

32. Assessment of remuneration will form part of case monitoring and scheduled case reviews. Remuneration may be disallowed under the Regulations if the IM has failed to:

- give security in the manner specified on an indemnity basis;
- discharge satisfactorily any functions imposed by the appointment; and
- submit reports in accordance with the minimum requirements.

Debriefing

33. Debriefing shall be held after case closure or upon discharge of an appointment. Matters for review will include (but not be limited to).

- objectives (as detailed in the exit strategy) and case outcomes;
- use of resources, timeliness and performance;
- challenges encountered and lessons learnt;
- opportunities for continuous improvement in the process; and
- matters to inform policy and practice.

Dealing with Complaints

34. Approved firms and organisations shall maintain and operate a complaints handling procedure, with details available on request. Individuals shall have a process in place to record, disseminate and respond to complaints.

35. All parties shall acknowledge record and disseminate complaints resulting from IM and commit to a timetable for response in accordance with the Commission's complaints handling procedures.

Signatories to the code undertake to apply these principles.

Signed on behalf of:

Name:

Position:

Date:

Footnotes

1. Case enquiry means a communication initiated by the Commission, issued to approximately three approved firms or individuals, consisting of case information and an invitation to submit case proposals.

2. There may be circumstances where this is not possible eg client confidentiality.

3. Contingency Arrangements means any arrangements made to secure continuity of work following an appointment, including emergency cover for individuals' unplanned absence.

4. The Commission is a registered body and can countersign applications.

5. Disclosures will include report requirements under the Terrorism Act, Proceeds of Crime Act and Money Laundering Regulations.