

Charities Back on Track

Themes and lessons from the Charity Commission's compliance work

2007-08



The Charity Commission

The Charity Commission is the independent regulator of charities in England and Wales. Its aim is to provide the best possible regulation of charities in England and Wales in order to increase charities' effectiveness and public trust and confidence. Most charities must register with the Commission, although some special types of charity do not have to register. There are some 190,000 registered charities in England and Wales. In Scotland the framework is different, and the Commission does not regulate Scottish charities.

The Commission provides a wide range of advice and guidance to charities and their trustees, and can often help with problems. Registered charities with a gross annual income or expenditure over £10,000 must provide annual information and accounts to the Commission. The Commission has wide powers to intervene in the affairs of a charity where things have gone wrong.

More information about the Commission together with a range of guidance for charities can be found on our website www.charitycommission.gov.uk, or by contacting Charity Commission Direct:

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A Introduction

In this report we have set out to highlight the key themes and wider issues for charities arising from the Commission's compliance work from April 2007 to March 2008. This is the area of the Commission's regulatory work dedicated to ensuring that charities comply with their legal obligations and investigating serious abuse or mismanagement in charities. Using case studies to illustrate each of the key compliance themes, we aim to improve trustees' awareness of how to ensure systems are in place to avoid similar situations from happening in their charities. Deliberate abuse and wrongdoing in charities remains rare and most concerns which come to our attention are resolved by providing advice and guidance to trustees.

We hope the report will help to build an understanding of the Commission's compliance work by demonstrating the sort of regulatory action we can take and the impact it has in protecting charities from abuse and harm. It also provides basic statistical information on our casework and performance in this area, and outlines some relevant policy and other developments and our key priorities for the future. This is the first published report of its kind and we intend to produce further reports on an annual basis.

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B Our statutory role and responsibilities

The Commission has a dual role as both regulator and enabler for charities and the charitable sector and this underpins our approach to our work. Having a regulator that deals swiftly and effectively with abuse when it occurs and promotes compliance by trustees with their legal obligations is at the heart of public trust and confidence in charities. The Compliance and Support team, which sits within the Legal Services and Compliance Directorate, undertakes this work.

The Commission is a risk-based and proportionate regulator. This means that we target our resources where the risks are highest and where they are most likely to have the greatest impact. We engage with charities in a way which will make most difference to them and those who benefit from them. Our overall approach emphasises providing

guidance and advice and promoting best practice, as well as ensuring that charities comply with their legal obligations.

The Commission's objectives, contained in the Charities Act 2006 are to:

- increase public trust and confidence in charities;
- promote awareness and understanding of the operation of the public benefit requirement;
- promote compliance by charity trustees with their legal obligations in exercising control and management of the administration of their charities;
- promote the effective use of charitable resources; and
- enhance the accountability of charities to donors, beneficiaries and the general public.

C The role of Compliance and Support

The Commission's Compliance and Support team has primary responsibility for the delivery of our regulatory work with charities where their assets, services or beneficiaries are at serious risk of abuse or damage. This includes risks to the reputation of individual charities, concern about public confidence in charities generally and the effective regulation of the sector. The role of Compliance and Support is to identify and investigate apparent misconduct or mismanagement in the administration of charities and to resolve difficulties we find, whether by providing support to trustees or, where necessary, intervening to protect the charity by using the Commission's legal powers.

During the year we reorganised the Compliance and Support function into four work streams:

- **Intensive Casework Unit:** comprising two teams dealing with the most complex, high profile and highest risk investigations and compliance cases, involving both inquiry and non-inquiry compliance work and including cases dealing with allegations of terrorist abuse of charities;
- **Compliance Operations:** This team deals with all other investigations and compliance cases of significant risk, involving both inquiry and non-inquiry compliance work;

and our two new functional areas of:

- **Compliance Monitoring, Assessment and Intelligence Support:** This unit is the gateway for referring cases of concern into Compliance and Support from external sources or other parts of the Commission and assessing them. It provides a co-ordination gateway for managing our relationships with other regulators, government departments and law enforcement agencies in support of our compliance work. It also houses a new monitoring unit which monitors trends and developments in the sector in areas we recognise as high risk in order to identify, at an early stage, those charities that may be facing problems, so that we can alert them to the risks and provide them with advice and support; and

- **Outreach and Development:** This team works to raise awareness and understanding of the Commission's compliance work; publicising its outcomes and wider lessons and promoting key compliance messages to the sector and the general public. The team also supports the continuing and effective development of compliance related strategy and plans, policies, procedures and systems.

We have identified, based on our casework experience in recent years, what we believe to be the most serious issues and areas of greatest risk for charities. These are, in no order of priority:

- significant financial loss to the charity;
- serious harm to beneficiaries and, in particular, vulnerable beneficiaries;
- threats to national security, specifically terrorism;
- criminality and/or illegal activity within or involving a charity;
- sham charities set up for an illegal or improper purpose;
- charities deliberately being used for significant private advantage;
- where a charity's independence is seriously called into question;
- issues that could damage the reputation of an individual charity or class of charities or the wider charity sector;
- issues that could damage public trust and confidence in charities or in the Commission as an effective regulator.

Our risk-based and proportionate approach means that our actions are measured to fit the particular circumstances, the seriousness and scale of what has occurred and the available evidence.

Issues of concern in the management and administration of charities can come to our attention through various means including:

- charity trustees and employees;
- charity beneficiaries;
- charity donors;
- the general public;
- other regulators, and law enforcement and other government agencies;
- statutory whistleblowers, including charities' auditors and independent examiners;
- MP's, the media and local communities; and
- other internal sources within the Commission.

“Our risk-based and proportionate approach means that our actions are measured to fit the particular circumstances, the seriousness and scale of what has occurred and the available evidence.”



D Summary

During the last year we placed particular effort on bringing many of our long-running compliance cases to an appropriate close and worked to reduce the time taken to complete cases. We made some good progress and are confident we will make further improvements over the next year.

Our performance headlines for 2007-08 include:

- carrying out 799 assessments into concerns raised by the public and other complainants;
- taking 170 new cases forward, of which 19 were formal statutory inquiries;
- closing 29 inquiry cases of which 5 had significant involvement from other regulators;
- publishing 42 inquiry reports on our website;
- closing 171 non-inquiry compliance cases;
- closing 200 cases in total, ending the year with 104 active compliance cases.

The nature and impact of this work included:

- directly protecting over £16m of charity assets;
- directly monitoring a total of £106m of charity income through either inquiry or non-inquiry cases;

- 9 cases where our action protected vulnerable beneficiaries;
- 38 cases protecting the reputation of individual charities;
- 27 cases protecting the reputation of the sector;
- 26 cases dealing successfully with issues arising from conflicts of interest;
- 61 cases where we provided advice and guidance to ensure the charity's governance improved as a result of our engagement;
- 9 cases involving concerns about fundraisers;
- 11 cases where an internal dispute was resolved and the charity is properly functioning again; and
- using our statutory compliance powers on 490 occasions, including extensive use of our information gathering powers.

Deliberate wrongdoing in charities remains rare and the vast majority of cases which come to our attention can be resolved by providing advice and guidance to help trustees put the necessary solutions in place.

“Protecting beneficiaries must be a key priority of all trustee boards and procedures for ensuring this must be consistently applied without exception.”



We identified a number of *key trends* this year.

Vulnerable Beneficiaries

There were nine cases where trustees had failed to put in place appropriate procedures to protect vulnerable beneficiaries, including carrying out CRB checks, and our intervention has been required. Most worrying have been those cases where trustees have taken decisions that someone with a previous record of abusing vulnerable people could be involved in the charity, and this has put both the charity and its beneficiaries at risk. Protecting beneficiaries must be a key priority of all trustee boards and procedures for ensuring this must be consistently applied without exception.

Accounting and Reporting

Another theme has been the number of instances where poor basic accounting and reporting practices have caused long-term problems for a charity, as well as resulting in a breach of the law. Accounting and reporting requirements are not merely an administrative requirement for charities. In addition to ensuring charities demonstrate openness and transparency by accounting publicly, they are important tools helping charities balance the books, plan for their future and account for

their income and spending. Ensuring charities meet their reporting requirements will be increasingly important as public scrutiny of charities' effectiveness grows.

Governance

Good governance is key to all aspects of running a charity but sometimes the basics are overlooked; these failures are a common theme in many of the compliance cases dealt with this year. Trustees must ensure they are running the charity with its interests at heart and the way that trustees conduct themselves is at the core of how effective boards can be. A lack of proper controls exacerbates existing problems and makes it harder for charities to get themselves back on a proper footing when problems arise. It is vital that trustees are eligible to act in that role and that their conduct is appropriate, and the controls they put in place to manage risk are robust.

Further information on issues of concern arising in our compliance case work and the regulatory action we have taken in the last year is presented in the Key Statistics section later in the report. We will monitor how these trends develop over the next 12 months and report publicly next year.

E Key themes and illustrative case studies

We have included examples for each of the key compliance themes illustrated by case studies taken from published inquiry reports over the last year, with one exception which is taken from our non-inquiry work and this has been anonymised. We have highlighted the regulatory action we have taken which demonstrates the impact of our intervention and have provided guidance on how to avoid similar situations.

E1 Avoiding confusion through good governance

Good governance arrangements really are the key to running an effective charity. Being clear about roles and responsibilities and implementing strong financial controls and record-keeping is the best way to avoid everything from disputes to financial chaos.

Smart Kids at No 1 Playgroup

This charity had previously provided a playgroup for pre-school children, which no longer existed. It came to our attention when a potential purchaser of the playgroup's building contacted us to check whether the building actually belonged to the person who was selling it, the former playgroup's supervisor.

The supervisor had founded the charity and had previously been one of its trustees. She had taken out a mortgage on the building in her name, although the mortgage payments had been made from the charity's bank account. The supervisor still remained largely in control of the charity's finances and felt she was entitled to at least some of the proceeds from the building's sale.

We opened an inquiry to protect the charity from losing any money which might rightfully belong to it. Trying to work out who the building actually belonged to was made more difficult by the fact the trustees had kept no proper accounts or financial records, and had allowed a large number of relevant documents to be destroyed. They had also acquiesced in the registration of the building in the supervisor's name rather than that of the trustees.

In the absence of proper records we worked with the charity's solicitors, who were also the supervisor's solicitors, and analysed the charity's bank records. It took time, but we were finally able to decide that the proceeds of the sale belonged to the charity, not the supervisor.

These funds were passed over to another charity undertaking similar work two years after our inquiry was opened, and the charity - which had long since ceased to operate - was removed from the register.

Learning the lessons

Informal or – worse – no governance arrangements at all are a sure recipe for confusion. Establishing good governance systems should come right at the start of a charity's life and be regularly reviewed and updated to keep up to date with changing circumstances.

- Are you clear about who does what? Trustees have the ultimate responsibility for running their charity – they can delegate tasks but not responsibility. As a charity grows bigger and perhaps takes on paid staff these distinctions need to be very clear. Our guidance *The Essential Trustee – what you need to know* (CC3) gives practical advice on the law and best practice here.
- A charity's property is held on trust by its trustees for the benefit of those it is set up to help. It belongs to the charity, not to its trustees or employees – make sure legal advice is taken on property and land transactions where necessary so there is no confusion. The Essential Trustee provides useful pointers.
- Putting financial controls in place and keeping proper financial records is vital. Our guidance *Internal financial controls for charities* (CC8) is a good place to start.
- Conflicts of interest can arise in charities over anything from property to salaries to employing friends or relations – the key is to manage them. Make sure you have effective, consistently implemented policies to deal with any that arise. Again, *The Essential Trustee* gives more detail.

E2 Fighting fraud with financial controls

Organisations with weak internal controls and poor collective responsibility are always likely to be more vulnerable to fraud. Don't assume it couldn't happen to your charity; make sure you have these controls in place.

Ravidassia Community Centre

This charity provides a place of worship and cultural and leisure opportunities for the local community. An internal dispute over who were the rightful trustees and who had membership rights meant the charity's governance had broken down. Draft accounts and reports for the previous year had not been properly completed so the charity's financial position was unclear. Financial supervision and internal controls lapsed.

In these circumstances, it was relatively easy for the treasurer to open a new bank account in the charity's name but under his sole control, into which he put nearly £25,000 of the charity's money.

Concerns were raised with us and, given the potential risk to the charity's funds, we opened an inquiry. The police also opened an investigation and prosecuted the then former-treasurer who was found guilty of four offences involving forging cheques.

We had frozen the bank account involved so the funds were not at immediate risk but a number of things needed to happen to strengthen the charity's governance and financial controls.

An annual general meeting was called and a new Executive Committee appointed. We gave the Committee advice on implementing robust financial controls and producing annual accounts and reports. They were then able to recover the misappropriated £25,000 for the charity's funds.

Learning the lessons

If trustees allow themselves to become side-tracked by other issues it will always be easier for an unscrupulous individual to take opportunistic advantage. Trustees have individual and collective responsibility to make sure they have robust financial controls – the harder it is made to commit fraud, the less the temptation to do so.

- The charity's governing document should specify the minimum number of trustees or other officers who should operate all bank accounts. We would always recommend a minimum of two.
- All cheques drawn on the charity's accounts should be signed by at least two trustees or specified officers of the charity. Prohibit sole signatories and never, under any circumstances, sign blank cheques.
- Keeping accurate records and accounts does not just help when it comes to filing annual accounts with the Commission – it helps trustees know the financial position of the charity at any given time and makes it easier to note unusual or unaccounted for expenditure.
- Our guidance *Internal financial controls for charities* (CC8) and *Independent Examination of Charities* (CC63) provide useful advice on the law and how to ensure your charity has effective controls in place.

E3 Fundraising

Offers to fundraise on their behalf may seem like a dream come true for hard-pressed charities, but making sure you do your homework is key to ensuring your gift horse does not become a Trojan horse.

The Summertime Trust

This charity was set up to provide holidays, transport and other facilities for disabled children. They were approached by a professional fundraiser, who offered to sell competition tickets, pens and badges on their behalf during a ten-year contract.

The deal involved the charity getting 20% of the money raised, with the fundraiser keeping 80%. The fundraiser would also receive one-third of any donations made to the charity as a 'management fee'. The charity took no professional advice about whether this agreement was in the best interests of the charity.

We soon started receiving calls from local authorities and supermarkets alerting us to the fact that the fundraiser was collecting without the necessary licences or permission. These were followed by complaints about the low level of charitable expenditure in relation to the amounts being raised.

Concerned about the charity's apparent inability to monitor and control these fundraising activities, and whether the contract between the fundraiser and the charity complied with the Charities Act and the Charitable Institutions (Fund-Raising) Regulations 1994, we opened an inquiry. We found that the contract did not comply with the law, that the terms tied the charity to a one-sided exclusive contract for a decade and that the ratio of money going to the charity was very small. For example, in one four month period the fundraiser raised nearly £250,000 but the charity received less than £50,000.

Money raised was not paid gross to the charity, and the trustees were completely unaware of how much was being raised and of the regular breaches of legal requirements. After receiving our advice and guidance, the trustees put various controls in place to monitor the fundraising activity and ensure it complied with fundraising regulations. However, as the fundraiser refused to co-operate, the trustees gave him notice to terminate all further fundraising in the charity's name. Our intervention had effectively enabled the trustees to disrupt the potentially long-term financial exploitation of the charity by the fundraiser through a deficient contract agreement, as well as to alert others to this and similar previous activities by him.

After the closure of our inquiry, it came to the trustees' attention that the fundraiser carried on fundraising in the charity's name. The trustees reported the matter to the police, whose enquiries were ongoing at the time we published our inquiry report in January 2008.

Over a year after our inquiry closed, the trustees decided to dissolve the charity due to lack of funds.

Learning the lessons

Trustees should be actively involved in making key decisions in relation to agreements with professional fundraisers. In addition to our guidance *Charities and fundraising* (CC20), the following may help:

Is the organisation legitimate?

- Is it a member of a trade body, such as the Public Fundraising Regulatory Association, the Institute of Fundraising and the Fundraising Standards Board? If not, you may want to know why.
- Ask for references and take them up.
- Does it have the necessary local authority licences for public fundraising?
- Do an internet search to see what public information there is about the organisation – you never know what may come up.

Is the agreement fair?

- How do you know how much is being raised? Does all the money get paid over to the charity, from which the charity then pays the fundraiser? Fundraising guidance says it should be paid gross, and be recorded gross in your accounts with costs shown separately.
- Does the agreement provide for you to see the fundraising in action (eg listening in to telephone fundraising or visiting the offices), review the fundraiser's performance, books and records and amend the contract accordingly?
- It is always a good idea to put any potential agreement out to open tender to ensure you're getting best value. Take independent legal advice on the terms of any fundraising agreement.
- Does the agreement tie you in solely to this company? If so, why and for how long?

Are you getting a good return?

- £20,000 a year may seem a lot, but not if the fundraising organisation is bringing in £100,000. There is no recommended level for a return on investment but you should ensure you are getting at least a reasonable amount for the use of your charity's name.
- Are there high upfront or ongoing fundraising costs? Why? Who is paying for them? Can the fundraisers justify them to you and – importantly – will you be able to justify them to your donors?

Do you like their methods?

- How are they planning to raise your funds? Cold-calling businesses to buy adverts in charity wall-planners? Tin rattling? Make sure you set clear boundaries and are happy with their proposals.
- Check they are clear about making the required solicitation statement stating both that they're professional fundraisers and how much they will get out of donations.
- If they propose fundraising material for your charity, make sure you get final sight and sign-off – after all, you're probably paying for it.
- Consider both your charity's brand and the reputation of charities generally. Being mired in controversial fundraising methods could cost you a lot more in lost support than the £10,000 you are getting from the company.

E4 Vulnerable beneficiaries

Charities should be the last place where vulnerable beneficiaries are put at risk. Criminal Records Bureau checks exist for a reason; no trustee board of a charity working with vulnerable people should assume the rules don't apply to them – the consequences are too serious.

SADSALAD (Southampton and District Sports and Leisure Association for the Disabled)

This charity undertook recreational and leisure activities for people with disabilities. One of its trustees (trustee A) had several previous convictions for sexual assault. The Commission concluded that his unspent conviction made him unsuitable to act as a trustee of the Charity and therefore suspended and subsequently disqualified him from acting as a trustee for this or any other charity.

Trustee A had told a fellow trustee of his conviction before his appointment as a trustee, and this trustee had told an additional trustee. However, both trustees considered the information confidential; they neither raised it with their fellow-trustees nor put steps in place to ensure trustee A did not come into contact with the charity's beneficiaries or was supervised if he did so. As a result he was often alone with beneficiaries.

When a third trustee became concerned about trustee A's behaviour, they notified the police but still failed to inform the trustee board as a whole. Trustee A subsequently raped a severely disabled beneficiary and assaulted another.

The police were notified. When Southampton Social Services found out about trustee A's unspent conviction they immediately contacted us. Our inquiry found that the charity's trustees had not implemented adequate policies and measures to protect either beneficiaries or volunteers – no CRB checks had been undertaken on trustees or volunteers who had close contact with beneficiaries. Our register of charities revealed that trustee A was also a trustee of three other charities working with vulnerable adults. We immediately suspended and then removed him from all these trusteeships.

We suspended the three trustees who had been aware of his conviction, and who had not acted appropriately to protect vulnerable beneficiaries. These trustees subsequently resigned. Trustee A was convicted of several serious sexual offences and sentenced to 21 years in prison. The charity has now brought in a new protection policy and procedures, including implementing CRB checks.

Learning the lessons

Trustees have a personal and collective responsibility to protect their beneficiaries. In addition to our guidance *Finding New Trustees* (CC30) trustees should consider the following:

The law – there for a purpose

- Those who prey on the vulnerable can be very plausible and may make conscious decisions to target particular types of charity. If there is a cause for concern, choose another trustee or member of staff. Both your beneficiaries' safety and your charity's reputation are too important to take a chance.
- Some people are disqualified by law from acting as trustees. For some we can grant a waiver but you must come to us for this before appointing the trustee. Our guidance *Finding New Trustees* (CC30) has a full list of restrictions on who may be a trustee, along with other useful advice on carrying out relevant checks on new trustees.
- The Criminal Justice and Courts Services Act 2000 disqualifies some people from holding a number of positions in children's charities, including trusteeship – we cannot provide a waiver in these instances.
- If your charity deals with vulnerable beneficiaries make sure you have beneficiary protection policies and that these are implemented and monitored – they are only meaningful if they are consistently applied.
- Again, if your charity works with vulnerable people make sure you undertake CRB checks on those positions for which they are legally required or if you are legally entitled to do so – be they paid staff, volunteers or trustees.

E5 Tackling the threat of terrorism

The UK's anti-terrorism legislation applies to all organisations, including charities. If a trustee is included on the Government's designated list, their charity risks breaching financial sanctions legislation if it fails to take immediate action.

United Kingdom Tamil Students Union

The UK Tamil Students Union is set up to advance education, raise awareness of Tamil music and culture and facilitate access into education. We were notified that one of its trustees had been named as a 'designated person' by the Government under the provisions of the Terrorism (United Nations Measures) Order 2006. This order requires member states to freeze the assets and prohibit funds and financial services being made available to those involved in terrorist acts. HM Treasury may designate a person where they have reasonable grounds for suspecting that the individual may be someone who commits, attempts to commit, participates in or facilitates the commission of acts of terrorism.

The designation meant that the individual continuing to act as a trustee would have been a criminal offence, which would constitute misconduct in the management of the charity. This was because as a trustee he held funds on behalf of the charity, but under the terms of his designation it would have been a criminal offence for him to deal with these funds. This meant he could not continue as a trustee without breaching the terms of his designation.

Because of his designation, the charity itself risked breaching these financial sanctions if it let him continue to hold funds on behalf of the charity, and was therefore liable to have all its assets frozen. The trustee should have resigned from his position as soon as he was made aware of his designation to prevent the charity from being put at risk.

Allegations of charities being exposed to terrorist links require our immediate intervention and we opened an inquiry and immediately suspended the designated trustee.

The charity's other trustees co-operated fully and provided all the information we needed. We found that the designated trustee had had little involvement in the charity for some time and had no access to the charity's funds.

We removed the individual as a trustee in August last year, allowing the other trustees to continue running the charity for its beneficiaries.

Learning the lessons

We will do everything in our power to support trustees to protect their charities from the risk of terrorist abuse.

The law

- The United Nations and the European Commission have passed a number of resolutions to prevent funds being misused for terrorist purposes. The UK also has its own national regime for designating terrorist suspects at the domestic level. Individuals or organisations in breach of these laws face a number of penalties, including the freezing of assets. You can find a list of proscribed organisations on the Home Office website at www.homeoffice.gov.uk. There is a list of entities or people designated under terrorism legislation on the HM Treasury website at www.hm-treasury.gov.uk, with guidance on designation. These lists are useful when recruiting new trustees.
- Continuing to act as a trustee if designated exposes the charity to severe financial and reputational risks – trustees in this position, whether they accept the validity of the designation or not, should always step down immediately.

Defending your reputation

- Allegations of terrorist links to a charity are clearly extremely damaging. Trustees on the receiving end of such allegations should report the allegations to the police and to the Commission.

- Ensuring strong and effective governance arrangements, financial controls and risk management systems, along with being open and transparent is the best action trustees of any charity can take to help defend against actual instances or allegations of terrorist and other criminal abuse.
- Try not to be defensive, however distressing such allegations are. Respond positively to requests for information – the sooner the allegations are demonstrated to be unfounded, the sooner the charity can carry on without disruption.

Vigilance and good governance

- If trustees believe or suspect abuse is occurring they should notify the police and the Commission immediately.

Charities working with local partners in many parts of the world need to ensure they have systems in place for verifying the end use of funds and for carrying out due diligence checks on donors, partners and beneficiaries. This will assist in identifying and forestalling funding connections either to proscribed groups or designated persons, groups or recipients whose activities may give support to terrorism.

We will be producing further guidance for charities on all these issues over the next year.

E6 The damage of disputes

Charities are invariably started up by people who feel passionate about a cause. This conviction can be a powerful force for action, but when channelled into internal disputes within a charity it can result in prolonged and damaging stalemate.

A faith-based membership charity¹

This charity found itself in trouble when the introduction of new trustees led to a dispute developing between the old and new groups. The new group emerged the strongest and ex-trustees, members and some of the current trustees raised a range of complaints with us about their behaviour. These included allegations that the new Chair was fixing the election to ensure his re-election, and introducing applications for membership after the deadline set by the trustees.

Many of the charity's members were confused about where the leadership of the charity lay and were looking elsewhere, taking their donations with them. The prolonged dispute was incurring unwanted legal costs, as well as draining the commitment and energies of those still actively involved in the charity, and levels of charitable activity had declined.

Our assessment was that we could not intervene because deciding the membership rules was a matter for the trustees who had agreed them. Our view was that it was an internal dispute between the trustees that was their responsibility to address.

We informed all the trustees and the complainant group of our position and advised them to seek to appoint an external independent person or organisation to help them resolve their dispute.

The trustees acted on our advice and appointed an independent Election Returning Officer to look into the matter of the membership list and to oversee the forthcoming elections. The independent officer vetted the membership applications and oversaw the elections, which resulted in the successful appointment of new trustees.

¹ We have not named this charity as this was not a statutory inquiry case and no formal public report was published on its conclusion.

Learning the lessons

If there are properly appointed trustees in place, the Commission will not get involved in resolving these kinds of internal disputes, so it's important that trustees act quickly to prevent them becoming entrenched.

- Trustees are responsible for the management of their charity – they should work collaboratively and make sure their actions are in the charity's best interests rather than driven by personal agendas.
- A charity's governing document will usually have most of the answers – how often elections and AGMs should be called, the criteria for membership and numbers needed for a decision to be quorate. If in doubt, trustees should go back to the governing document and implement what it says.
- If a dispute cannot be resolved by those involved it's important that trustees recognise when they need to seek external help. Where election handling, results and the validity of the charity's subsequent membership are under dispute, it can be a good idea to bring in an impartial Election Returning Officer to look into the membership list and to oversee the forthcoming election.
- A charity's assets should be spent on charitable activity, not in waging personal battles for leadership. Our permission will usually be required to allow trustees to spend the charity's funds on legal action in dispute cases.

E7 Prioritising protection

We are just as likely to take up serious issues of concern with small charities as with large ones.

This year saw a number of cases where the income of the charities at the time of inquiry was quite small, but where the circumstances justified robust action to protect the charity and its beneficiaries and achieve effective management of the charity. In all the following cases the charity's income was £10,000 or less.

Watford and District Gingerbread

This charity was registered in 2000 to assist one-parent families. The main problem in this case was a breakdown in the management of the charity, with no validly appointed trustees; inadequate financial controls; inaccurate accounting; and a dominant employee. As a result, the service to the charity's beneficiaries was suffering and remedial action was required. We took action to freeze the charity's bank accounts, appoint new trustees with appropriate CRB checks, and notified the police of alleged forgery and accounting issues.

Churches Counselling Together

The charity, registered in 2005, aims to help people 'in need of spiritual, emotional and psychological support by the provision of Christian counselling'. An ex-trustee had been sentenced to life imprisonment for a number of sexual offences against children, and we needed to know how the charity had managed risks. We found that the charity did have adequate child and vulnerable adult protection policies in place, but the trustees accepted that they should have inquired further into the nature of the allegations and considered the potential impact on the charity's reputation. In this case the Commission advised the charity, but did not need to use any of its regulatory powers.

Young Minds and Mentors

This charity was registered in 2005 with the aim of advancing the education of young people in Telford. There were concerns that the two trustees had provided the Commission with false information and that one was unsuitable to act as a trustee in a charity working with young people. We removed these trustees and appointed new ones; made Orders to get information from the charity's bank; notified the police of a possible criminal offence; and wrote to each local authority in England and Wales to inform them of our regulatory role and the help we can provide in relation to charities and vulnerable beneficiaries.

F Compliance policy and other developments

F1 Development of the Commission's risk and proportionality framework for compliance work

We are a risk-based and proportionate regulator; we engage with charities in a way which will make most difference to them and their beneficiaries. When we take regulatory action, it is evidence-based, proportionate, fair and reasonable, taking account of the issue and the risk to the charity and its beneficiaries.

On 11 September 2007 we published on our website for consultation a discussion paper on our risk and proportionality framework for our compliance work.

As a result of the helpful public response, we have made some revisions to our risk and proportionality framework which has recently been published together with a summary of the responses.

F2 Development and Implementation of our Counter-Terrorism Strategy

In May 2007 the Home Office and HM Treasury published a consultation document on their Review of Safeguards to Protect the Charitable Sector (England and Wales) from Terrorist Abuse.

In August 2007 we published our response to their consultation and building on this, in December 2007 published our draft Counter-Terrorism Strategy, inviting responses from key stakeholders during a three month consultation period.

Our overarching objective for our Counter-Terrorism Strategy is:

"To identify, disrupt and prevent terrorist and other serious abuse of the charitable sector. We will do this ourselves and in co-operation with other relevant agencies through:-

- *Support – encouraging and enabling the sector to build its awareness and strengthen its safeguards and defences;*
- *Supervision – through proactive regulatory oversight; and where necessary,*
- *Intervention – using the Commission's legal powers of protection and remedy."*

Our strategy has a four-strand approach for identifying and minimising the risk of terrorist exploitation of charities:

- 1 *Awareness* – working in close co-operation with the sector to build on charities' existing safeguards to minimise the risk of terrorist abuse;
- 2 *Oversight* – taking a more proactive approach to analysing trends and profiling risks so we can alert charities at an early stage of any risks they may face;
- 3 *Co-operation* – in addition to maintaining close links with the charitable sector, we will work closely with other government regulators and law enforcement agencies;
- 4 *Intervention* – dealing proactively, robustly, effectively and swiftly when we have evidence or serious suspicion of terrorist abuse involving charities.

Our strategy reflects a balance between support and guidance, prevention and compliance intervention. We have established a specialist team of staff trained and skilled to deal with terrorism related cases and will continue to build and strengthen our compliance case work and develop expertise in this area.

We are also consolidating our working relationships with other regulators and law enforcement agencies while maintaining our independence.

Over the next year, we will put particular emphasis on preventative work, seeking to clarify legal requirements and support and build best practice in collaboration and partnership with the sector.

We are now working in collaboration with the sector on the production of an up to date 'toolkit' which will provide practical guidance and best practice advice. This aims to:

- build greater awareness of the risks charities face from terrorism and other financial crime or abuse;
- promote the steps that should be taken to minimise the risks and lead to the prevention and early detection of terrorist and other abuse;
- ensure charities understand their legal obligations in relation to terrorism legislation and charity law;
- add value to charities' work and enhance public understanding of the issues.

F3 Development of our monitoring capability

Over the year, we established a monitoring unit and expect it to be fully operational by the end of 2008. The unit monitors trends and developments in the sector in areas we recognise as high risk to help us to:

- identify, at an early stage, those charities that may be facing problems, so that we can alert them to the risks and provide them with advice and support;
- detect, target and deter serious abuse, allowing us to act earlier to protect charities;
- check that actions required of trustees following the closure of inquiry cases have been carried out;
- strengthen our relationships with other regulators and agencies; and
- produce alerts and bulletins for the sector and the public on key risk factors and vulnerabilities for charities based on profiling, research and analysis.

F4 New guidance

It is important that trustees have clear, unambiguous guidance to help them safeguard their charities and ensure they keep pace with new developments in reporting. During the year, we produced the following new or significantly updated guidance to help them do this.

F4.1 Reporting Serious Incidents

Our 2006 stakeholder survey showed support for a swifter, risk-based approach to managing serious incidents in charities. So our 2007 Annual Return for charities (AR07) provided a good opportunity, with guidance, to remind charity trustees to identify these and report them to us at the earliest opportunity. This timely information allows us to intervene, where appropriate, and provide assistance before the problem causes long-term damage to the charity.

F COMPLIANCE POLICY AND OTHER DEVELOPMENTS

We have since improved our guidance on reporting serious incidents for launching with the 2008 Annual Return (AR08). This further explains our approach to issues of serious concern and clarifies what we consider to be serious or significant.

Good practice has always been that trustees should inform the Commission if any serious incident has arisen within their charity that could significantly harm the charity's property, work, beneficiaries or reputation.

Trustees should report serious incidents to the Commission as soon as they are aware of them and can do this in one of the following ways:

- By contacting **Charity Commission Direct** in writing at **PO Box 1227, Liverpool, L69 3UG**;
- By calling **0845 300 0218**;
- By email at **RSI@charitycommission.gsi.gov.uk**

Trustees of charities with an income over £25,000 must, as part of the charity's Annual Return 2008, confirm that there are no serious incidents or other matters which they should have brought to our attention but have not. Failure to provide this confirmation would be a breach of legal requirements.

F4.2 Complaints about charities

When people want to complain about charities, they often end up complaining to us – even though our remit to intervene is limited. To help complainants we have extensively updated our guidance on this issue. *Complaints about charities* (CC47) clarifies what we can and can't look into and, for the first time, provides an extensive list of other sources of help so that complainants can raise their complaints with the appropriate

organisation. The guidance also looks at making complaints under the Public Interest Disclosure Act 1998 which provides for a legally protected form of whistleblowing. This helps employees of charities blow the whistle when something is wrong within the charity and sets out where the legal protections apply. In addition, the guidance highlights how charities' auditors and independent examiners have legal duties to report particular matters about charities to us within their own professional codes and charity law.

Generally speaking the Commission will take up complaints where:

- we decide that there is a serious risk of significant harm to or abuse of the charity, its assets, beneficiaries or reputation;

and

- we consider that our intervention is a necessary and proportionate response to protect them.

We cannot become involved in every problem or dispute that arises between individuals and charities, and so we will not be able to take up every issue brought to our attention.

Our experience shows that in most cases a complaint can be cleared up by providing advice or by highlighting information in our published guidance.

There may be other serious issues which we would expect the charity trustees to remedy, if necessary with our support.

Complaints that identify the most serious risks to a charity, its assets or beneficiaries will be dealt with by an inquiry under section 8 of the Charities Act 1993.

F4.3 Resolving disputes

Complaints about disputes within charities are among the most frequent we receive, but getting involved in internal disputes is not something we generally do as this type of management is the responsibility of trustees. We recently published *Conflicts in your charity – a statement of approach by the Charity Commission* which clarifies our role in disputes and provides guidance to help trustees resolve them.

If there are properly appointed trustees in place we will not get involved in a dispute. It is the responsibility of the trustees to ensure any complaints are addressed.

We will become involved if the following two points are satisfied:

- there are no validly appointed trustees; and
- all other methods of resolving the dispute have failed.

Where we do become involved our new disputes team in Compliance and Support has the skills and experience to assist trustees in reaching an effective resolution.

F4.4 What to expect from statutory inquiries

We know how disruptive statutory inquiries can be and we do not open them without serious cause for concern. To explain and clarify the rights and legal obligations of trustees and employees of charities under investigation we will be producing separate guidance on *Inquiries into charities* (CC46) and will publish it later in the year. This guidance will also outline the inquiry process and explain what charities in this position can expect from us.

We also plan to publish accompanying guidance to explain what trustees and employees of charities under investigation can expect in other compliance cases that are not statutory inquiries.

We revised and have recently published our operational guidance *How the Commission deals with regulatory compliance work*. This guidance provides the legal context under which regulatory action takes place and sets out the principles by which we work.

F4.5 Working with other regulators

Effective and credible joined-up working with other regulators, law enforcement and other government agencies is essential for detecting, deterring and preventing abuse from taking place in charities, and rectifying problems when they arise. During the year, we have been strengthening our strategic and operational relationships with a number of agencies by putting in place formal protocols and operational arrangements.

We have been raising awareness of our role and approach to compliance work with organisations that do not know us well, enhancing our credibility and building their confidence in us. We benefit from making better use of others' expertise and information as they benefit from ours.

Our contact and collaboration increasingly produces successful, effective case outcomes where other agencies are involved.

At all times we maintain and protect our independence as a non-Ministerial government department free from ministerial control or direction.

F COMPLIANCE POLICY AND OTHER DEVELOPMENTS

F6 Our key priorities for 2008-09

We will:

- Ensure the effective resolution of compliance issues and maximise the impact of outcomes in all our casework, particularly high-risk, high-profile and complex cases.
- Develop and implement a comprehensive outreach programme to explain the Commission's compliance work internally and externally; publicise outcomes and wider lessons from our compliance work, and promote compliance messages to the sector and the general public.
- Publish and implement our Counter-Terrorism strategy, monitor progress and delivery and report publicly on this.
- Continue to develop and improve our working relationships with other regulators and agencies to assist in all our compliance work.
- Review our use and effectiveness of Interim Managers when we appoint them for charities. This will also include the revision of the existing operational guidance *OG5 Appointment of Interim Managers*.

G Key statistics from the Commission's compliance work – 2007-08

We have two Key Performance Indicators (KPIs) for our Statutory section 8 inquiry cases which were agreed with HM Treasury for 2007-08:

- 95% of section 8 inquiries completed in 9 months; and
- 95% of inquiry reports (Statement of Results of Inquiry – SORI) published within 3 months of case closure.

For non-inquiry cases, there was one internally set performance indicator:

- 95% of non-inquiry cases completed in 6 months.

Our performance in 2007-08 is as follows:

- Section 8 inquiries: in 2007-08, 74% of cases closed in 9 months, compared to 24% in 2006-07.
- Non-inquiry cases: in 2007-08, 90% of cases closed in 6 months, compared to 67% in 2006-07.
- 31% of inquiry reports (Statement of Results of Inquiry – SORI) published within 3 months of case closure.

While we have made significant progress in bringing many long-running cases to a close and have reduced the time taken to close cases, we still need to improve. Delays in the closure of

Inquires and the publication of the SORI reports were mainly due to avoiding prejudice to other regulators' and agencies' investigations; the handling of sensitive issues and actively engaging with charities to resolve issues and reach agreements. We aim to drive up our performance further against key targets over the next year.

We open statutory inquiries only for the most serious cases of regulatory concern, and this is reflected in the fact that the number of formal inquiries opened during the year remained relatively low. At the same time, the overall use of our regulatory powers has increased.

The use of our powers falls into one of three categories; information gathering, temporary and permanent. We continued our extensive use of information gathering powers over the last year. In summary, we used our formal powers to make a total of 490 orders compared to 329 in 2006-07, including seven trustee suspensions, six removals, appointing 2 Interim Managers, and making 28 orders restricting transactions and preventing payments.

The following annexes provide further information on our statutory inquiry and non-inquiry compliance case work during the year, including the use of our regulatory powers.

Annex 1

Compliance and Support performance headlines for 2007/08

Number of assessments into concerns raised by the public and other complainants	799
Number of new cases opened	170
Number of formal statutory inquiries opened	19
Number of inquiry cases closed	29
Number of inquiry cases closed which had significant involvement from other regulators	5
Number of inquiry reports published on the Commission's website	42
Number of non-inquiry compliance cases closed	171
Total number of cases closed	200
Number of active compliance cases at year end	104

Compliance and Support performance impacts for 2007-08

Charity assets directly protected	£16m
Charity income directly overseen through either inquiry or non-inquiry cases	£106m
Number of cases where Commission action protected vulnerable beneficiaries	9
Number of cases protecting the reputation of individual charities	38
Number of cases protecting the reputation of the sector	27
Number of cases dealing with issues arising from conflicts of interest	26
Number of cases where advice and guidance provided to ensure the charity's governance improved	61
Number of cases involving concerns about fundraisers	9
Number of cases where an internal dispute was resolved and the charity is properly functioning again	11
Number of occasions where Commission's statutory compliance powers used, including extensive use of information gathering powers	490

These impacts relate to cases closed *during* the year only, and may not include some data in Annex 2 relating to cases closed in *previous* years.

Annex 2 – Published statutory inquiry reports 2007-08 - Key issues of concern and use of Charity Commission powers

Note these examples of the following issues of concern:

- *Accounting issues* - includes inadequate record keeping and taxation issues.
- *Fund-raising* - includes non-compliance with the fundraising regulations, and the failure to properly apply or account for funds collected.

Charity	Issues											Statutory Powers							
	Accounting issues	Disputes	Fraud allegations	Fund-raising	Governing document compliance	Land/property	Political activities	Terrorism - alleged connections	Trading/commercial	Trustee benefits/conflicts of interest	Trusteeship issues	Vulnerable beneficiaries	Order/directions for information/evidence	Suspend trustees	Remove trustees	Freeze bank accounts	Interim manager	Other Orders & Schemes	No powers used
1 Al Jamia Al Islamia (1019803)					✓	✓					✓					✓		✓	
2 Radio XL (non-registered)	✓			✓									✓			✓			
3 Smiles Foundation (1087961)												✓							✓
4 Summertime Trust (dissolved)				✓							✓								✓
5 William Parker Foundation (325045)	✓									✓						✓		✓	
6 Southampton Sports Leisure for Disabled (275482)											✓	✓		✓	✓				
7 "A registered charity" ²											✓	✓		✓					
8 Comm Education and Development (1094421)	✓								✓							✓			
9 Croydon African Caribbean Family Org (1047960)	✓										✓		✓						
10 UK Tamil Students Union (1117231)							✓				✓		✓	✓	✓				
11 United Sikh Association Guru Gobind (1071296)		✓			✓														✓
12 East End CAB (1082193)		✓			✓					✓	✓		✓	✓					✓
13 Hyde Bangladesh Welfare Association (1004506)											✓	✓							✓
14 Smart Kids at No.1 Playgroup (1022596)	✓					✓				✓			✓						✓
15 Recreation Ground Bath (1094519)						✓				✓	✓						✓	✓	
16 King George V Playing Field Arnold (700035)						✓				✓	✓								✓
17 Stevenage Muslim Community Centre (1001003)		✓			✓						✓								✓
18 Dream Foundation (1040478)	✓		✓	✓						✓	✓		✓			✓	✓	✓	
19 Thomas Morley Trust (1028993)									✓	✓	✓		✓						
20 Breast Cancer Relief (1077881)	✓		✓	✓					✓		✓					✓	✓		
21 Fairfield Housing Trust (1067489)						✓				✓	✓								✓

² To comply with the principles of the Data Protection Act 1998, the Commission has not disclosed the identity of the charity or those connected to it.

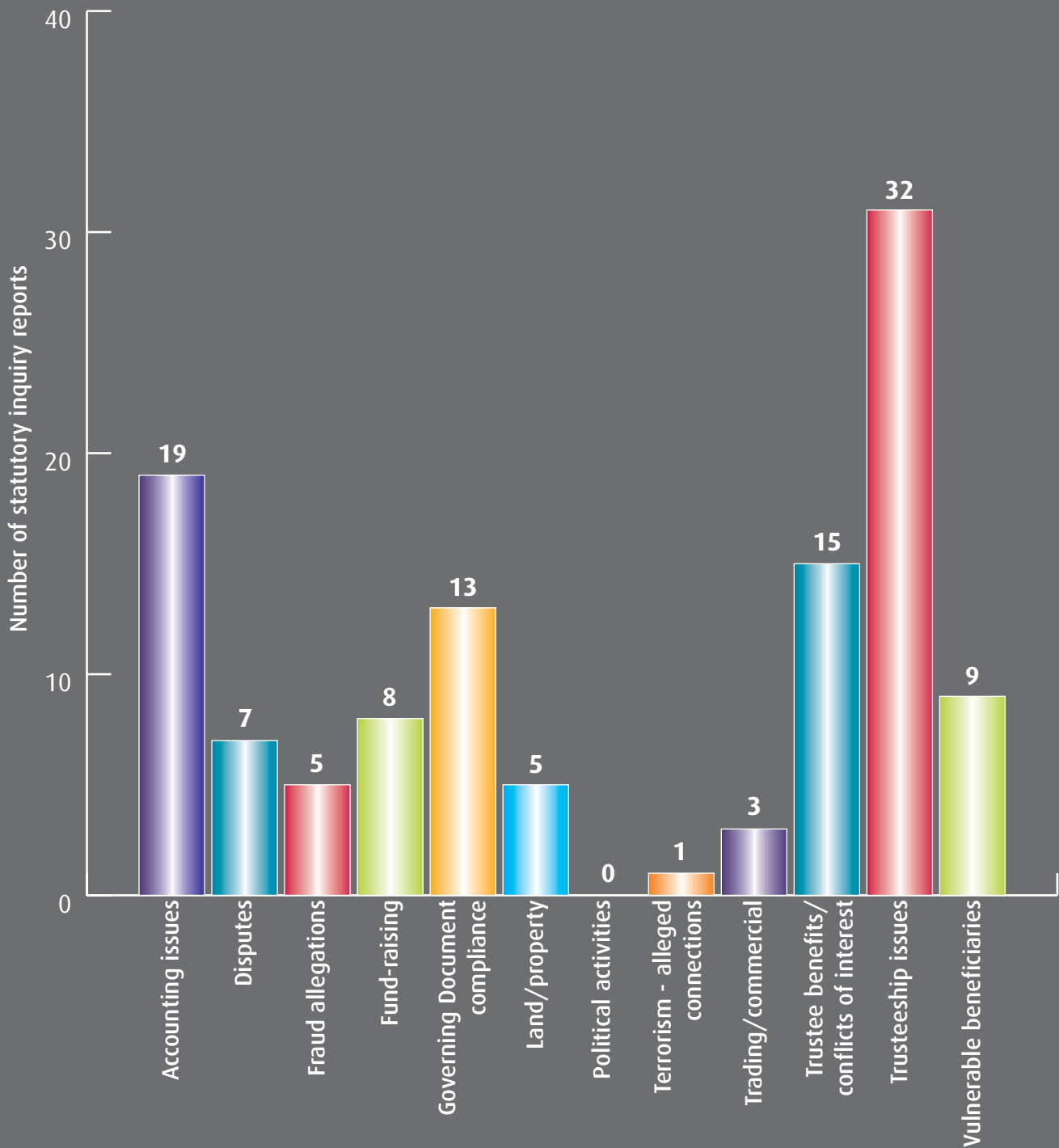
continued

- *Land/property* - includes the failure to secure a charity's rights to property, and the use of charitable land for non-charitable purposes.
- *Trusteeship issues* - includes issues other than those involving trustee benefits and conflicts of interest, such as questions concerning trustee eligibility, trustee conduct, or insufficient management controls.

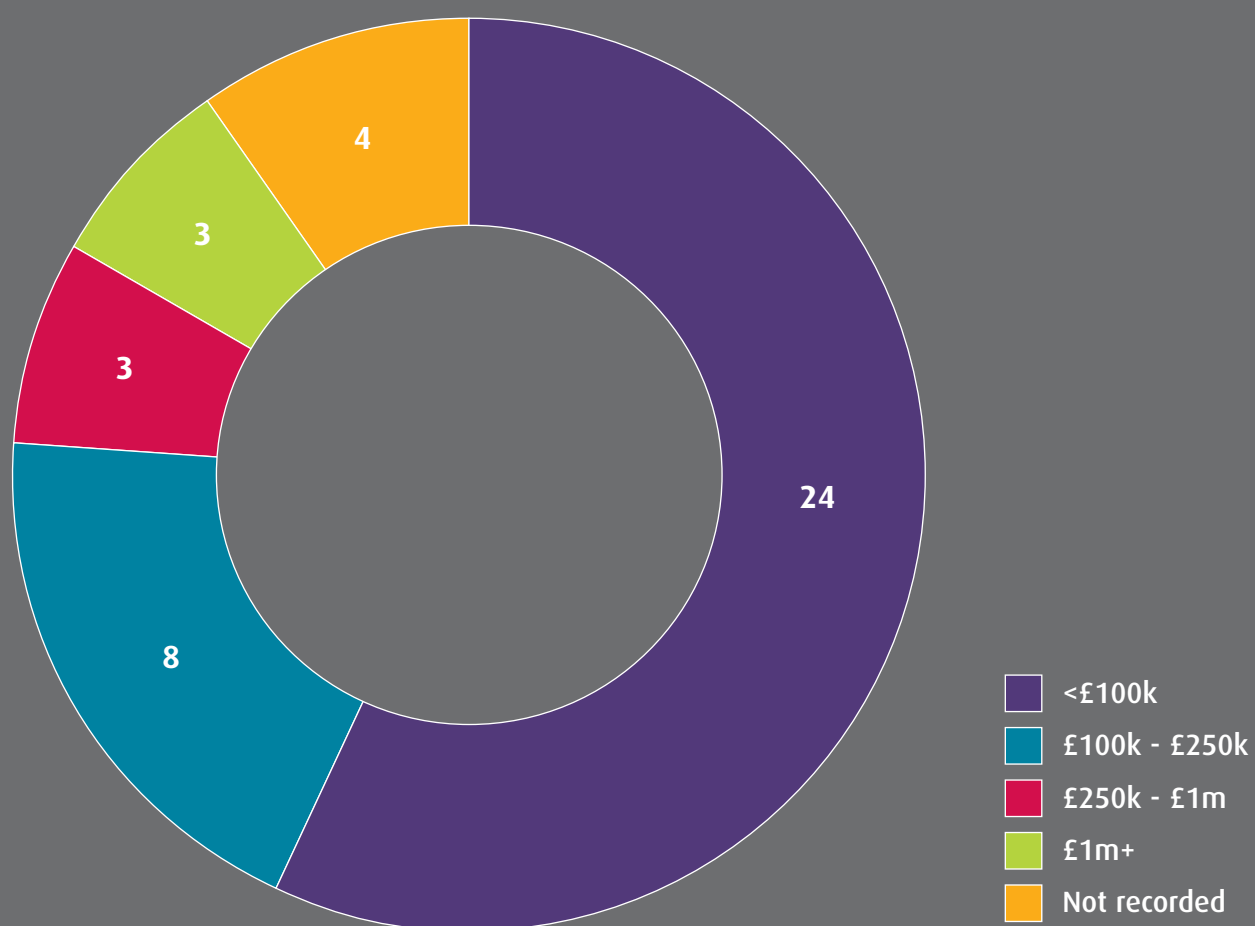
Charity	Issues											Statutory Powers							
	Accounting issues	Disputes	Fraud allegations	Fund-raising	Governing document compliance	Land/property	Political activities	Terrorism - alleged connections	Trading/commercial	Trustee benefits/conflicts of interest	Trusteeship issues	Vulnerable beneficiaries	Order/directions for information/evidence	Suspend trustees	Remove trustees	Freeze bank accounts	Interim manager	Other Orders & Schemes	No powers used
22 Mariam Appeal (non-registered)				✓							✓								✓
23 Watford and District Gingerbread (1082228)	✓				✓						✓				✓			✓	
24 Churches Counselling Together (1108406)											✓	✓							✓
25 Young Minds and Mentors (110933)	✓				✓						✓	✓	✓	✓	✓	✓		✓	
26 African Francophone Refugee Assc (1059134)	✓				✓						✓				✓				
27 Bridlington & Driffield Mencap (223343)		✓			✓						✓							✓	
28 Families Matter at Hythe URC (1097108)												✓							✓
29 Marie-Louise von Motesiczky (1059380)		✓								✓	✓							✓	
30 Victory Christian Centre (1003984)					✓					✓	✓				✓	✓			
31 Doncaster Mosque Trust (unregistered)	✓	✓																	✓
32 Margaret Desmond Charitable Trust (290896)	✓										✓		✓					✓	
33 Unity Conductive Education (removed)				✓						✓	✓				✓				
34 Durham Mining Convalesc Homes (1040427)										✓	✓	✓		✓		✓	✓	✓	
35 Ravidassia Comm Centre Darlaston (514570)	✓	✓	✓		✓						✓				✓		✓		
36 Newham Foursquare Church (1072013)	✓									✓	✓	✓							
37 London Christian Fam/Faith Tabernacle (1015067)	✓									✓								✓	
38 Care and Action (CATCH) (501833 - removed)	✓		✓	✓	✓						✓						✓		
39 Help for All (1105786)	✓		✓	✓						✓	✓	✓			✓		✓	✓	
40 Jamia Mosque and Islamic Centre (513337)	✓				✓						✓	✓							✓
41 Carmarthen Mind Association (517267)											✓	✓						✓	
42 Celestial Church of Christ (283707)	✓				✓								✓						
TOTALS	19	7	5	8	13	5	0	1	3	15	32	9	13	5	4	13	6	19	9

Annex 2.1 - Published statutory inquiry reports - 2007-08 - the type and frequency of issues of concern arising in the 42 statutory inquiry reports

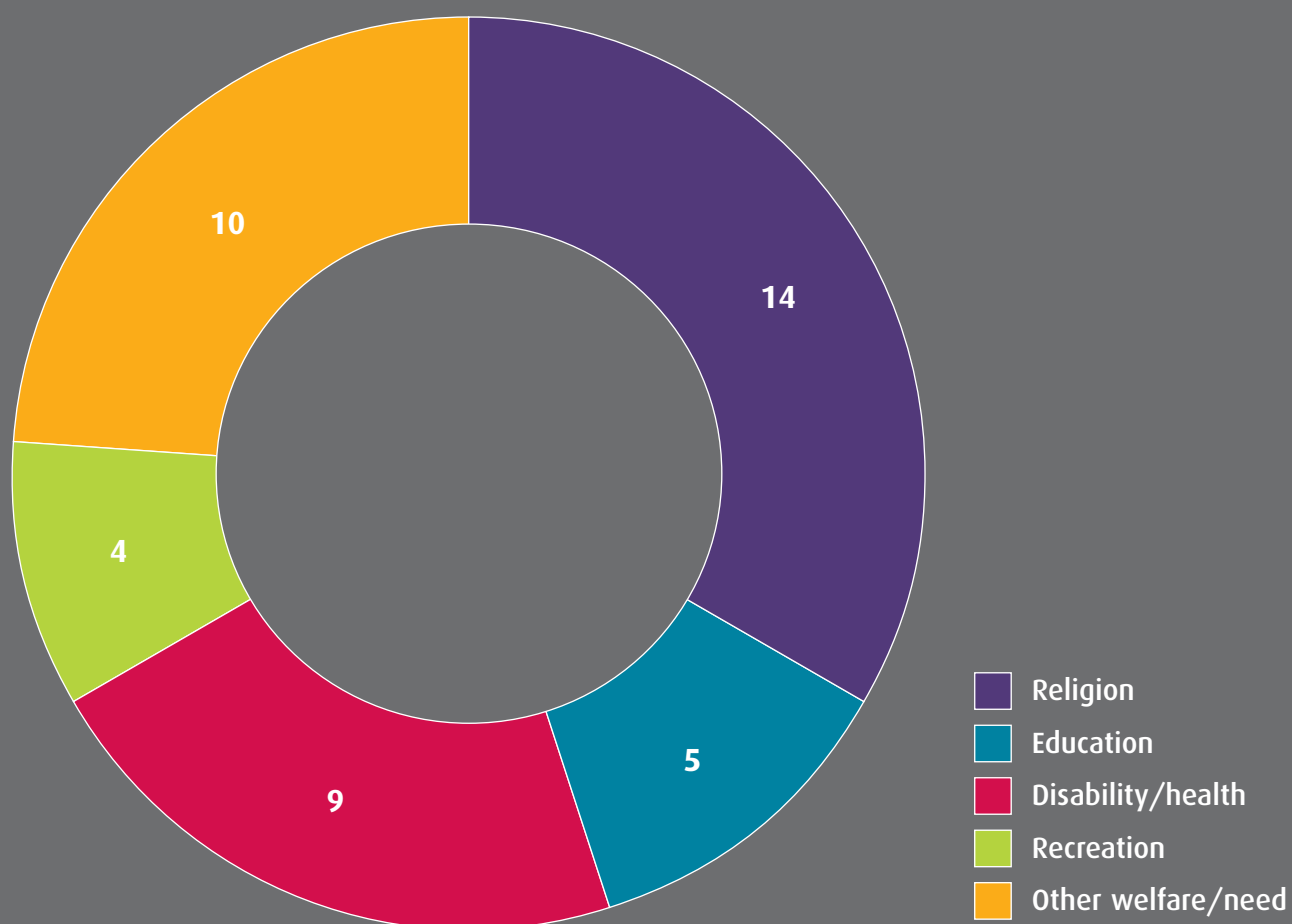
Note that some inquiries involve more than one issue.



Annex 2.2 - Published statutory inquiry reports 2007-08 - the number of charities by income bands

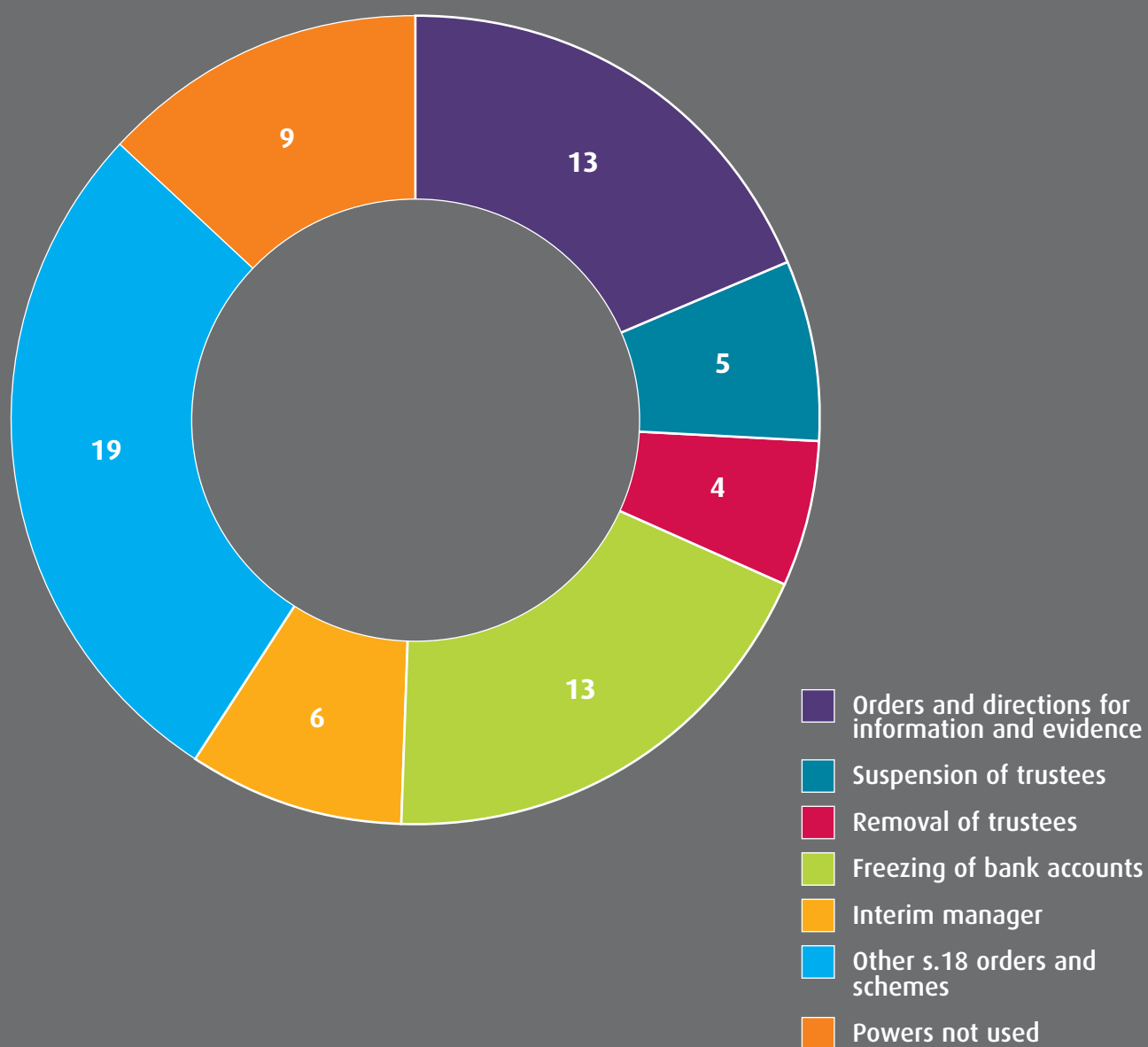


Annex 2.3 - Published statutory inquiry reports 2007-08 - the number of charities by core purpose



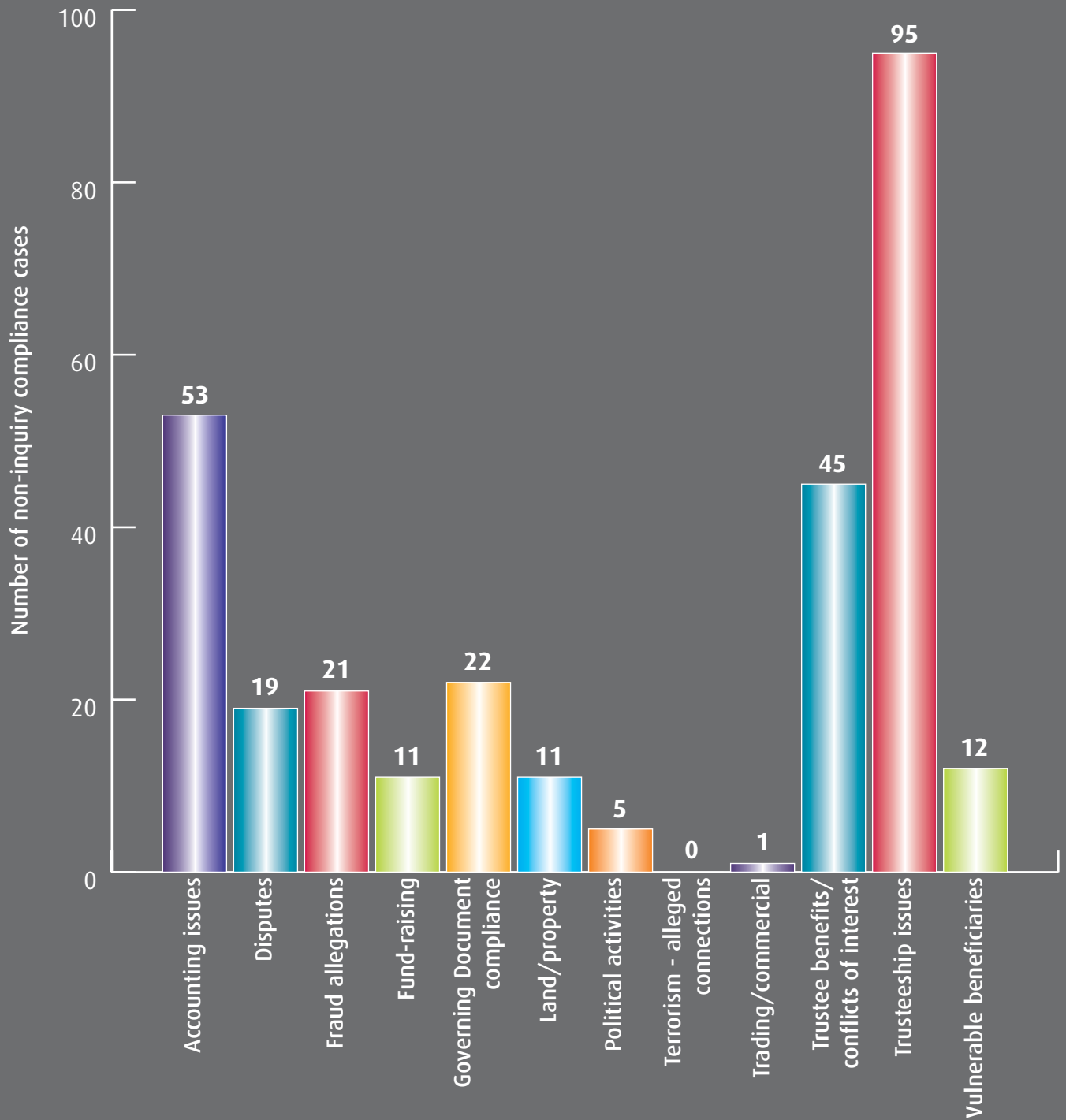
Annex 2.4 - Published statutory inquiry reports 2007-08 - the frequency of use of different Charity Commission powers

Note that more than one power may be used in some cases.



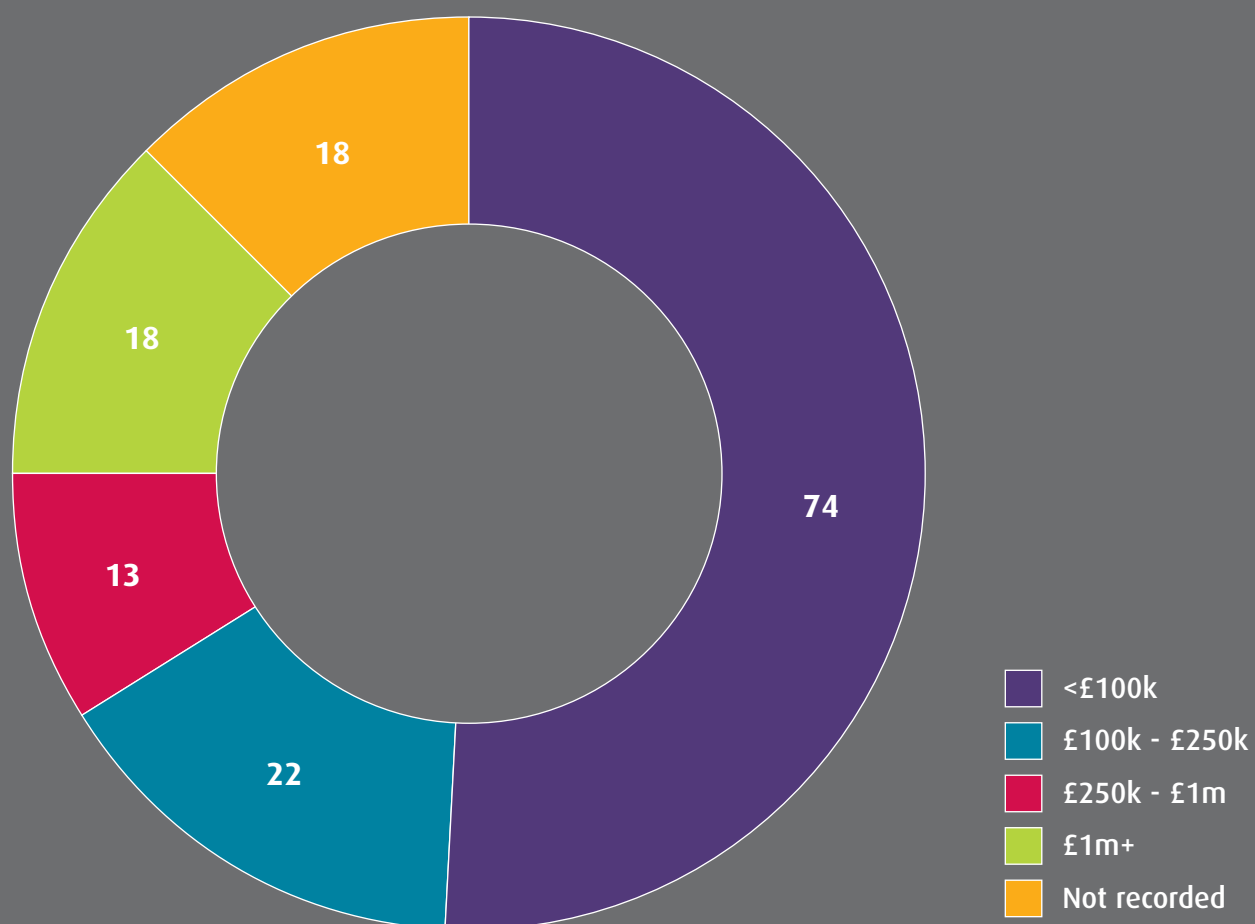
Annex 3 - Non-inquiry compliance cases 2007-08 - the type and frequency of issues of concern arising in the 171 compliance cases NOT involving statutory inquiries

Note that some cases involve more than one issue.

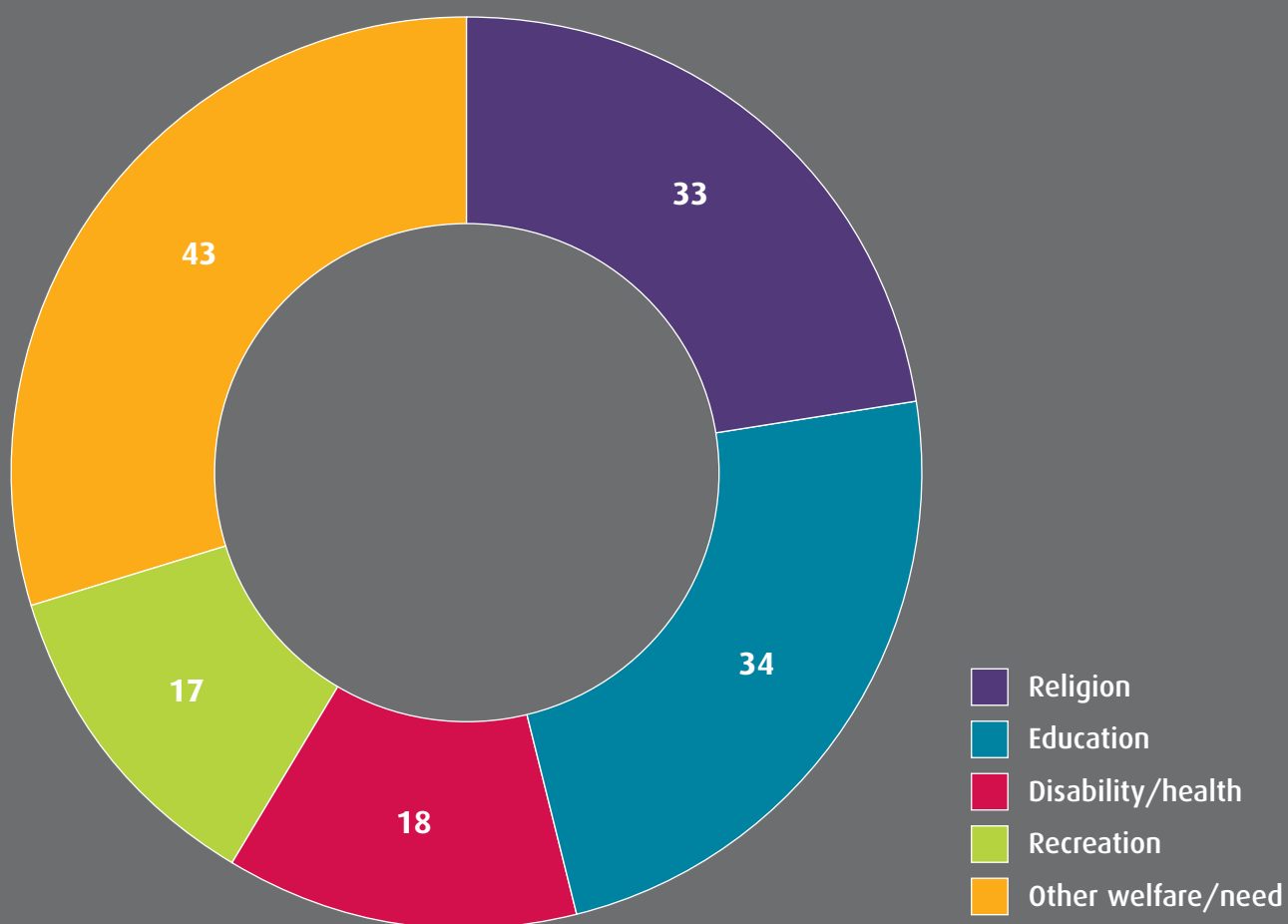


Annex 3.1 - Non-inquiry compliance cases 2007-08 - the number of charities by income bands

Note that the 171 cases involved 145 charities, because for some charities there was more than one case dealt with in the year.



Annex 3.2 - Non-inquiry compliance cases 2007-08 - the number of charities by core purpose



Annex 4

Use of Charity Commission powers - All compliance cases (statutory inquiry and non-inquiry) - showing breakdown of the number of *individual* orders or directions under the Charities Act

s8 (3) - (a)	Furnish Info/answers	40
s8 (3) - (b)	Furnish copies/documents	25
s8 (3) - (c)	Attend & give evidence	5
s9 (1) - (a)	Furnish Information	50
s9 (1) - (b)	Furnish copies/documents	246
s18(1) - (i)	Suspend Trustee, Officer, etc	7
s18(1) - (ii)	Appoint additional Trustee	3
s18(1) - (iii)	Vest property in the Official Custodian for Charities	0
s18(1) - (iv)	Not to part with property	18
s18(1) - (v)	Not to make payment	0
s18(1) - (vi)	Restrict transactions	10
s18(1) - (vii)	Appoint Interim Manager	2
s18(2) - (i)	Remove Trustee, Officer, etc	6
s18(5)	Appoint Trustee(s)	9
s26	Regulatory Consent	8
Others	(including Discharge Orders)	61
TOTAL	Orders/Directions Issued in Period	490

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