

# Tackling abuse and mismanagement

Report of Charity Commission's investigations and compliance case work

2013-14



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# Part 1: Introduction

## Foreword

Charities have been at the heart of our national life for centuries; they work in every village and community and around the world, improving lives and bringing people together. The Charity Commission exists to protect this heritage for the future. One of the ways in which we do that is by detecting and dealing with abuses against charities and mismanagement within charities. We also play an important role in providing public assurance.

There are over a million trustees in England and Wales - this is a remarkable number. The vast majority of them are honest and willing volunteers, doing their best, often under difficult circumstances. Trusteeship is rightly valued as the cornerstone of our civil society.

But as some of the case studies in this report demonstrate, good intentions alone may not be enough to stop things from going wrong. We have seen trustees putting their charities at risk because they have not understood their legal duties and responsibilities towards their charity, or because they have not responded appropriately when something has gone wrong.

Our approach to individual cases must reflect trustees' willingness to cooperate with us. But we are clear - whether it results from ignorance, negligence or malice: mismanagement puts a charity at risk and undermines public trust. The Charity Commission as regulator must intervene in the most serious cases to put a stop to mismanagement and protect charities against further harm. That is what the public expects - and it is what charities tell us they want.

This report explains the board's vision in ensuring the commission becomes an increasingly robust regulator. It sets out how we are improving our approach to analysing and responding to risk and becoming more transparent about our case work. It also presents case study examples of the common problems that arise in charities, along with a statistical analysis of our compliance case work in 2013-14. For the first time this year, we have included an analysis of the charities that became subject to an investigation or compliance case in 2013-14 (see part 5 - Statistical analysis).

I hope this report helps enhance public understanding of our regulatory work. I also hope it will help trustees learn from the mistakes and omissions of others and will encourage them to respond swiftly and appropriately when a problem does occur.



**William Shawcross**  
Chairman, Charity Commission

## About the Charity Commission

The Charity Commission is the independent regulator of charities in England and Wales. Our role is to protect the public's interest in charities and ensure that charities further their charitable purposes for the public benefit and remain independent from private, government or political interests. Parliament has given us five statutory objectives, and a wide discretion as to how to fulfill them. Our five objectives are:

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

An important part of our role is to prevent serious problems from arising in the first place, by providing online guidance that helps trustees understand and fulfil their legal duties and responsibilities in managing their charities. More information about all our work is available in our annual report and accounts and on [GOV.UK](https://www.gov.uk).

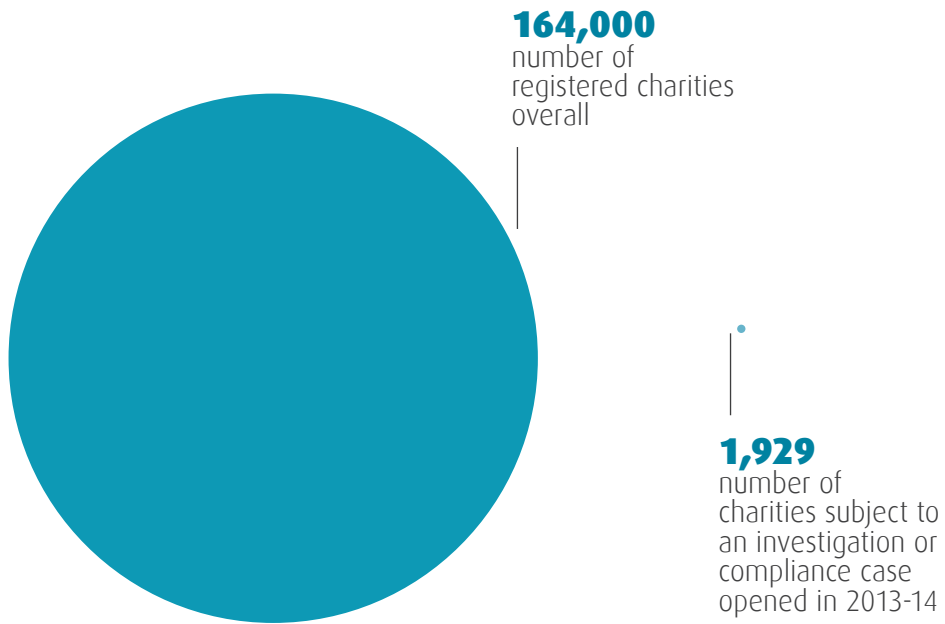
## Key figures from our compliance case work in 2013-14

£1,149,843,996	total income of charities overseen by the work of the Investigations and Enforcement area in 2013-14
£31,316,039	charity money directly protected by our action in completed statutory inquiries
100,659	trustee checks undertaken
1,664	sets of accounts reviewed
1,746	times we exchanged information formally with other agencies through the statutory gateways
1,865	operational compliance cases opened
1,972	operational compliance cases completed
1,264	individual serious incidents reported to us by charities
790	times we used our legal compliance powers during statutory inquiries, regulatory compliance and operational compliance cases concluded in 2013-14 <sup>1</sup>
85	whistleblowing reports made to us
115	pre-investigation assessment cases opened
119	pre-investigation assessment cases completed
64	statutory inquiries opened
23	statutory inquiries completed

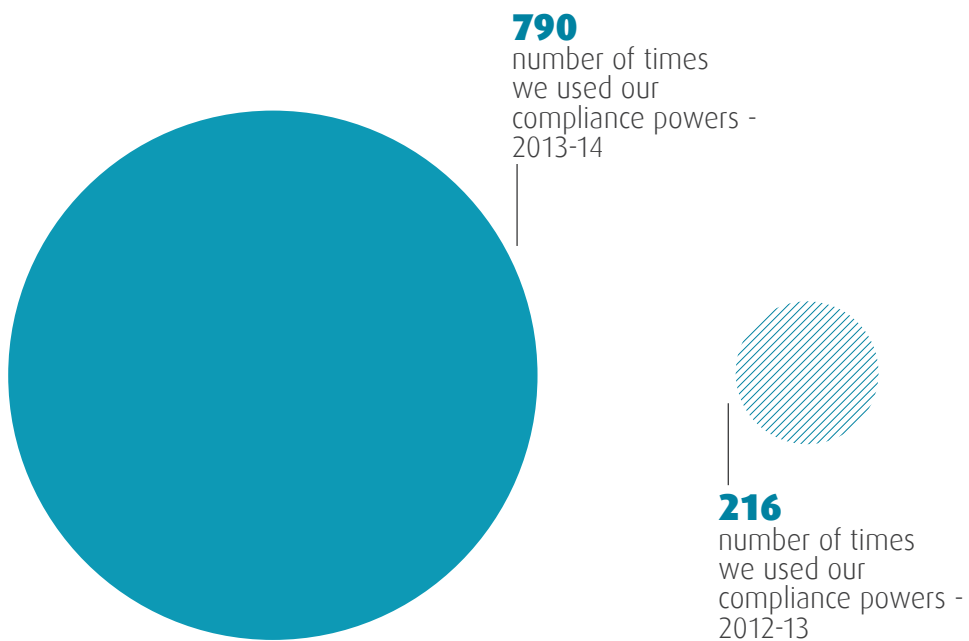
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<sup>1</sup> This includes the powers used within all Investigations and Enforcement case work - including investigations, pre-investigations assessment, monitoring and intelligence as well as Section 52 orders used during operational compliance cases. These powers include information powers, temporary and protective powers and powers with permanent remedial effect. For information about types of compliance case work, please see part 4 - Glossary.

The graphic below shows the scale of our compliance case work compared to the overall size of the registered charity sector.



The graphic below shows the increase in our use of compliance powers in 2013-14.



## Part 2: Our approach to tackling abuse and mismanagement

### Our strategic approach

The Board's Statement of Regulatory Approach, published in our annual report and accounts for 2013-14, emphasises robust regulation and prioritises our work to promote trustees' compliance with charity law. It makes clear that we are enhancing the rigour with which we hold charities accountable.

Over the last 18 months, we have increased and changed our approach to investigatory case work, as is evident from the statistics included in this report. The number of charities placed under inquiry has increased and we have used our enforcement powers more frequently and effectively, including appointing Interim Managers more frequently during statutory inquiries.

An important part of our new approach is becoming more proactive in identifying and acting on concerns about charities. We are developing our work in this area, and have already made significant improvements. For example, the class inquiry into charities that default on their reporting requirements signals how seriously we take persistent failure to prepare and submit accounts and has transformed our approach to dealing with this problem (see page 13). We have also:

- changed our approach to monitoring charities that we have told must improve their compliance and governance
- improved our work to follow up on concerns raised during or shortly after registration; a case study included in this report highlights an example of that work
- taken steps to recover lost funds, including, where appropriate, taking restitution action<sup>2</sup>

### The legal and policy framework for assessing concerns in charities

As an independent, non-ministerial government department with quasi-judicial powers, we operate within a clear legal framework and follow published policies and procedures to ensure that we are proportionate in our approach to tackling abuse and mismanagement. Trustees are the people trusted by the public to manage charities. Their duties and responsibilities are explained in our guidance. If something goes wrong in a charity, trustees should take responsibility for putting things right. We get involved when we are concerned that trustees are not fulfilling their duties towards their charity, either because they do not understand them or are not willing or able to meet them.

In the most serious cases of abuse, when charities' assets, reputation, services or beneficiaries have been harmed or are at serious risk of abuse or damage, we may open a statutory inquiry. Inquiries aim to stop abuse or damage and put charities back on a proper footing for the future.

Our published risk framework explains how we approach all of our work and helps ensure we are proportionate, accountable, consistent, transparent and targeted. It sets out three questions that we answer before taking action.

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<sup>2</sup> We issued our policy on restitution in May 2013; this makes clear that trustees will be accountable for deliberate and reckless behaviours amounting to misconduct.

1. Does the commission need to be involved?
2. If we decide we do need to be involved, what is the nature and level of risk?
3. What is the most effective way of responding?

We prioritise issues that fall within three areas of strategic risk affecting charities: fraud, financial crime and financial abuse, safeguarding issues and concerns about the terrorist abuse of charities. We have published strategies for dealing with these risks, which are published on [GOV.UK](https://www.gov.uk). Our regulatory alerts also cover these areas (see page 9 Regulatory guidance and alerts).

## Our compliance powers

Our compliance powers fall into three categories.

### Information gathering powers

These powers take the form of an order or direction to obtain information or documents or require named individuals to meet the commission to answer its questions. We will only ask for information that is relevant to the case and our functions as regulator.

These powers allow us, among other things, to direct a person to:

- provide accounts and statements in writing
- provide us with copies of documents
- attend a meeting to give evidence or produce documents

In using these powers, we have regard to the principles of best regulatory practice, including proportionality.

### Temporary protective powers

Temporary protective powers enable us to protect charity property at risk for a temporary period while we continue investigating. These powers include:

- suspending a trustee, charity trustee, officer, agent or employee of the charity from their office or employment
- preventing a person who holds charity property from parting with it without our consent
- restricting the transactions a charity can enter into or the nature or amounts of payments that can be made without our consent
- appointing an interim manager to manage the affairs of the charity alongside or instead of the trustees

As required by law, we regularly review our use of these powers to ensure that they stay in place only for as long as is necessary.



## Remedial powers - also known as permanent protective powers

Permanent protective powers enable us to implement long-term solutions to problems identified by an investigation. These powers can only be used in the context of an inquiry and to use them, we must be satisfied that there is or has been misconduct or mismanagement in the administration of the charity. Before using permanent protective powers we make sure that they are necessary and proportionate.

Permanent protective powers include:

- removing a trustee, officer, agent or employee of a charity who has been responsible for or privy to misconduct or mismanagement in the charity or has contributed to it or allowed it to go on
- establishing a scheme for the administration of the charity
- direct specific action with regard to the charity's administration or its property

## Working with other agencies

We work closely with other agencies to improve outcomes. As we are a civil regulator, it is especially important for us to work with the police and law enforcement agencies when we find evidence of criminality. In turn, other agencies refer concerns about abuse and compliance with charity law to us. Agencies we work especially closely with include the police, particularly the Metropolitan Police, HMRC, the National Crime Agency, The National Fraud Intelligence Bureau (NFIB), the Financial Conduct Authority, the Insolvency Service, and the Welsh Government. We also work with Ofsted, the Department for Education, the Higher Education Funding Council for England, and the Higher Education Funding Council for Wales. We exchanged information with other agencies through the formal statutory gateway in the Charities Act 2011 **1,746** times in 2013-14.

While we are not a prosecuting authority, we work closely with law enforcement agencies to bring people to justice. This includes supporting police investigations by providing witness statements and giving evidence in court. In 2013-14, we provided **32** witness statements. For example, we worked closely with the police to secure the convictions of two trustees who defrauded the charity Afghan Poverty Relief out of £350,000. We provided expert assistance to the criminal investigation and one of our officers gave evidence as a prosecution witness in the criminal proceedings that led to the convictions.

## Increasing transparency

We have developed our approach to publicising ongoing cases and reporting on cases once they have concluded. This is on the basis that it is in the public interest for information about investigations to be in the public domain, and comes in light of the increased volume of our investigatory case work.

Transparency is also a powerful regulatory tool. Some charities are more likely to work with us to resolve issues and progress an investigation so it can be confirmed publicly when the investigation is over. Our new approach has also led to witnesses coming forward with evidence we would not otherwise have obtained.

We also believe this approach helps promote public trust and confidence in charities, because it provides assurance that the regulator is looking into allegations and will take protective action if it needs to.

### Statements about live investigations

We now announce new statutory inquiries into charities, unless there is a public interest reason not to. For example, there are times when announcing an inquiry might jeopardise our investigation or the investigation of another agency, or interfere with legal proceedings. These public statements are available on [GOV.UK](#) and a charity's online register entry will shortly show whether or not a public statement has been issued confirming an investigation is open. These statements ensure the reason for an investigation is clear and on record and help the public make informed choices about the charities they support.

It continues to be our normal practice to publish a report once an investigation has concluded. Inquiry reports explain what our concerns were, what actions we took and what our conclusions were. We have increased the time they are available on GOV.UK to two years and there is also a link to these reports from the charity's online register entry.

### Operational case reports

Most concerns about charities are resolved without an inquiry, as part of Operational compliance cases or monitoring cases (see part 4 - Glossary for explanations of different types of case work). As there are several thousand such cases each year, it is not possible for us to report on each one of them, so we prioritise cases involving issues that are already in the public domain, or that include important lessons for trustees - our target is to publish at least 25 such reports each year.

## Regulatory guidance and alerts

Our regulatory approach is reflected in the guidance we issue to trustees. For example, we have consulted on and reissued our guidance on [Conflicts of interest](#), and are reviewing our core guidance on trusteeship (The essential trustee<sup>3</sup>) to make it clearer what we expect of trustees.

The regulatory alert is also an increasingly important compliance tool. We issue alerts to charities and/or the public when we become aware of a particular risk facing individual charities or public trust in charities. We may identify these risks through our case work, or as part of our wider regulatory work. We issued 10 alerts in 2013-14. These included alerts on donation scams, on the risks arising from arrangements involving tenancy agreements that take advantage of business rates relief and alerts to raise awareness of the particular risks facing charities participating in humanitarian aid convoys to help people in Syria and the surrounding region. Examples of our alerts are included in our annual report for 2013-14.

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<sup>3</sup> We are currently consulting on a revised version of our guidance 'The essential trustee'. You can take part in the [consultation](#). The consultation will conclude on 17 February 2015.

More recently, we alerted charities to the need to report serious incidents, as we believe there is significant underreporting among charities. Many charities we speak to are still unaware of the need to report serious incidents to us. The alert makes clear that our regulatory response to a problem will reflect whether or not trustees made a serious incident report. We will give trustees credit for coming to us early to let us know there is a problem. Some of the case studies in this report demonstrate the risks arising from a failure to notify the commission of serious adverse incidents in a charity. Our alert appears to have helped encourage more charities to report serious incidents to us; 60% more incidents were reported to us in the three months after we issued the alert than during the equivalent period in 2012-13.

We expect trustees of all charities to read our alerts and follow our guidance so as to protect their charities against harm.

## Looking ahead

### Getting better at assessing risk

We are currently implementing a transformation programme that will further improve our regulatory effectiveness and help us become a more proactive regulator.

Among the three strands of the programme is a project to improve our ability to identify, assess and respond to key risks in charities. We are updating our risk framework. We are also making greater use of our data to proactively identify risk and improve our initial assessment of concerns.

### Additional funding

We have been given new funding by the Treasury, which we will invest in technology and our front line operations. We will digitise and automate low risk work so that we can redeploy our resources on higher risk case work. This will further strengthen our work to identify abuse and mismanagement in charities. These changes will help us become a more effective and agile regulator.

### Closing loopholes in our powers

We have long argued that underlying weaknesses in our powers limit our ability to prevent and tackle abuse. The more proactive we become in identifying abuse and mismanagement, the more important it becomes that we have effective powers. We have welcomed the draft Protection of Charities Bill, which is undergoing pre-legislative scrutiny at the time of writing. The powers proposed in the draft bill include:

- a power to disqualify individuals from trusteeship when their conduct renders them unfit
- a power to issue official warning to trustees if they breach charity law
- provisions which ban people with certain convictions such as terrorism and money laundering from trusteeship

The provisions of the Bill will directly affect only a small proportion of charities that are being deliberately abused, or in cases where the reckless or negligent actions of trustees mean we need to act. All other charities will benefit from the enhanced public trust that arises from effective regulation.

## Part 3: Types of abuse and mismanagement

### Financial mismanagement and financial crime

The impact of financial crime or abuse goes beyond the monetary loss to the charity; it often has very serious adverse consequences for the charity's reputation, and the well-being of its staff and volunteers. If our work uncovers evidence of a potential criminal offence, we always share that evidence with the police. We often work closely with the police to help secure convictions of individuals who have abused a charity for financial gain.

However, not all financial mismanagement involves incidents of criminality. Often trustees put their charities at risk of potential abuse, because they have not put systems in place to protect their charity's funds or account for the charity's income and expenditure. Trustees must put financial controls in place and take responsibility for ensuring the charity prepares annual accounts that are compliant with the Charities Statement of Recommended Practice (SORP).

Trustees must also respond appropriately when problems do occur, including by making a serious incident report to the commission and taking steps to avoid a similar problem from occurring in future.

#### **Spotlight on tenancy agreements and business rates relief**

We are aware that charities have been approached by retailers and landlords to enter into tenancy agreements that relieve the landlords of the requirement to pay full business rates. It can be advantageous for charities to enter such agreements; eg charities may be able to lease accommodation for charitable uses for low or nominal rents. Charities may also receive charitable donations from landlords. However, these arrangements can pose a risk to charities and trustees. If the charity does not make sufficient use of the premises for charitable purposes, it may be liable for the full business rate liability. Trustees may also find themselves personally liable. We have issued two alerts on this issue to charities, which explain the steps trustees need to take when considering entering into tenancy agreements on empty properties.

We are dealing with a number of live cases involving these issues.

The case studies below demonstrate the risks that charities are exposed to when they fail to put in place effective financial controls - and when trustees fail to account publicly for their income and expenditure.

Trustees must read and follow our guidance:

- [Internal financial controls - a checklist](#)
- Charity reporting and accounting - the essentials [Charity Finance Group Charity Fraud guide](#)
- [Fraud and financial crime](#) - chapter 3 of the online compliance toolkit, Protecting charities from harm

**In 2013-14 concerns about financial abuse and/or financial mismanagement featured in:**

- **476** reports of serious incidents
- **43** whistleblowing reports
- **32** completed pre-investigation assessment cases
- **25** completed investigations (statutory inquiries and regulatory compliance cases)

**In 2013-14 concerns about fraud and theft or misapplication of funds featured in:**

- **71** completed operational compliance cases

### Case study 1: Class inquiry into double defaulting charities

Charities are accountable to their donors, beneficiaries and the public. Donors to charity are entitled to have confidence that their money is going to legitimate causes and reaches the places that it is intended to. It is therefore vital that charities account properly for their financial activities and that charities' financial governance is transparent. Many get this right - in 2013-14 86% of annual returns and annual accounts were submitted to us on time, accounting for 99% of the sector's income. But those that fail put their own charity at risk and undermine public trust and confidence.

It is an offence to fail to submit the required documents and we regard it as mismanagement and misconduct in the administration of a charity. In September 2013, we began a class inquiry to investigate charities that have defaulted on their reporting requirements by failing to file annual documents for two or more years in the last five years. The aim of the inquiry is to ensure the charities in question comply with the legal requirement to submit annual accounting documents and to deal with the associated mismanagement and misconduct on the part of trustees. By November 2014, the inquiry had ensured over £47m in charity funds are now publicly accounted for<sup>4</sup>.

One of the charities that has been investigated as part of that inquiry is the Cathedral of Revival Assembly of God.

#### Cathedral of Revival Assembly of God

**About the charity:** The charity's objects include to advance the Christian faith, to relieve sickness and financial hardship and to advance education.

**Why we got involved:** The charity failed to submit annual accounts and reports and annual returns required for the financial years ending 2012 and 2013. The charity was sent several automatic reminders about the need to submit annual accounting documents.

**The action we took:** We contacted the charity by phone and sent it a final letter requesting the trustees to submit the missing documents by a final deadline. After that deadline passed the charity became part of the class inquiry.

**What we found:** The charity's trustees were in default of their legal obligations to file accounting information with us. This was mismanagement and misconduct in the administration of the charity and a breach of their legal duties.

The trustees did not explain why the charity had not complied with its legal obligations.

**Impact of our involvement:** As a result of the inquiry, we ensured the charity complied with its legal obligations to submit their annual accounting information. Two sets of accounts were filed and as a result over £1,400,000 of charitable income is now transparently and publicly accounted for on the register of charities.

<sup>4</sup> The total income recorded in the overdue accounts of charities which were part of the defaulters inquiry stood at over £47,301,000 by November 2014.

**Case study 2: Institute of Brewing and Distilling****A charity's poor financial controls and reporting give rise to concerns about a potential loss of funds**

**About the charity:** The charity's objects are to advance public education in the sciences of brewing, distilling and fermentation. It is based in London and had an income of around £1.7m in the year ended December 2012.

**Why we got involved:** The charity submitted a serious incident report in November 2012, informing us of concerns about the charity's financial record keeping and accounting systems and stating that prior year surpluses had been overstated by £364,149. A new accountant appointed to the charity had found that the charity's previous record keeping had been poor, and raised questions as to whether the charity's previous accounts were a true and fair account of the charity's finances. The serious incident report was supported by a detailed report from the charity's auditors. Separately, concerns were raised with us by a complainant, who alleged that there had been fraud and money laundering totalling several millions of pounds.

**The action we took:** We made a thorough assessment of the charity and its systems of financial management. A commission accountant undertook a detailed examination of all available records and considered the information supplied by the complainant. We sought additional information from the auditors who had been engaged by the charity to investigate the financial situation. In September 2013, they confirmed that their review had found no evidence of fraud or theft, just poor accounting. However we decided that further examination was necessary because there remained a possibility that there might have been unrecognised real losses of cash, as the historic bank reconciliations had not been reconstructed. In order to examine and resolve this concern, we met with the charity to examine their records. Following the visit, we processed over 10,000 bank statement entries so that payments could be crosschecked by the charity against their financial records. We then audited the financial analysis undertaken by the charity and are satisfied that a proper process has been followed.

**What we found:** Neither the police nor the commission saw any evidence of fraud, theft or money laundering. Our work reassured us none of the charity's money had gone missing. The trustees acknowledge the serious weaknesses of their financial controls that had led to the charity's finances being inadequately recorded and accounted for previously.

**Impact of our involvement:** Given the amount of money that was not properly accounted for, it was important to determine whether there had been any misappropriation of funds. The commission's approach is that such issues are serious and require a thorough examination. The detailed audit of the records has involved significant work and we have had full co-operation by the charity. It was important to determine that no funds were lost, both to ensure charitable resources are protected and because of the impact on the charity's reputation.

The charity's trustees have undertaken a full overhaul of the charity's financial management and record keeping and we are satisfied that the systems now in place are adequate. The trustees must continue to monitor the implementation of these systems and review them regularly to ensure they remain fit for purpose.

**Lessons for other trustees:** Trustees carry ultimate responsibility for governing their charities and holding managers to account. Ensuring that the charity has sufficient financial controls in place and that these are being implemented is a crucial part of trustees' duties. Such systems help prevent financial crime, ensure the charity is reporting accurately to the public and help protect the charity's reputation.

In this case, the charity's trustees failed to keep adequate oversight over the charity's financial management and could not properly account for significant sums of money. They had responded appropriately when they were made aware of the problems by submitting a serious incident report to us.

However this case illustrates that their responsibility for charitable funds requires a very full examination to determine whether a real loss has occurred.

**Type of case:** Operational compliance case.

### Case study 3: MSL Mountaineering

#### We uncover deliberate fraud and breach of trust by a charity trustees

**About the charity:** The charity was registered in 20 October 2006. Its objects included to provide or assist in the provision of facilities in the interests of social welfare for recreation or other leisure time and advancing the education of young adults.

**Why we got involved:** We became aware of concerns about discrepancies in the charity's annual accounts when another charity reported that MSL's accounts claimed it had donated £130,000 to the other charity, which had in fact received only £17,000. We made a number of enquiries into the matter, but were not satisfied with the response and our concerns grew.

**The action we took:** We opened a regulatory compliance case into the charity in March 2011 to investigate the financial management of the charity. Over several months, we gathered further information and interviewed a number of trustees and former trustees of the charity.

**What we found:** We found that information in the charity's bank statements did not match the information supplied in the charity's annual accounts. The bank statements revealed that numerous payments had been made to one of the trustees of the charity, Mark Lewis, and also his wife Elizabeth Lewis.<sup>5</sup> We also uncovered connected companies and established that the charity had overstated its income in its accounts. We found that attempts were being made to conceal irregularities relating to donations and gift aid payments.

In August 2011, we referred concerns to HMRC about Gift Aid totalling £857,830.65 that had been paid to the charity. To merit this Gift Aid amount the charity would have to have received over £3million of donations. There was no evidence that MSL had received any such donations.

**The impact of our case:** On the basis of evidence supplied by us, HMRC pursued Mark Lewis and Elizabeth Lewis with criminal prosecution. In June 2013, Mr Lewis pleaded guilty to submitting thirteen fraudulent Gift Aid claims and laundering the money from them. Mrs Lewis was found guilty after trial of money laundering offences in the following September. In November 2013 she received 18 months imprisonment suspended for two years. He was sentenced to 4 years imprisonment.

**Lessons for other charities:** This case involved deliberate abuse of charity for personal gain. However, it also involved other trustees, who had placed too much trust in an individual, rather than relying on appropriate controls, procedures and reporting. It serves as a stark reminder that each trustee must play their part in protecting their charity and be wary of the very real risks posed to charities when they fail in their duties.

<sup>5</sup> Charity bank account analysis revealed approximately £123,187 was paid directly to either Mark Lewis and/or Elizabeth Lewis.



## Concerns about safeguarding

The public expect charities that work with children or vulnerable people to protect those people and be safe places. When abuse takes place within a charity or is facilitated by a charity, it destroys that trust and shatters confidence. Trustees of charities working with vulnerable people, especially children, must take all reasonable steps to prevent them from being harmed and ensure, if an incident occurs, that it is dealt with promptly and properly. Doing this not only protects vulnerable people. It also promotes confidence among the charity's own trustees, staff and volunteers.

The commission does not administer child protection legislation, but we help ensure that charities working with vulnerable beneficiaries protect them as best they can and minimise the risk of abuse. In the context of safeguarding, our role focuses on the conduct of trustees and the steps they take to protect the charity and its beneficiaries. See our '[Strategy for dealing with safeguarding vulnerable groups including children issues in charities](#)' for more information about our role and approach to dealing with safeguarding issues.

Trustees must comply with safeguarding legislation and read and follow our guidance:

- [Protecting vulnerable groups including children](#)
- [Safeguarding children - detailed guidance](#)

### **In 2013-14 concerns about current or historic safeguarding featured in:**

- **628** reports of serious incidents
- **6** whistleblowing reports
- **79** Operational compliance cases
- **15** completed pre-investigation assessment cases
- **1** completed investigation

### Case study 1: Holme-on-Spalding-Moor Village Hall

#### A charity fails to respond appropriately to allegations against its Chair

**About the charity:** The charity manages a village hall and playing fields in Holme-on-Spalding-Moor, in the East Riding of Yorkshire. It was registered in 1968. In the year ending March 2014, it had an income of over £40,000.

**Why we got involved:** Through our work on another case, we became aware that the chair of trustees had been charged with offences relating to sexual assault against a child (these charges were not related to the individual's role in the charity). Although at that time a police investigation was ongoing, we needed to get involved to make sure the trustees were dealing with the incident appropriately, and had systems in place to protect the charity's beneficiaries from potential harm. We were also concerned that the trustees had not made a serious incident report to us about the allegations.

**The action we took:** We contacted the trustees and instructed them to provide us with a range of information and documents, including: when the person involved was appointed as a trustee, what his role in the charity was, whether he was a trustee when the alleged offences took place, and what steps the trustees took when the incident was first brought to their attention. We also told the trustees to provide us with copies of minutes of the trustee meetings at which the issues were discussed, information about any professional advice the trustees had sought in relation to the matter and details of the charity's safeguarding policy.

**What we found:** In their response, the trustees informed us that the individual against whom charges had been brought was the charity's chairman. We were told that the chairman had not originally informed his fellow trustees of the allegations against him, when he was appointed. They confirmed that, when they became aware of the charges against him, they voted not to exclude him as a trustee. Their response did not specify what steps they had taken in response to the incident, or whether the trustee has had any contact with beneficiaries. While the trustees were able to provide a safeguarding policy, we found that policy to fall short of our guidance.

In the meantime, we became aware that another police force had also received allegations about the trustee.

This response caused us concern. We were not satisfied that the trustees had considered the seriousness of the situation or dealt with the matter appropriately, including considering suspending the trustee pending the outcome of the criminal investigation by the police. Whilst due process had to take its course, not acting was potentially placing other beneficiaries at risk. We were also concerned that a conflict of interest relating to the position of the accused was not being appropriately managed. We therefore advised the trustees of their legal duties and responsibilities towards the charity, asked to see their conflicts of interest policy, and told the trustees to review their safeguarding policies.

We also liaised with the police to find out about any bail conditions that may have been imposed on the individual that may have impacted on his position as trustee.

**Impact of our involvement:** The person did not stand for election at the charity's AGM. The charity confirmed that it would be reviewing its safeguarding policy in light of our recommendations.

The accused was convicted and sentenced to 7 years, after admitting two offences of sexual activity with a child and two of meeting a child following sexual grooming.

We closed our case on the basis that there was no ongoing risk to the charity or its beneficiaries and the trustees had now undertaken to improve their safeguarding policy, with the help of professional advice and support from an umbrella body. We also advised the trustees to implement a formal conflicts of interest policy and consider whether their processes for trustees were adequate in light of the charity's work.

**Update:** We will be following up with the trustees to ensure that they have acted on our regulatory guidance.

**Type of case:** Operational compliance case.

**Case study 2: Bufferzone****A charity's trustees fail to oversee a trustee, giving rise to concerns for the charity's vulnerable beneficiaries**

**About the charity:** The charity's objects included promoting the benefit of the people of Cornwall by addressing mental health issues in the community. In practice, it provided an advocacy and outreach service for people with mental health problems.

**Why we got involved:** We received a number of complaints alleging that vulnerable service users had felt threatened and intimidated by the charity. This included being pressurised to pay 'voluntary fees' in return for the charity's help. We needed to get involved to understand the charity's processes for safeguarding vulnerable beneficiaries and to know how they were responding to the specific complaints.

**The action we took:** We instructed the trustees to report the incidents of concern to the Cornwall County Council Adult Safeguarding Officer. Although we asked the trustees to provide a range of documents and information (including safeguarding policies and accounts), they were unable to do this. We then arranged to meet the trustees.

**What we found:** During our meeting, it became clear that the trustees' supervision and management of the charity was wholly inadequate. There were no written safeguarding policies or procedures in place and volunteers were left unsupervised for much of the time. The only oversight the trustees appeared to have over the activities of the charity was through telephone conversations. We also found that one of the charity's trustees was related to a volunteer. We explained why, in the context of this case, we considered the trustee's position to be inherently conflicted and untenable.

We also found serious concerns about the wider governance of the charity. The charity's treasurer showed little knowledge of the charity's accounting procedures and there were no ledgers or spreadsheets to manage the flow of funds or management accounts. Indeed it did not appear to have any financial controls in place and was not able to provide us with bank statements or cheque book counterfoils.

We concluded that the trustees were failing in their duty to safeguard vulnerable beneficiaries by not ensuring that robust governance controls and procedures were in place.

**Impact of our involvement:** We told the trustees that they had two options:

- either they needed to recognise their responsibility for the governance of the charity and the activities of its volunteers by putting in place proper policies and procedures, or
- the trustees could consider dissolving the charity in line with the provisions of its constitution. This was a suggestion made by the trustees themselves at the meeting

The trustees decided that the most appropriate response to the very serious problems at the charity was to dissolve it. We asked the trustees to complete the online process for winding up a charity and to prepare final accounts. Despite repeated attempts by one of the trustees (who cooperated with us), the charity failed to provide this information. It was clear that the charity remained unable to account for its historic income and expenditure. On balance, we decided that the charity's remaining assets were minimal and that further action against the trustees would not be proportionate. For that reason, we used our powers under the Charities Act 2011 to remove the charity from the register of charities on the basis that it no longer operated. The conduct of volunteers associated with the charity was of concern to other agencies including the police, DWP and the Adult Safeguarding Unit - the commission had joint meetings with those agencies and our action in confronting the trustees and subsequently removing the charity from the register was a strategic part in dealing with the problem.

**Lessons for other trustees:** All trustees have legal duties and responsibilities towards their charities; for trustees of charities working with vulnerable beneficiaries, these duties include ensuring that there are robust policies in place to safeguard the beneficiaries and to ensure those policies are being followed at all times. Guidance about the steps trustees need to take to safeguard beneficiaries is available on GOV.UK. It is not for the commission to decide whether or not a charity should continue to exist. However, it is our role to provide regulatory advice in cases of serious concern. If governance problems are so serious that a charity may not be viable, we may recommend dissolution as an appropriate way to resolve the concerns and prevent further harm to charity assets or vulnerable people. When trustees have decided to wind up their charity, they must complete the online process, which includes a trustee declaration confirming that all the charity's assets have been applied to further its charitable purpose and that the trustees have prepared final accounts.

**Type of case:** Operational compliance case.

## The risk of abuse for terrorist related purposes

Terrorist acts and support for terrorist groups and activities are criminal matters. This is why in all cases where we deal with concerns about possible terrorist related issues, we work and liaise with the police and law enforcement agencies.

Our role as regulator is to help ensure trustees take steps to protect their charities from being misused and to ensure that charity funds and property are used and applied properly.

For some charities the risks are higher than for others, because of the nature of their activities or where in the world they operate. Charities providing help and humanitarian aid in conflict zones across the world often work in or close to areas where militant and/or terrorist groups operate. Their job is not easy but it is vital that we ensure the money the public donates reaches those it is intended for. We also know people use the cover of charities to travel and carry cash to those areas for non-charitable reasons.

In addition, here in the UK, we know there is a challenge to ensure charities are not abused as a platform for supporting terrorist ideology and support - whether by social media, the production of literature, or as platforms or venues for radicalising terrorist support.

Our guidance makes clear that charities are not prevented from promoting or supporting views that may not be the norm and may be controversial. But concerns about a charity involved in promoting, supporting or giving a platform to inappropriate radical and extremist views would call into question whether what it was doing was lawful, was in furtherance of its purposes for the public benefit.

- [Charities and terrorism](#) - chapter 1 of the online compliance toolkit, 'Protecting charities from harm'
- [Protecting charities from abuse for extremist purposes and managing the risks at events and in activities](#) - chapter 5 of the online compliance toolkit, 'Protecting charities from harm'
- [Due diligence monitoring and end use of funds](#) - chapter 2 of the online compliance toolkit, 'Protecting charities from harm'
- [Holding moving and receiving funds safely in the UK and internationally](#) - chapter 4 of the online compliance toolkit, 'Protecting charities from harm'

When concerns about terrorist or extremist abuse of charity arise, we assess them in line with our risk framework (see pages 6-7). Our strategy on dealing with risks facing charities is available on GOV.UK.

**In 2013-14 concerns about abuse of charities for terrorist purposes featured in:**

- **7** reports of a serious incident
- **35** pre-investigation assessment cases<sup>6</sup>
- **84** monitoring and compliance visit cases<sup>7</sup>
- **5** statutory inquiry cases, 2 of which were new cases opened during the year<sup>8</sup>

A total of **1,746** disclosures took place between the commission and other agencies. Of these overall exchanges **234**, or 14%, related to terrorism and extremism issues:

- **71** Section 54 disclosures to the commission
- **163** Section 56 disclosures made by the commission

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6 These include cases that may have been opened or have been on-going during the year 2012-13. These are not necessarily completed cases.

7 These include cases that may have been opened or have been on-going during the year 2012-13. These are not necessarily completed cases.

8 These figures do not relate to completed cases.

### Case study 1

#### A planned event puts two charities at potential risk

**About the charity:** This case involved two charities; the objects of the first were based around providing education; the second charity's objects included relieving the need of victims of natural disaster and advancing education.

**Why we got involved:** The trustees of charity 1 notified the commission that a number of their beneficiaries had, using their charity's name and without their prior knowledge, planned and were involved in the organisation of an event in conjunction with the second charity. The trustees of charity 1 became aware of the event a few days before it was due to go ahead and they contacted the commission.

That event was planned to include an address by an external speaker who is known to express views that are controversial, and considered by some to be extremist.

**The action we took:** We liaised with the trustees of charity 1 and they took action to ensure their charity's name was removed from the advertisements for the event and that their charity would have no further involvement with it. We contacted the trustees of charity 2 to alert them to concerns and alert them to their duties as trustees. We asked them what systems they have in place for assessing and mitigating potential risks arising from the event. We asked them what due diligence checks they had made, what systems they had for dealing with issues that might arise during the event, how the event furthers the charity's objects and written confirmation to show protective measures, such as those outlined above, have been implemented prior to the event. We asked for assurances that the trustees will put in place procedures designed to protect the charity from any reputational risk.

**What we found:** The trustees of charity 2 responded promptly to our letter and answered our questions in full. They cancelled the event but did give assurances that they had in place safeguards designed to protect their charity's reputation and to ensure that comments of a controversial nature would not be allowed, these included the event being controlled by a moderator; a clear theme for the event and clear messages; briefing speakers prior to the event and the presence of trained stewards.

**Impact of our involvement:** As a result of our engagement, the trustees of charity 1 were able to clearly distance their charity from the event and took steps to avoid similar situation arising again, including by issuing their beneficiaries with clear guidance. The trustees of charity 2 cancelled the event.

**Type of case:** PIA assessment case.

### Case study 2 and 3: risks facing charities working in Syria

We have made clear our concerns about the risk that charitable aid convoys to Syria may be abused for non-charitable purposes and facilitating travel for British foreign fighters. Volunteers travelling to Syria with charities are also at serious risk.

Our regulatory advice to charities considering taking part in or organising aid convoys is that they must:

- consider very carefully whether a convoy is the most effective way to deliver aid
- properly assess and manage the risks, and know that people participating in aid convoys have been stopped by ports officers both in the UK and overseas
- consider the safety of people as well as of the aid being transported
- ensure volunteers receive appropriate training and briefings prior to travel to ensure that they are aware of the risks involved if they travel and know that the Foreign and Commonwealth Office ('FCO') advises against all travel to Syria
- ensure all volunteers travel from and return to the UK together on the convoy; trustees ought to question the motives of those wanting to stay for longer periods of time or those looking to travel independently
- be alert to people signing up to join a convoy at the last minute
- ensure cash is kept to a minimum and only carried when absolutely necessary

We have warned charities organising and participating in convoys that they may face regulatory oversight and scrutiny, including a compliance visit and have since carried out a number of visits. We expect trustees of such charities to demonstrate that they have complied with their duties and responsibilities under charity law and that charitable funds and property have been properly applied.

The case studies below provide examples of our work in this area.

#### Children in Deen

**About the charity:** The charity's objects include the relief of poverty among children and young people in Pakistan and the relief of poverty and the improvement of the conditions of life in social and economically disadvantaged communities within the UK and worldwide.

**Why we got involved:** Media reports in February 2014 stated that Abdul Waheed Majeed, the British suicide bomber in Syria, had travelled to Syria as part of a humanitarian aid convoy run by the charity.

**The action we took:** We engaged with the trustees who confirmed that the individual had travelled as a volunteer for their convoy in July 2013. In March 2014, we conducted a compliance visit to the charity.

**What we found:** Our visit identified a number of failings on behalf of the trustees in relation to this convoy, noticeably poor records and ineffective procedures to vet the volunteers travelling to Syria.

**Impact of our involvement:** We opened a statutory inquiry to formally address these regulatory concerns in April 2014 - the inquiry remains ongoing.



### Charity involved in convoys

**We cannot name the charity as it remains subject to an ongoing monitoring case.**

**About the charity:** The charity's objects include the relief and assistance of victims of war or natural disaster around the world.

**Why we got involved:** The commission became aware that £20,000 was withdrawn from the bank account of an unregistered charity working to provide humanitarian relief to people in Syria. The funds were withdrawn by an account signatory and given to a third party to retain; this followed a dispute between the trustees during a convoy to Syria.

**The action we took:** We took action to recover the £20,000 from the third party and ensure its return to the charity's bank account; this was achieved through the threat of exercising our legal powers to compel the individual to return the money.

**Impact of our involvement:** Since the funds returned, we have worked with the other trustees to secure the charity's registration (given its income); we continue to monitor the charity's activities to ensure that its trustees are complying with their legal duties and responsibilities to apply and account for donated funds and goods.

## Serious governance failures

### Conflicts of interest, unauthorised trustee benefits, breaches of governing document

Many of the problems that we see in charities have their root in basic governance failures. Poor governance exposes charities to risk, hampers them in furthering their aims, and contributes to an environment in which abuses can be committed and go unnoticed. No system of control can guarantee a charity is protected against serious incidents or wilful criminal exploitation. But by fulfilling their duties and putting solid governance controls in place, trustees can dramatically reduce the risk of abuse, protect their charity from harm and ensure it furthers its purposes in line with its governing document.

At the heart of good governance is sound decision making. Good decision making means:

- acting in good faith and exclusively in the charity's interests
- acting within the trustees' powers
- managing conflicts of interest
- being properly informed
- where relevant, seeking appropriate advice

Sometimes, concerns arise in connection with transactions and dealings between the charity and a trustee or body closely connected to trustee, for example loans between the charity and a trustee. Concerns can arise, when, for example, there is no record of the transaction being properly discussed by the non-conflicted trustees, no written agreements, no independent advice taken or where the transactions are not reviewed for long periods of time.

When a problem has arisen, trustees must respond appropriately, including by reporting the incident to us. This demonstrates to donors, funders and beneficiaries that the trustees are not brushing the issues under the carpet, but protecting their charity's interests. It therefore mitigates the potential reputational damage associated with the adverse incident. If trustees fail to respond appropriately, this may be mismanagement.

By understanding and following our core guidance, trustees can protect their charity from harm:

- [It's your decision: charity trustees and decision making](#)
- [The essential trustee: what you need to know \(CC3\)](#)<sup>9</sup>
- [Conflicts of interest \(CC29\)](#)
- [Hallmarks of an effective charity \(CC10\)](#)
- [Managing charity assets and resources \(CC25\)](#)
- [Reporting serious incidents - guidance for trustees](#)

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<sup>9</sup> We are currently consulting on a revised version of our guidance 'The essential trustee'. You can take part in the [consultation](#). The consultation will conclude on 17 February 2015.

**In 2013-14 serious governance concerns featured in:**

- 26 reports of serious incidents
- 18 whistleblowing reports
- 28 completed pre-investigation assessment cases
- 3 completed investigations

**Concerns about mismanagement or maladministration featured in:**

- 135 completed operational compliance cases

**General concerns about poor governance and featured in:**

- 95 completed operational compliance cases

**Concerns about unmanaged conflicts of interest and trustee benefits featured in:**

- 2 completed pre-investigation and assessment cases
- 3 completed investigations (statutory inquiries and regulatory compliance cases)
- 28 completed operational compliance cases

**Concerns about breaches of governing document featured in:**

- 8 whistleblowing reports
- 52 completed operational compliance cases

### Case study 1: Mayfair Charities Limited

#### A charity's property arrangements give rise to concerns about conflicts of interest

**About the charity:** The charity works to support charitable Jewish organisations in the UK and abroad, especially those in the field of education and relief of poverty. Its income in the year ended March 2012 came to just under £12.5m and its expenditure was over £4m. The charity owns properties which are rented out at market rate and uses the income to make grants to charitable causes.

**Why we got involved:** The charity is involved in a complex network of property related financial arrangements involving it, its trading subsidiaries and companies connected to the trustees. We needed to establish whether that network worked for the benefit of the charity.

**The action we took:** We opened a statutory inquiry to examine and resolve a number of concerns arising from proactive scrutiny of the charity's accounts. We also investigated various financial transactions, including a particular loan by the charity to a subsidiary. Although the loan generated an income of 8% for the charity, in order to discharge their legal duties, the trustees ought to have been periodically reviewing the terms and circumstances of the loan and whether full repayment or some capital repayments should be made. As a result of our intervention, the trustees have confirmed that they will do so now.

We also examined a loan, now repaid, by a company connected to the trustees to a subsidiary of the charity. We concluded that was difficult for the transaction to be negotiated or supervised in a truly arm's length way, given that the directors of both companies were the same people and they were also two of the three trustees of the charity. In light of this, we could not see how the directors could have properly managed the conflicting interests in seeking to maximise the profit from the arrangement on the subsidiary's part and so these conflicts may have affected any ultimate profit that would flow to the charity.

**What we found:** Our investigation concluded that the arrangements did ultimately benefit the charity. While we identified the issues that the trustees needed to address, including the need to appoint at least one independent trustee, we did not identify any significant failings in the administration of the charity. The trustees cooperated with us throughout the Inquiry and agreed the actions required.

**Impact of our involvement:** As a result of the inquiry, the trustees have agreed to appoint at least one independent trustee who is fully independent and unconflicted. We have made clear that the trustees need to periodically review the charity's relationship with its subsidiaries and connected companies.

**Lessons for other charities:** Trustees must be alert to and deal with any conflicts of interest. A trustee cannot receive any benefit from his or her charity without explicit authority. Trustees should not be in a position where their personal interests and their duty to the charity conflict, unless the possibility of personal benefit from which the conflict of interest arises is transparent. Transparency is achieved by requiring explicit authorisation of the benefit, and by taking appropriate steps to prevent the conflict of interest from affecting the trustees' decision.

**Type of case:** Statutory inquiry.

### Case study 2: The Camphill Village Trust

#### Dealing with conflicts of interest and trustee benefits, and implications for the way the charity works

**About the charity:** The charity has a long history of providing care and education for people with disabilities in accordance with the principles of Rudolf Steiner. It maintains 9 communities, most of which are 'life-sharing'. This means that beneficiaries live alongside volunteers ('co-workers'), who provide care and support. The co-workers do not receive a salary, but have their 'reasonable needs met'. When we got involved, co-workers made up a significant proportion of the trustee board.

**Why we got involved:** A whistle-blower contacted us about the level of benefits received by co-workers in one community and we received a number of serious incident reports, which prompted us to correspond with the trustees. In September, the Chair of the charity contacted us on behalf of all trustees who were not co-workers (the independent trustees) to confirm that they were unable to provide us with the assurances we were seeking.

The Chair expressed concerns about a lack of proper control by the trustee body and inadequacy of the record keeping for benefits received by co-workers. The benefits included payments for school fees for co-workers' children, co-workers' holidays and on the costs of their mobile phones. However, this has to be understood in the context of co-workers not receiving a salary. But without a recognised policy to authorise these payments, there was a real danger to the reputation and funding of the charity.

The Chair pointed to increasing concern among the charity's public sector funders, including a local authority, which had asked a community to provide details of how co-worker allowances were worked out and had questioned for whose benefit the community operated. The community had no written policy about co-worker allowances.

The issues raised were of serious regulatory concern to us. We needed to address:

- concerns about excessive private benefit for co-workers
- barriers to the proper management of conflicts of interest at Board and community level
- barriers to adequate oversight by independent trustees
- specific concerns about safeguarding risks to vulnerable beneficiaries arising from the charity's unusual approach
- risk to the charity's financial future, resulting from the risk of local authorities withdrawing funding
- lack of adequate accounting and financial reporting of co-worker benefits

**The action we took:** We set out an agreed action plan, with 5 key steps the trustees needed to take in order to resolve our concerns about the management and future of the charity. Specifically, we told the trustees to:

- introduce a policy on co-worker remuneration, to include allowances that co-workers are entitled to claim and a system to ensure limits for spending
- amend the governing document to ensure sufficient independent trustees to manage any conflicts of interest; in practice, we explained that this effectively requires independent trustees to be in the majority
- ensure any conflicts of interest are properly managed in line with trustees' legal duties, including through the introduction of a formal conflicts of interest policy to apply at national board level and within individual communities
- prepare proper accounting records that explain the charity's transactions in line with trustees' legal duties which set out spend by individual co-worker or community
- ensure all co-workers and staff are aware of the rules and regulations with regard to the safeguarding of vulnerable beneficiaries and ensure that these regulations are adhered to

**Impact of our involvement:** The charity monitored its progress against the action plan over several months and reported its progress to us. We were satisfied that the trustees have made good progress with the plan to ensure that co-worker benefits can be demonstrated to be incidental and used to achieve the object of looking after beneficiaries, rather than being part of the purpose of the charity itself. The trustees decided that co-worker benefits would be paid from agreed budgets, with the independent trustees determining the rules for applying the budget.

Amendments have been made to the charity's governing document so that independent trustees are in the majority on the Board and have effective control of the charity.

The charity has introduced a requirement that all co-workers sign up to the charity's safeguarding rules and regulations. In addition, a safeguarding specific review has been developed. The charity is making good progress in this area. This case demonstrates that we do not always have to use our legal powers to effect change. Even in serious cases, we can successfully intervene by providing robust guidance and checking that trustees have complied with it. This approach was possible in this case, as key trustees shared our concerns and were committed to addressing them urgently.

**Lessons for other charities:** It is a fundamental principle of charity law that any private benefit that arises from a charity's work must be incidental. Charities that have direct contact with children or vulnerable adults must have appropriate safeguarding policies and procedures in place, including complying with DBS requirements. All workers must follow these policies and procedures. It is also important that any conflicts of interest, which threaten to harm the interests of charity beneficiaries, are avoided and where unavoidable, managed properly.

**Update:** Following a detailed review, the trustees have proposed a programme of significant change. This includes changing the status of co-workers to salaried employees and moving away from the family/household model of providing care where co-workers live with the beneficiaries. Concerns have been raised with us that these changes are not in line with the Steiner principles and we have been asked to intervene. We cannot determine matters of ethos and doctrine, so we are unable to rule on whether these changes are in accordance with Steiner principles. However, we are satisfied that the trustees have acted in accordance with their duties as trustees. They have followed a proper decision-making process, taking account of the Steiner principles and have sought financial and legal advice.

**Type of case:** Operational compliance case.

## Concerns about charities' independence

Independence is one of the most fundamental characteristics of charity. A charity's independence is preserved when trustees make decisions exclusively in the charity's interests, putting aside any other interests or loyalties, and ensure everything the charity does helps further its charitable aims.

Independence in charities also means upholding party political neutrality. Charity law allows charities to take part in campaigning and political activity in furtherance of their charitable purposes. But charities must never engage in any form of party political activity, for example by supporting or funding a political party or candidate.

When deciding whether to engage in political activity or to launch a campaign, trustees should carefully weigh up the possible benefits against the costs and risks. Charities must be especially careful in the run-up to an election. Campaigning by charities has been the subject of much debate in recent months, not least because of the passing of the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act (the Lobbying Act). The Electoral Commission has published guidance about that legislation, which trustees must also follow if they are engaging in campaigning activity in the run up to the 2015 general election, and any other election, whether local, regional or national.

We will be monitoring charities' political activity in the run-up to the 2015 election, as is our usual practice. This year, we have established a rapid response case handling system, that will allow us to follow up any concerns that are raised about charities' activity swiftly, giving charities and the public confidence as to what is, and what is not acceptable. We will review the findings from our election case work, along with the impact of the Lobbying Act, after the election.

As the case studies below demonstrate, concerns about a charity's independence are often high profile; once such concerns have arisen, trustees must respond swiftly and appropriately to protect their charity and its reputation.

### Trustees must follow the relevant guidance:

- [It's your decision: charity trustees and decision making](#)
- [The essential trustee: what you need to know \(CC3\)](#)<sup>10</sup>
- [Speaking out: campaigning and political activity by charities](#)
- [Charities, elections and referendums](#)
- Electoral Commission guidance on [Charities and Campaigning](#)

### In 2013-14 concerns about campaigning and political activity featured in:

- 2 completed pre investigation assessment cases
- 1 monitoring case
- 7 completed operational compliance cases

<sup>10</sup> We are currently consulting on a revised version of our guidance 'The essential trustee'. You can take part in the [consultation](#). The consultation will conclude on 17 February 2015.



### Case study 1: Fairfield (Croydon) Limited

#### Plans to give local authority majority voting rights give rise to concerns about a charity's independence

**About the charity:** The charity's objects are to provide recreation and leisure facilities for the benefit of the inhabitants of the Borough of Croydon and surrounding boroughs. In practice, it maintains and manages an entertainment venue - Fairfield Halls - which hosts music, theatre, film and dance productions. The property is owned by the local authority but leased to the charity; in practice, the rent is covered by a grant from the local authority to the charity.

**Why we got involved:** We became concerned about reports in local news blogs, which suggested that Croydon Council had asked the charity's trustees to consider giving the Council greater control within the charity. The proposals were to admit the Council as a member and give it 75% voting rights at member meetings, thereby effectively making the charity a local authority controlled company. A local resident also raised concerns with us about these proposals.

Many local authorities are involved in charities as sole corporate trustees. This is not a concern in itself, because trustees have a clear legal duty to make decisions in the charity's best interest. However, members of charities have no such obligations; they can act in their own interests, rather than the interest of the charity. The proposal was therefore of regulatory concern to us, because it would have effectively meant the take-over of the charity by the local authority in a way that allows the authority to influence decisions made by the charity in its own, rather than the charity's interests. This raised questions as to the future charitable status of the organisation.

**The action we took:** We asked the trustees to confirm whether the proposal had been adopted and if so, whether the charity's Memorandum and Articles of Association had changed, what level of control the Council would have over the charity and whether the trustees had taken any legal advice, especially any specialist charity law advice.

**What we found:** The charity confirmed that the proposal had not yet been adopted and that no changes had occurred at the charity; the trustees also confirmed that they had sought specialist legal advice. However, they also told us that they had agreed to fully consider the Council's proposal, explaining that it was linked to Croydon Council's plans to invest significant funds in refurbishing Fairfield Halls; the Council was keen to ensure their funding was being used to best effect. This raised further questions for us. We needed to understand why the issue around the control of grant funds was being dealt with by the council effectively taking control of the charity, rather than through the terms of the grant agreement. We also needed to understand how the trustees satisfied themselves that the Council's majority membership would not prevent them from complying with their statutory duties. We asked to see any relevant legal advice and copies of the minutes of trustee meetings at which these issues were discussed, in order to properly understand how trustees had decided to enter into negotiations with the Council about the proposals.



**Impact of our involvement:** The charity eventually confirmed with us that the Council had decided to withdraw the membership proposals. The trustees said that the relationship between the charity and the local authority would be dealt with by lease and grant agreements. We advised the trustees that surrendering the lease agreement - even if it is replaced by another - would equate to a disposal of charity land and that we would probably need to grant the trustees authority to agree to such a proposal.

**Lessons for trustees:** Trustees have a duty to act solely in the charity's interests and not be improperly influenced by any outside interest.

This case demonstrates that trustees must be mindful of charity law, including by seeking specialist advice where necessary, when negotiating relationships with third parties. Being aware of charity law requirements helps charities during negotiations with other organisations and prevents trustees from signing up to an agreement which they may not have the authority to commit to.

The case also demonstrates that the commission's proactive involvement can often help prevent mismanagement or abuses of charitable status before they occur.

**Follow-up:** In September 2014, we conducted a follow-up case to monitor the charity's actions in light of our advice. The trustees were able to confirm that the proposal to allow the Council to become a controlling member of the charity had been withdrawn, and that the charity had negotiated a favourable variation of the lease agreement. We were satisfied that the trustees acted appropriately and under professional advice and have achieved a result that appears to be in the best interests of the charity, thus protecting the charity's independence. We therefore have no ongoing regulatory concerns.

**Type of case:** Operational compliance case.

### Case study 2: Family and Childcare Trust

#### A charity's social media activity raises questions about public perceptions of independence

**About the charity:** The charity has objects that include promoting and preserving the health and welfare of children, young persons, parents and persons in all forms of family relationship.

Its objects also include advancing education in better standards of childcare.

**Why we got involved:** We were approached by a Member of Parliament about concerns that the charity's activity on the social media platform Twitter amounted to party political activity. For example, the charity had used two hashtags that were also being used by the Labour party and which mirrored phrases used prominently by senior politicians of that party. The MP also raised concerns about links between a senior staff member at the charity and the Labour party.

While charities are free to campaign in furtherance of their objects, our guidance is clear that they must not engage in party political activity of any kind. Charities must also ensure that any involvement they have with political parties is balanced.

It was not clear to us that the charity had been in breach of our guidance based on the information submitted to us. However, there was a concern that public perceptions of the charity's independence could have been adversely affected by its social media activity. For that reason, we needed to get involved.

**The action we took:** We asked the charity's trustees to explain how they make decisions about campaigning, and in particular, how they weigh up the benefits of a specific campaign against the potential risks. We also asked them how they ensured the charity's independence - and public perception of its independence - are maintained and how the specific decision was taken to use the hashtags in question.

**What we found:** The trustees explained to us in detail how they decide upon and oversee the charity's campaigning activity. They confirmed that all campaigning decisions were focused on fulfilling the purpose of the charity and that the trustees were involved in deciding upon, planning and evaluating campaigns. They explained the criteria against which the charity determines the risks and benefits of any proposed campaign.

The trustees were also able to confirm that they took seriously the need to maintain neutrality and independence, citing for example, the charity's annual conference the previous year, which had included speeches by a Conservative minister and her Labour shadow.

Regarding the use of the Twitter hashtags, the charity explained that it had done so in order to join a conversation that was relevant to the charity's purposes and to ensure that the charity's tweets were seen by a larger audience. The trustees said that they were satisfied that none of the charity's tweets containing the named hashtags indicated a bias in favour of a particular political party.

As a result of these explanations, we were satisfied that the charity has adequate procedures in place for ensuring that the benefits of any campaigns are properly weighed up against the potential risks and the charity's independence and the public perception of this are maintained. Our conclusion was that the charity was complying with our guidance. However, in light of the concerns raised by the complainant, we welcome the charity's planned actions to further minimise any risk that the charity may not be perceived to be independent in the future, including establishing an audit and risk committee to scrutinise campaigning and political activities.

**Impact of our involvement:** Our involvement helped reassure the complainant and the public that the charity's trustees had been able to demonstrate that they had fulfilled their duties and responsibilities. The case provides an example of how, in practice, we assess concerns raised about charities' compliance with our guidance on campaigning and political activity.

**Type of case:** Operational compliance case.

## Concerns about charities abusing their charitable status

Legally the commission is required to register any organisation which is clearly established for exclusively charitable purposes for the public benefit. However, where we find systematic abuse of charitable status, we will consider whether there is evidence to show that the organisation was actually set up for such purposes, as opposed to genuine charitable purposes. If, there is evidence that it was, we will consider whether it was properly registered in the first place. If necessary we will take it off the register.

Sometimes, we identify real concerns at the registration stage as to whether the intention is to set up a charity to facilitate non-charitable activities. In such cases we will ask those involved probing questions. If they are able to answer us, but we continue to have concerns and are legally required to register the charity, we will monitor it to make sure it is being run for exclusively charitable purposes for the public benefit.

Concerns about charities set up for non-charitable purposes featured in 2 concluded monitoring cases this year.

### Case study: 10 fraudulent charities

#### 10 charities caught out for fraudulent applications

Silent Image (1155486), Ideal Ways (1155384), Link Effect (1154761), Capacity Building (1154871), Initiative Assurance (1152200), New Lead (1156381), Destiny Rescue (1150740), Angel Network (1150266), OutCare (1149598), Guide Watch (1156744)

**About the charities:** All of the charities were registered between November 2012 and April 2014. They all had similar objects to advance education by funding projects overseas and all listed Bhutan and Bangladesh as areas that they operated in.

**Why we got involved:** Recent pre-registration checks confirmed that fraudulent documents had been included in a number of applications to register with us. Those applications were denied. Having identified a specific feature in the fraudulent documents, we wanted to establish whether previous applications had contained fraudulent documents of this kind.

**The action we took:** We undertook a check on the documents that all registered charities had submitted in their application for charity status. The check was designed to identify the specific feature of the documents that would indicate they were fraudulent.

**What we found:** The check pinpointed the fraudulent feature in the application documents of 10 registered charities. The 10 applications had been submitted over a two year period but in looking at all of the information comparatively, we quickly identified a number of suspicious commonalities across all the documents. For example, in correspondence with each of the charities during the registration process they had all supplied identical information about the intended public benefit of their work.

All the evidence suggested that one person or group was behind the fraudulent applications to gain a charity registration number. Two of the charities, Angel Network and Out Care, had been registered long enough to submit annual returns. Both submitted returns declaring they were below the £25,000 threshold to provide full accounts. Given the initial documents the charities had provided were fraudulent and that the charities had provided none (or very limited) financial information in their returns it was not clear whether, or how much, money was raised or why the charities had been set up.

**Impact of our involvement:** These 10 charities have been removed from the public register on the basis that they do not operate. Meanwhile, our intelligence team has worked to identify those that were involved and we have informed Action Fraud about this case.

**Lessons for others:** It is a criminal offence under the Charities Act to provide false and misleading information to the Charity Commission and we will take steps to pursue those individuals that do so. We can and do make pre-registration checks and we will spot fraudulent documents. Those applications will be refused charity status.

## Concerns about fundraising

Fundraising is one of the most visible activities that charities take part in and when done well, can raise awareness of the work of charities and promote trust. But when fundraising is poorly managed, it can seriously and rapidly undermine public confidence.

Charity fundraising activity is covered by a wide range of legislation and regulation, with regulatory responsibilities divided between several monitoring and enforcement bodies. FRSB runs the UK's self-regulatory scheme for charity fundraising. The scheme is a key part of the regulatory framework for fundraising. It allows member charities and fundraisers to commit to a set of recognised standards, and provides the public with a means of complaint about the fundraising methods and practices that a charity uses.

We expect charity trustees to ensure that their fundraising is carried out lawfully and in a way that encourages public trust and confidence, whether that fundraising is done directly by their charity or by an intermediary, such as a professional fundraiser or donation website.

We get involved when fundraising raises concerns about a charity's governance or management, to ensure trustees have fulfilled their legal duties and responsibilities in overseeing their charity's fundraising.

### **In 2013-14 concerns about fundraising issues featured in:**

- **3** reports of serious incidents
- **41** concluded operational compliance cases
- **3** concluded pre-investigation assessment cases
- **1** concluded investigation
- **1** concluded monitoring case

### Light of Life (UK) Trust

#### Concerns about a charity's fundraising reveal serious governance failures

**About the charity:** The charity was registered in 2011. Its objects include the advancement of education of young people in Bangladesh and relieving sickness and preserving health among people in Bangladesh.

**Why we got involved:** Concerns were raised with us by a shop keeper, who had received a letter suggesting she had agreed that the charity could fundraise in the shop premises on a certain day. The complainant stated that she had not and would not give such permission. She tried to contact the charity to make this clear, but was unable to reach the charity. This raised regulatory concerns as to whether the trustees of the charity were complying with good fundraising practice. In addition, the charity's registration application in 2011 had been submitted by a firm that has since made applications on behalf of charities that have been the cause of regulatory concern.

**The action we took:** We contacted the trustees to arrange a meeting, so that we could gain a better understanding of how the charity operates and how it achieves its objectives. We also needed to ensure that the trustees understood their legal obligations. We advised the trustees that we would be inspecting the charity's books and records and asking to view key policies and procedures.

At the same time, we conducted an analysis of the charity's published accounts and used our powers under the Charities Act 2011 to obtain the charity's financial statements.

**What we found:** The trustees were initially unresponsive. Eventually, one of the trustees informed us that he had fallen sick abroad and would not be returning to the UK in the near future. We were unable to contact the other trustees for some time, and were unable to set up a meeting. Eventually, one of the charity's trustees contacted us to explain that he had been unable to attend to the business of the charity for personal circumstances. The charity had been dormant for some time.

Our accounts analysis found that the accounts were not compliant with the Charities Statement of Recommended Practice (SORP).

We were unable to identify what charitable activity the charity had undertaken from our analysis of the charity's financial statements because a significant percentage of transactions were for cash. The high percentage of cash transactions was in itself a regulatory concern.

**The impact of our case:** As a result of our engagement, the trustees decided that they did not have the capacity to run the charity in line with legal requirements and would wind the charity up. We took the charity off the register.

The charity had not had a bank account since 2013, so there were no outstanding funds to apply to other charities.

We informed key stakeholders, such as Transport for London that this charity no longer existed and no fundraising could therefore be done in its name. We also confirmed that the charity had been removed from Companies House and that its website had been taken down.

**Type of case:** Operations monitoring case.

## Case study 2: Wildlife Rescue Sanctuaries

### A charity's fundraising costs raise regulatory concerns

**Wildlife Rescue Sanctuaries** (registered charity number 1118457)

**About the charity:** The charity cares for sick and injured wildlife by running an animal hospital and educating the public about wildlife, including by providing information to local schools. It is based in Keighley in West Yorkshire.

**Why we got involved:** We received complaints that very little of the money raised by the external fundraising company went to help animals. We found that the system used by the external fundraising company and third party independent fundraisers, meant that the charity only received 10% of the funds donated by the public through these collections. The remaining 90% went to the individual fundraisers, the fundraising company and other people involved in administering the funds. The complainant also raised serious concerns about trustee oversight and financial controls within the charity.

We took action in this case, because we were concerned that such high fundraising costs would seriously damage the charity's reputation, and by extension undermine public trust and confidence in giving to charities more widely. Fundraising as an activity is self-regulated by charities and we do not usually have a role in assessing complaints about the nature of charities' fundraising activities. However, in this case the very high cost of fundraising and the failure to ensure that the relevant legal requirements were met, raised serious concerns that do fall within our remit as a regulator.

We were also concerned that there appeared to be only one trustee of the charity, which is in contravention of the charity's governing document.

**The action we took:** We met with the charity to highlight the concerns about these very high fundraising costs. We directly asked the trustees whether they would donate money if they knew only 10p in the £1 actually made it to the charity and pointed out the negative media stories and impact on their reputation.

We examined the charity's accounts to determine the true cost of fundraising. We asked the trustees to explain how the charity fundraises and instructed them to provide a range of documents, including a copy of fundraising agreements between the charity and any commercial partners, a copy of the solicitation statements agreed with the commercial fundraisers (see below for information about solicitation statements), bank statements and minutes of meeting at which the trustees agreed to enter into the fundraising agreement with the commercial fundraisers. We also instructed the trustees to provide information about the charity's internal financial control processes and to address the problem regarding the number of trustees.

#### What we found:

##### Fundraising concerns

We found that the costs of the charity's fundraising were indeed very high. We found that if an individual had donated £1 in 2012, only 16p would have gone to the charity.

We are not satisfied that the trustees had properly considered the arrangements with the commercial companies before entering into fundraising agreements. In particular, we found that the trustees did not appear to have considered the reputational risk to the charity associated with the high cost of fundraising, nor ensured that the relevant legal requirements were met. We also found that the trustees failed to take steps to ensure that the fundraisers made a solicitation statement. The law requires that such a statement is made and sets out what it should contain. Solicitation statements explain to the public the level of remuneration that is received by the fundraisers, allowing people to make informed decisions about whether or not they wish to donate to the charity in this way. We found that the trustees should have considered taking professional advice on the arrangements, keeping a record of their decision and any advice taken.



**Internal financial controls**

We found that the trustees had not ensured all funds raised for the charity had been paid into the charity's bank account before any expenses (such as the payment of collectors) were deducted and this runs counter to our guidance.

We also found that the trustees appeared not to regularly review the charity's financial records or have appropriate checks and balances in place.

We instructed the charity to review its systems of internal financial control and to ensure they were aware of their duties under charity law, as explained in our guidance.

**The number of trustees**

We found that there was, at the time we became involved, indeed only one trustee. That is not acceptable and we instructed the trustee to focus on recruiting suitable trustees as a matter of urgency, to ensure that decisions could be taken in line with charity law and the charity's governing document.

**Impact of our involvement:** As a result of our case, the trustees have taken a number of positive steps to address the concerns that have been raised. They have terminated the contract with the fundraising company and have confirmed that fundraising is now conducted exclusively by volunteers. This should considerably reduce the charity's fundraising costs and protect its reputation with the giving public. They now have the required number of trustees and are taking steps to further strengthen the trustee body.

The involvement of the commission has both addressed public concern and also assisted the charity with a considerable amount of advice on proper financial controls and governance. We will follow this up by writing to the charity in due course asking for an update on the steps they have taken in relation to our advice.

**Lessons for other charities:** This is an example where external fundraisers had greatly increased the income of the charity and the trustees had only focused on caring for more rescued animals. They had not given sufficient attention to the legal requirements running a charity which was involved in significant public fundraising.

This highlights the importance for all charities to fundraise in a responsible way, being mindful of the damage to their reputation if costs are unreasonable. Regardless of whether trustees use professional fundraisers or volunteers they must ensure the charity complies with the law relating to fundraising and follow best practice, including the commission's guidance on '[Charities and fundraising](#)'. Further guidance is available on the [Institute of Fundraising](#) website. Trustees should also consider taking professional advice or advice from a local CVC or the Institute of Fundraising to help ensure that all fundraising complies with the legal and best practice requirements.

Often, the main focus of trustees, especially of small charities, is on the work the charity does with its beneficiaries. This is understandable. But charity trustees carry important legal duties which mean that they must balance their attention on the charity's beneficiaries with an oversight of its governance. They must ensure their charity is run in line with the law and the commission's guidance, thus protecting its assets and reputation.

## Part 4: Glossary

### Accounts monitoring and review

Our accounts monitoring and review programme helps us identify potential mismanagement or abuse as well as concerns about inadequate reporting. This work also encourages charities to follow best practice in preparing their accounts. In 2013-14, we reviewed **643** sets of accounts as part of our casework. This includes the class inquiry into charities that have defaulted twice on their accounts (for more information about this the class inquiry, please see part 3 – Types of abuse and mismanagement). Separately, we reviewed **1,021** sets of accounts as part of our programme of proactive accounts monitoring. In 2013-14, this programme included review of charities whose accounts showed pension scheme deficits, low charitable expenditure, net current liabilities, or a reduction in permanent endowment from the previous year.

### Monitoring

In October 2013, we established a new operations function monitoring unit. This team deals with cases or concerns that require monitoring or follow-up, but do not pose the highest risk. For example, the team conducts follow up cases to assess charities' compliance against an action plan. It also works closely with our registrations team, monitoring charities that raised concerns during or shortly after registration. This team received **318** referrals between October 2013 and April 2014.

Separately, pre-investigation monitoring cases monitor charities at risk of serious non-compliance, and charities at significant risk of serious non-compliance. Often, PIA monitoring cases are opened when we cannot take immediate enforcement action because of the work of other agencies, such as law enforcement agencies. These cases involve compliance visits to charities and proactive engagement with charities that take part in high risk activity or operate in high risk areas. We opened - **95** and concluded **54** pre-investigation monitoring cases in 2013-14; it concluded **68** monitoring visits.

### Operational compliance cases

Most concerns that we identify in charities are dealt with as operational compliance cases. These cases are not formal investigations, but are aimed at ensuring trustees address any failures and weaknesses in their charities' management. During operational compliance cases, we can use certain powers, for example to require charities and other organisations to provide information or documents to us. We are using these powers more frequently than in the past (See part 5 - Statistical analysis). However, it is not always necessary for us to use powers to put right problems in charities. Often, we can ensure matters are put in order by providing robust regulatory advice to the trustees, or instructing them to fulfil an action plan. We opened **1,865** and concluded **1,972** operational compliance cases in 2013-14. We issued **74** action plans as part of compliance cases in 2013-14.



## Pre-investigation assessment cases

Pre-investigation assessment cases examine whether issues meet the requirements for the opening of a formal investigation (statutory inquiry). This work ensures that we are consistent and fair in deciding which cases are dealt with as statutory inquiries. All concerns about the abuse of a charity for terrorist or extremist purposes are assessed as pre-investigation assessment cases. In 2013-14, we opened **115** and concluded **119** pre-investigation assessment cases. Of the 115 PIA cases opened, **19** (17%) were referred from our operational teams. Of the 119 PIA cases closed, **36** (30%) were referred for statutory inquiry; **42** (35%) were referred for monitoring; and **41** (35%) were referred elsewhere within in the commission.

## Reports of serious incidents (RSIs)

A serious incident is one that results in, or risks, significant loss of a charity's money or assets, damage to a charity's property or harm to a charity's work, beneficiaries or reputation. Serious incidents include, for example, fraud, theft or other significant loss, large donations from unknown or unverified sources, suspicions and allegations or incidents of abuse or mistreatment of vulnerable beneficiaries. Charity trustees need to report actual or suspected serious incidents to the commission and should do so as soon as they are aware of them. In the course of our compliance case work with charities into matters of regulatory concern, we are seeing too many instances where serious incidents that have occurred in charities have not been reported to us. We published an alert reminding trustees to report serious incidents in September (see part 2 - Our approach to tackling abuse and mismanagement). **1,264 incidents were reported to us in 2013-14.**

## Risk framework

Our risk framework is a published document that explains our approach to regulation and explains how we decide whether and how to engage with individual charities, including when concerns are raised with us about them. The framework helps ensure we are proportionate, accountable, consistent, transparent and targeted in dealing with individual charities. It also helps ensure overall efficiency and effectiveness in our use of resources. We keep the risk framework updated to ensure that it reflects arising risks.

## Statutory inquiries

Statutory inquiries are reserved for the highest risk cases, and cases where the concerns are most serious. Opening an inquiry allows us to use the full range of enforcement powers, including powers to compel information, to freeze a charity's bank accounts, to appoint an Interim Manager or to suspend or remove a charity's trustees.

We have increased the number of charities placed under inquiry; during 2013-14, we placed **64** charities under inquiry, compared to **15** inquiries the previous year. Many of these are being investigated as part of our class inquiry into charities that have defaulted on submitting annual documents for two or more years in a row. During the year, we concluded **23** inquiries and **7** non-inquiry investigations<sup>11</sup>. As at 31 March, **76** inquiries and 9 non-inquiry investigations were ongoing.

### Whistleblowing reports

Whistleblowing reports are reports from people involved in a charity or advising a charity about issues of concern. Reports, for example, can be made by accountants, auditors or independent examiners of charities. Whistleblowing reports also include complaints from charity workers made under the the Public Interest Disclosure Act 1998 (PIDA). PIDA protects workers from detrimental treatment or victimisation from their employer if, in the public interest, they report wrongdoing. See our guidance on 'Complaints about charities' for more detail. We received **85** whistleblowing reports in 2013-14. Please see part 5 – Statistical analysis (annex 7.2) for information about this issues covered in whistleblowing reports in 2013-14.

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<sup>11</sup> Prior to the commission's strategic review and restructure in December 2011, the IAE investigations team also conducted investigations that were less serious than full statutory inquiries. There were known as regulatory compliance cases (RCCs). No new RCCs have been started since December 2011, but some that opened prior to the restructure remain underway.

# Part 5: Statistical analysis

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## Annex 1: Performance headlines and impacts for our Investigations and Enforcement work

Performance headlines	2014 <small>As at 30/09/14</small>	2013-14	2012-13	2011-12	2010-11	2009-10
Number of new assessment cases opened	82	<b>115</b>	87 <sup>1</sup>	1252	1845	2434
Number of assessment cases closed	78	<b>119</b>	84 <sup>2</sup>	1374	1912	2615
Total number of investigations closed <sup>3</sup>	35	<b>30<sup>4</sup></b>	29	85	167	121
Number of statutory inquiries opened	68	<b>64<sup>5</sup></b>	15	12	3	9
Number of statutory inquiries closed	33	<b>23</b>	5	9	9	15
Average duration of closed investigations (days)	186 <sup>6</sup>	<b>259</b>	261	715	519	395
Number of statutory inquiries closed which had significant involvement from other regulators	3	<b>0</b>	0	0	0 <sup>7</sup>	2
Average duration of closed statutory inquiries involving other regulators (days)	333	<b>N/A</b>	353	N/A	N/A	703
Number of statutory inquiry reports published	25	<b>16</b>	6	43 <sup>8</sup>	13	15
Percentage of investigation reports published within 3 month target	76%	<b>75</b>	29%	95%	81%	80%
Number of regulatory case reports published	0	<b>2</b>	1	12 <sup>9</sup>	8	5
Number of Operational case reports (OCRs) published	11	<b>14</b>	N/A	N/A	N/A	N/A
Number of operational compliance cases opened	604	<b>1,865</b>	1,513	N/A	N/A	N/A
Number of operational compliance cases closed	685	<b>1,972</b>	1,232	N/A	N/A	N/A
Number of active investigations at year end	141 <sup>10</sup>	<b>97<sup>11,12</sup></b>	61	64	119	140
Number of new IME monitoring cases opened	36	<b>96</b>	42 <sup>13</sup>	72	276	306
Number of IME monitoring cases closed	27	<b>54</b>	71	215	297	141
Number of IME monitoring visits	46	<b>68</b>	25	12	21	20
Number of accounts scrutinies	437	<b>1,664</b>	2,770	203	277	236

1 The 87 assessment cases opened in 2012-13 (under the business model implemented after 1 December 2011) are only the pre-investigation assessment cases; the other cases that would have been previously dealt with in Compliance Assessment, are now dealt with in the First Contact and Operations teams and are not included in this figure.

2 See footnote 1 - the 84 cases closed in 2012-13 do not include cases that would have been previously dealt with in Compliance Assessment, which are now dealt with in the First Contact and Operations teams.

3 Prior to 1 December 2011 under the previous business model, there were two types of investigation - statutory inquiries and regulatory compliance case investigations; these figures include both types of investigation. Operational compliance case figures are not included in this table - we opened 1,513 and completed 1,232 compliance cases in Operations in 2012-13 and opened 1,865 and completed 1,972 compliance cases in 2013-14.

4 The 30 investigations closed during this period include 7 regulatory compliance investigation cases.

5 24 of these inquiries formed part of the double defaulter class inquiry.

6 The average duration is the average of all 33 inquiries closed during this period.

7 There were also 2 regulatory compliance cases closed during 2010-11 where there were delays because of the involvement of other regulators.

8 7 reports for statutory inquiries were published in 2011-12 and these reports covered 43 inquiries, as some reports covered more than one inquiry and more than one charity.

9 6 reports for RCRs were published in 2011-12. In total, these reports covered 12 regulatory compliance cases, as some reports covered more than one case and more than one charity.

Performance impacts <sup>14</sup>	As of 2014-15 as of 30/09/2014	2013-14	2012-13	2011-12	2010-11	2009-10
Charity assets directly protected in our investigation work	£22m	<b>£31m</b>	£800k	£5m	£8m	£29m
Charity income directly overseen through either statutory inquiry or regulatory compliance cases	895m	<b>£1,150m</b>	£12m	£255m	£900m	£521m
Number of cases where commission action protected vulnerable beneficiaries	1	<b>4</b>	2	6	49	20
Number of cases protecting the reputation of individual charities	12	<b>17</b>	5	20	71	50
Number of cases protecting the reputation of the sector	35	<b>38</b>	9	27	49	35
Number of cases dealing with issues arising from conflicts of interest	3	<b>5</b>	6	6	20	19
Number of cases where advice and guidance provided to ensure the charity's governance improved	8	<b>4</b>	7	26	59	43
Number of cases involving concerns about fundraisers	2	<b>5</b>	5	5	11	8
Number of cases where an internal dispute was resolved and the charity is properly functioning again	1	<b>1</b> <sup>15</sup>	1	7	10	11
Charity no longer operating or applying funds outside its trusts <sup>16</sup>	0	<b>4</b>	7	17	8	-
Useful and effective regulatory advice and guidance given	8	<b>4</b>	11	49	91	-
Charity is now complying with the legal requirements	22	<b>5</b>	0	1	2	-
Greater transparency in the charity's operations and published reports and accounts	25	<b>19</b>	0	1	3	-
Moribund charity is now functioning	0	<b>0</b>	0	0	0	-
Charity's relationships with third parties is now properly managed in the best interests of the charity	3	<b>3</b>	1	1	1	-
Direct charitable expenditure has increased or targets are in place to increase this expenditure	0	<b>0</b>	0	0	0	-

These impact measures relate to IAE investigation cases closed during the year (and do not include any Operations cases).

10 117 excluding those at report writing stage and on stop the clock.

11 85 excluding those at report writing stage and on stop the clock.

12 8 of these relate to inquiries that form part of the double defaulter class inquiry.

13 The statistics for monitoring cases for 2012 onwards these figures only include the monitoring cases conducted in IAE; not any compliance case follow ups and monitoring in the Operations teams.

14 Impacts, incomes and protections in this table relate solely to investigations concluded in the relevant year.

15 Disputes cases from 1 December 2011 would normally be dealt with as compliance cases by the Operations teams.

16 This indicator and the following six indicators were first introduced in 2010-11.

## Performance measures

We report on the performance of our investigations and related regulatory work with performance measures divided into three areas:

- detection
- investigation, sanction and redress
- prevention and deterrence

### Detection

	Target	Achievement
Average duration of pre-investigation assessments - (target: average of 30 working days)	30 working days	27 working days
Carry out a minimum number of compliance visits annually, to charities which are subject to monitoring and identified following a risk assessment	30 visits	68 visits
Report on the number of exchanges of information with other regulators and agencies, made via the commission's statutory gateway	No target	1,746 exchanges
Respond to requests for information via the statutory gateway within 15 working days, or five working days for issues relating to strategic priorities <sup>17</sup>	90%	81%

### Investigation, sanction and redress

	Target	Achievement
Report on the number of powers used within Investigations and Enforcement case work	No target	544 powers <sup>18</sup>
Ensure 90% of all investigations result in at least one of the specified beneficial impacts (see above table) which protect charities from mismanagement, misconduct or abuse	90%	100% <sup>19</sup>

### Prevention and deterrence

	Target	Achievement
Publish 90% of reports on the results of investigations within three months of the end of the substantive investigation process	90%	75% <sup>20</sup>
Publish an annual report on the 'Themes and Lessons from the Charity Commission's Compliance Work' which includes the duration of each statutory inquiry, the impact of investigations, the use of sanctions (including legal powers of remedy and protection), and the operation of our investigatory work	Publish report before end of third quarter of financial year	Published 12 December 2013

<sup>17</sup> The commission's three strategic priorities are: fraud, financial crime and financial abuse; safeguarding; and counter-terrorism.

<sup>18</sup> This figure refers solely to powers used within Investigations and Enforcement and does not include any that were used within Operational compliance cases. The figure includes 4 notice of intentions to remove.

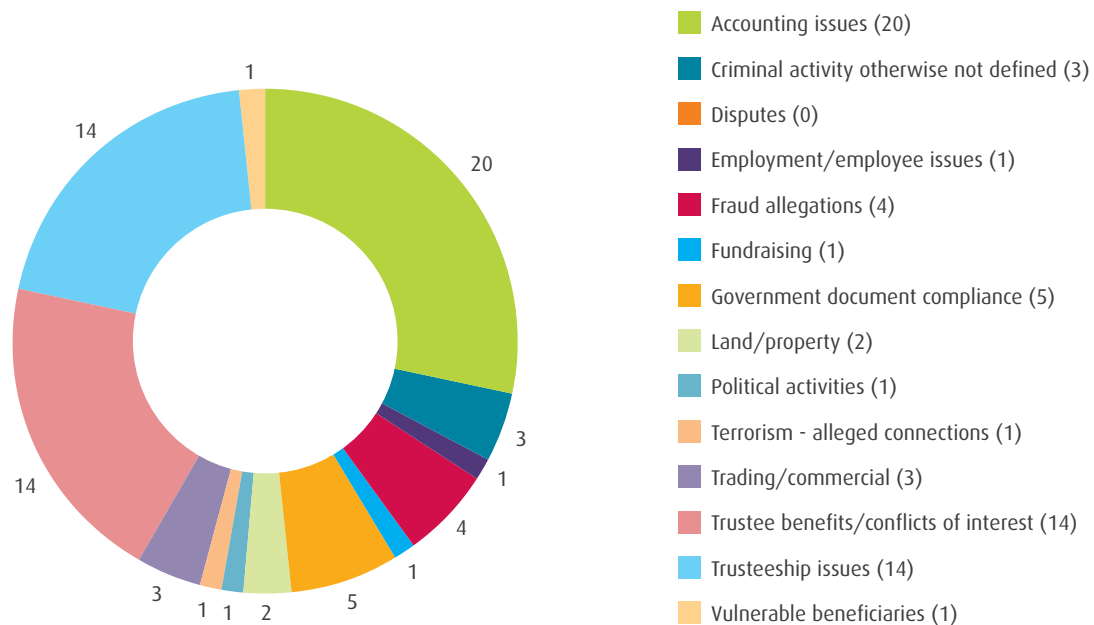
<sup>19</sup> The result for pre-investigation and assessment cases was 98% and for IAE monitoring cases 93%, making an overall average when added to investigation impacts of 97%.

<sup>20</sup> 16 reports were published, of which 12 were published within the 3 month period. Reasons for publication beyond that date included the need to extend the time given to trustees to comment on factual accuracy and carefully consider their replies and due to some trustees being resident overseas.

## Annex 2: Investigations completed 2013-14 - the type and frequency of issues of concern

### Cause for concern for the year to date

Note that most cases involve more than one issue.<sup>21</sup>

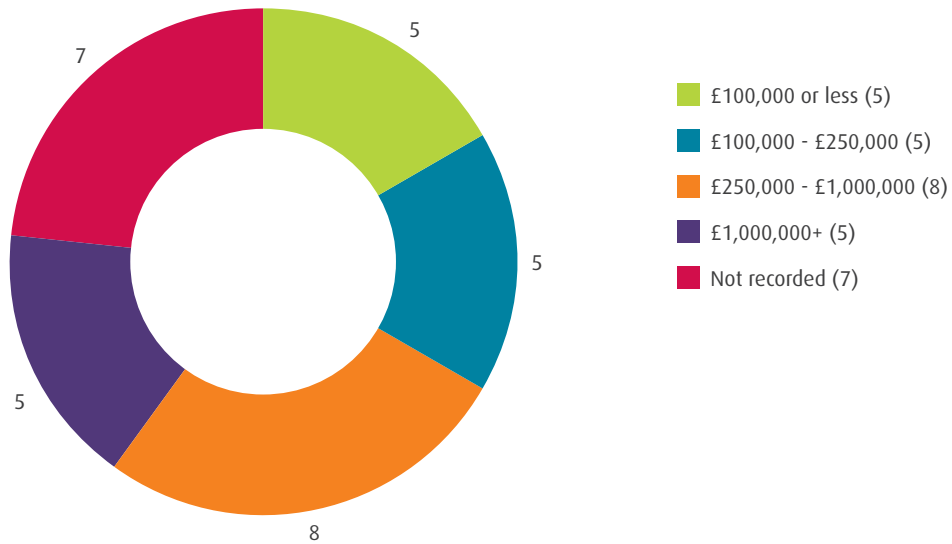


Baseline: 30 investigations

<sup>21</sup> The heading 'Trusteeship and Governance issues' includes issues such as: suitability, eligibility, management controls, financial controls, non-co-operation of trustees, and dominant trustee.

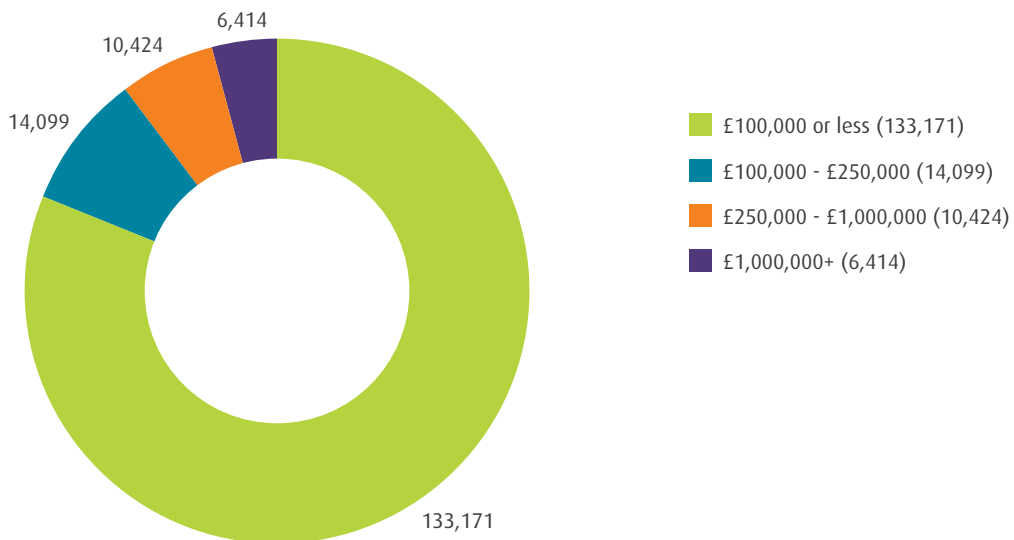
### Annex 3: Investigations completed 2013-14 - the number of charities by income band<sup>22</sup>

Income of charities that featured in closed investigations 2013-14



Baseline: 30

Sector wide



<sup>22</sup> Income may not be recorded for a variety of reasons, such as the charity is non-compliant, or is newly registered and so has not been required to submit accounts.



## Annex 4: Analysis of inquiries and compliance cases opened

### Introduction to EQIA analyses

For the first time, we have analysed the charities that were subject to a statutory inquiry or an Operational compliance case in 2013-14<sup>23</sup>. The analysis breaks the cases down according to the information the charity submitted in their annual returns and as recorded on the register of charities. This includes breakdowns by purpose classification, beneficiary group, date of registration and last recorded income.

We open cases in accordance with the criteria in our published risk framework (see part 1: Our approach to tackling abuse and mismanagement), based on what the regulatory issue is, the nature and level of the risk, how serious it is and its impact.

We are confident that by ensuring we apply our risk framework, there is no bias in our approach to assessing concerns as they come into us and in opening compliance cases and investigations. This analysis provides some assurance this is the case in reality.

However, we are not complacent about this and intend to keep analysing our data for any areas of over or underrepresentation, compared to the overall breakdown of the register of charities. We intend to produce more detailed and up-to-date analyses in due course.

We are increasingly being asked how many charities connected with a particular religion are there. We do not have reliable data for this. This is because the data we hold, which is based on the information given by charities in their annual return, does not go further and breakdown the advancement of religion by a particular faith or identify multi faith purposes or no particular faith at all. As a result of this analysis work, we think this is something we should think about asking charities in the next annual return consultation.

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<sup>23</sup> We analysed over 1,000 of the 1,865 Operational compliance cases opened in 2013-14.

## Annex 4.1: Analysis of inquiries opened 2013-14

64 inquiries opened (unregistered charities are not included in the data).

### Methodology

To determine charities' 'classification', 'beneficiaries', 'age' and 'income' we took the information from the register of charities. To determine the religion of those charities who classified themselves as religious we used the charities' objects. Percentage figures have been rounded to the nearest whole percentage.

Charity classification	Classifications listed by charities in inquiry (excluding the class inquiry)	Percentage	Classifications listed by charities in the double defaulters class inquiry	Percentage	Total number of classifications by charities in inquiry	Total percentage
Animals	0	0%	0	0%	0	0%
Amateur sport	3	2%	4	5%	7	3%
Advancement of health/saving lives	11	9%	6	8%	17	8%
Accommodation/housing	6	5%	3	4%	9	5%
Arts/culture/heritage/science	5	4%	4	5%	9	5%
Armed forces/emergency services	0	0%	0	0%	0	0%
Disability	3	2%	3	4%	6	3%
Environment/conservation/heritage	2	2%	3	4%	5	3%
Education/training	18	15%	16	20%	34	17%
Economic/community development/employment	9	7%	4	5%	13	7%
General charitable purposes	19	16%	6	8%	25	12%
Human rights/religious or racial harmony/equality or diversity	1	1%	1	1%	2	1%
Overseas aid	8	7%	3	4%	11	6%
Other charitable purpose	6	5%	4	5%	10	5%
Prevention/relief of poverty	18	15%	5	6%	23	11%
Recreation	3	2%	4	5%	7	3%
Religious activities	10	8%	13	16%	23	11%
<b>Total</b>	<b>122</b>	<b>100%</b>	<b>79</b>	<b>100%</b>	<b>201</b>	<b>100%</b>

Charity beneficiaries	Charitable beneficiaries listed by charities in inquiry (excluding the class inquiry)	Percentage	Charitable beneficiaries listed by charities in the double defaulter class inquiry	Percentage	Total number of beneficiaries listed by charities in inquiry	Total percentage
Children/younger people	22	23%	14	22%	36	23%
Elderly/old people	12	13%	10	16%	22	14%
People with disabilities	12	13%	8	13%	20	13%
People of a particular ethnic or racial origin	10	11%	9	14%	19	12%
Other charities or voluntary bodies	9	9%	3	5%	12	8%
Other defined groups	3	3%	12	19%	15	9%
The general public/mankind	27	28%	7	11%	34	21%
<b>Total</b>	<b>95</b>	<b>100%</b>	<b>63</b>	<b>100%</b>	<b>158</b>	<b>100%</b>

Income of charities	Charitable income of charities in inquiry (excluding the class inquiry)	Percentage	Charitable income of charities in the double defaulters class inquiry	Percentage	Charitable income of all charities in inquiry	Total percentage
<25K	7	18%	4	17%	11	17%
25K-250K	9	23%	7	29%	16	25%
250K-500k	3	8%	3	13%	6	10%
500k +	10	26%	7	29%	17	27%
Not recorded	10	26%	3	13%	13	21%
<b>Total</b>	<b>39</b>	<b>100%</b>	<b>24</b>	<b>100%</b>	<b>63</b>	<b>100%</b>

Age of charities	Age of charities in inquiry (excluding the class inquiry)	Percentage	Age of charities in double defaulters class inquiry	Percentage	Age of all charities in inquiry	Total percentage
0-1 Year	0	0%	0	0%	0	0%
1-3 Years	4	10%	0	0%	4	6%
3-5 Years	8	21%	1	4%	9	14%
5-10 Years	10	26%	1	4%	11	17%
10 Years +	17	44%	22	92%	39	62%
<b>Total</b>	<b>39</b>	<b>100%</b>	<b>24</b>	<b>100%</b>	<b>63</b>	<b>100%</b>

Further breakdown of charities with religious activities classifications	Number of charities self classified as religious (excluding the class inquiry)	Percentage against the number of religious classifications	Number of double defaulter class inquiry charities self classified as religious	Percentage against the number of religious classifications	All charities in inquiry with the classification religious	Total percentage against the number of religious classifications	Percentage against the number of total classifications
Christian	3	30%	4	31%	7	30%	3%
Islamic	4	40%	5	38%	9	39%	4%
Sikh	2	20%	0	0%	2	9%	1%
Jewish	0	0%	4	31%	4	17%	2%
Buddhist	0	0%	0	0%	0	0%	0%
Hindu	0	0%	0	0%	0	0%	0%
Other	1	10%	0	0%	1	4%	0%
<b>Total</b>	<b>10</b>	<b>100%</b>	<b>13</b>	<b>100%</b>	<b>23</b>	<b>100%</b>	<b>11%</b>

## Annex 4.2: Analysis of Operational compliance cases opened 2013-14

The breakdown is based on 1,049 Operations compliance cases opened in 2013-14. There were 61 cases on non-registered charities.

### Methodology

The sample for this report was all compliance cases in Operations. Compliance cases are identified by the category code selected. To determine charities' 'classification', 'beneficiaries', 'age' and 'income' we took the information from the register of charities. To determine the religion of those charities who classified themselves as religious we used the charities' objects. Percentage figures have been rounded to the nearest whole percentage.

Charity classification	Number of charity classifications listed by charities in compliance cases opened by Operations	Percentage against the total number of classifications
Animals	44	1%
Amateur sport	187	6%
Advancement of health/saving lives	271	8%
Accommodation/housing	128	4%
Arts/culture/heritage/science	193	6%
Armed forces/emergency services	7	0%
Disability	208	6%
Environment/conservation/heritage	136	4%
Education/training	660	19%
Economic/community development/employment	227	7%
General charitable purposes	383	11%
Human rights/religious or racial harmony/equality or diversity	37	1%
Overseas aid	157	5%
Other charitable purpose	92	3%
Prevention/relief of poverty	339	10%
Recreation	44	1%
Religious activities	281	8%
<b>Total</b>	<b>3394</b>	<b>100%</b>

Charity beneficiaries	Number of charitable beneficiaries listed by charities in compliance cases opened by Operations	Percentage against the total number of charitable beneficiaries
Children/younger people	634	25%
Elderly/old people	343	13%
People with disabilities	352	14%
People of a particular ethnic or racial origin	192	7%
Other charities or voluntary bodies	299	12%
Other defined groups	187	7%
The general public/mankind	556	22%
<b>Total</b>	<b>2563</b>	<b>100%</b>

Income of charities	Income of charities in compliance cases opened by Operations	Percentage against the total number of compliance cases opened by Operations
>25K	248	24%
25K-250K	312	30%
250K-500k	89	8%
500k +	341	32%
Not recorded	59	6%
<b>Total</b>	<b>1049</b>	<b>100%</b>

Age of charities	Age of charities in compliance cases opened by Operations	Percentage against the total number of compliance cases opened by Operations
0-1 Year	14	1%
1-3 Years	89	8%
3-5 Years	109	10%
5-10 Years	181	17%
10 Years +	656	63%
<b>Total</b>	<b>1049</b>	<b>100%</b>

Breakdown of religious classification in compliance cases	Breakdown of religious classification in compliance cases opened by Operations	Percentage against the number of religious classifications	Percentage against the total classifications
Christian	134	56%	13%
Islamic	49	20%	5%
Sikh	14	6%	1%
Jewish	30	12%	3%
Buddhist	3	1%	0%
Hindu	10	4%	1%
Other	1	0%	0%
<b>Total</b>	<b>241</b>	<b>100%</b>	<b>23%</b>

## Annex 5: Use of commission's compliance powers in cases 2013-14

Statutory inquiry and (regulatory) compliance cases - breakdown of the number of INDIVIDUAL orders or directions under the Charities Act 2011 (or equivalent in 2003 Act)	2014-15 as of 30/09/2014	2013-14	2012-13 <sup>24</sup>	2011-12	2010-11	2009-10
S47 (2) - (a) Furnish information/answers	46	<b>68</b>	2	2	0	11
S47 (2) - (b) Furnish copies/documents	42	<b>57</b>	3	0	2	4
S47 (2) - (c) Attend and give evidence	10	<b>11</b>	0	0	0	11
S47(3) - Provide information under declaration of truth	4					
S52 (1) - (a) Furnish information	435 <sup>25</sup>	<b>145</b> <sup>26</sup>	195	23	18	94
S52 (1) - (b) Furnish copies/documents		<b>371</b> <sup>27</sup>		82	140	288
S69(1)(c) - Scheme	1					
S76(3) - (a) Suspend trustee, officer, etc	3	<b>4</b>	0	1	1	1
S76(3) - (b) Appoint additional trustee	0	<b>1</b>	0	0	0	1
S76(3) - (c) Vest property in the Official Custodian for Charities	1	<b>0</b>	0	1	0	22
S76(3) - (d) Not to part with property	23	<b>28</b>	3	2	4	12
S76(3) - (e) Not to make payment	0	<b>1</b>	0	0	1	0
S76(3) - (f) Restrict transactions	1	<b>15</b>	0	2	5	7
S76(3) - (g) Appoint Interim Managers	4	<b>6</b>	0	0	1	2
S79(2) - (a) Remove trustee, officer, etc	2	<b>1</b>	0	0	0	0
S79(2) - (b) Establish a scheme	0	<b>0</b>	0	0	0	0
S80 Appoint trustee(s)	0	<b>0</b>	0	11	3	11
S84 Specific direction to protect charity	37	<b>38</b>	0	8	4	7
S85 Direction application of funds	2	<b>1</b>				
S89(5) notice of intention to remove a trustee, officer etc issued	2	<b>4</b>				
S105 Regulatory consent	0		6	24	8	9
Others (including discharge orders)	36	<b>39</b>	7	42	21	34
<b>TOTAL</b> orders/directions issued in period	649	<b>790</b> <sup>28</sup>	216	188	208	514
<b>Other measures</b>						
Witness statements made for other agency action	15	32				
Formal referrals to police or other agency	1	9				
Action plans made	42	84				

24 For the years 2011-12 and 2012-13 and 2013 to date, the statistics include occasions when compliance powers (eg information gathering powers) have been used by the cases in Operations teams as well as IAE.

25 This includes 284 times in Operational compliance cases.

26 This includes 72 times in Operational compliance cases.

27 This includes 174 times in Operational compliance cases.

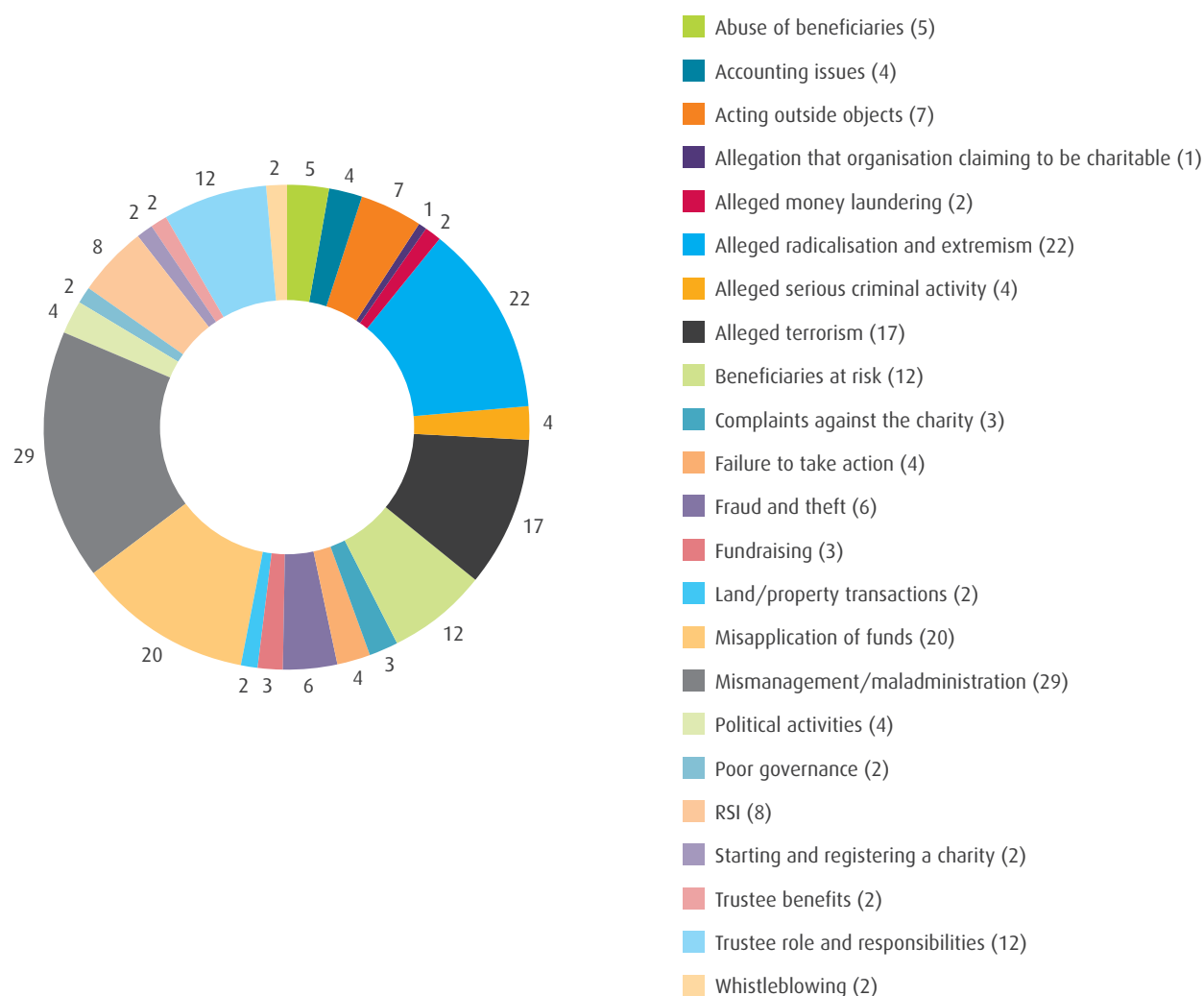
28 Other powers used during Operational compliance cases in 2012-13 and 2013-14 are not included in this chart.



## Annex 6: Analysis of all completed assessment cases 2013-14

### Annex 6.1: Causes of serious concern in completed pre-investigation assessment cases completed during 2013-14<sup>29</sup>

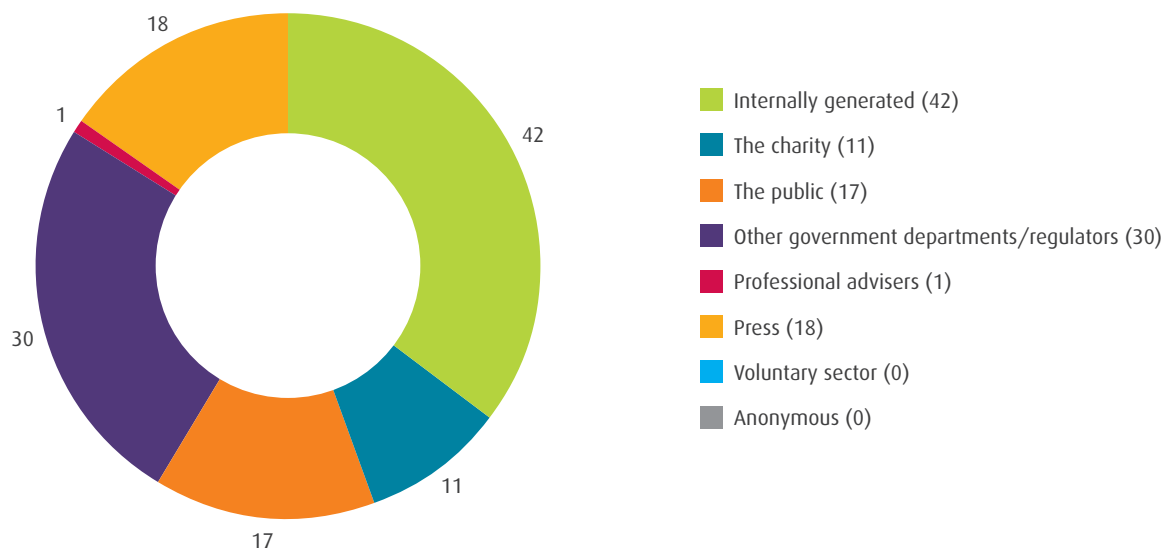
#### Issues involved in all pre-investigation assessment cases closed during 2013-14



<sup>29</sup> We can only provide this information by assigning an issue code on the opening of a case. This is the name of the regulatory issue that best reflects what the allegations or complaints made are or the type of serious incident report made that prompts the regulatory engagement and case being opened. We assign a code to each case simply to enable us to identify what regulatory issues arise in our work and report on case types and volumes each year in this and in our annual report. It is also one of the ways in which we can identify trends or patterns which helps ensure that we provide published advice and guidance on regulatory issues which a number of charities deal with.

## Annex 6.2: Sources of concern in pre-investigation assessment cases concluded in 2013-14

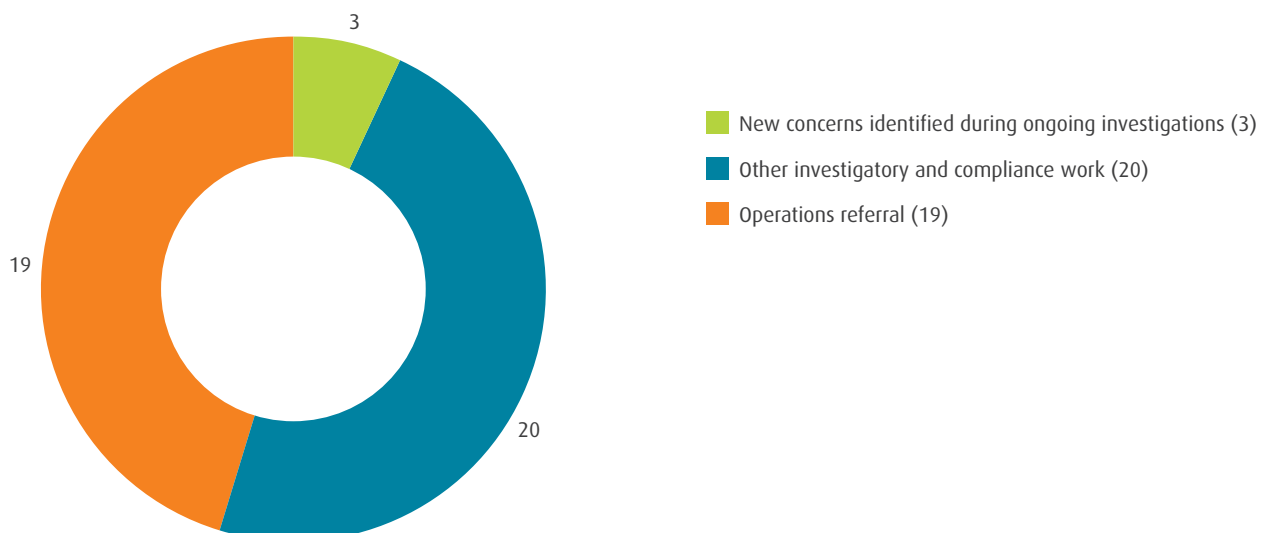
Sources of concern relating to closed pre-investigation assessment cases 2013-14



Baseline: 119 closed pre-investigation assessment cases

## Annex 6.3: Sources of concern - identified proactively by the commission

Sources of concern - identified proactively by the commission

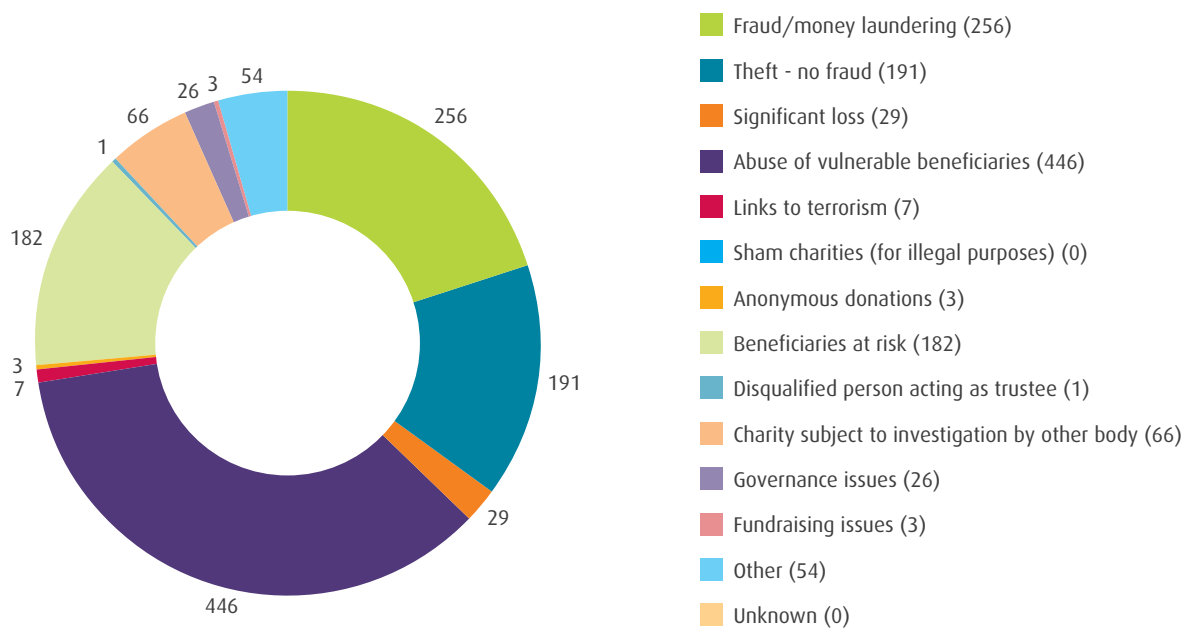


## Annex 7: Reported concerns about charities 2013-14

### Annex 7.1: Reports of serious incidents

There were 1,264 incidents reported to the commission in 2013-14. The key issues in these reports were as follows, showing the principal issue only.

#### Reports of serious incidents: issues identified during 2013-14



### Annex 7.2: Whistleblowing reports

There were 85 whistleblowing reports received by the commission in the year. The key issues in these reports were as follows, showing the principal issue only.

#### Whistleblowing: issues identified during 2013-14

