



HM Treasury

The process for imposing  
monetary penalties for breaches  
of financial sanctions:

Consultation response form

Name: [REDACTED]
Organisation: [REDACTED]
<input checked="" type="checkbox"/> Please tick if you are responding on behalf an organisation
Name of organisation (if applicable)
Address: [REDACTED] Email: [REDACTED] Telephone: [REDACTED]
1. Do these introductory sections give you enough information to understand the scope of the law on monetary penalties? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No  What else would be useful?  Some reference to non-profit and/or charitable activities and some recognition that charities often operate in extremely complex and challenging environments where contact with certain local groups cannot be avoided if the charity is to reach the poorest and most vulnerable beneficiaries, who are most in need of charitable help and services. Where charities make errors in this area it is usually down to lack of experience on the part of individual members of staff, or where risk issues are only identifiable in hindsight, or because charities lack the resources that, say, banks and large commercial entities have to implement and run sophisticated compliance systems.
2. What are your views on OFSI's compliance and enforcement approach?  While we entirely understand the reasons for implementing this new approach, in relation to charities, fines have to be paid using charity funds which were not donated or pad to the charity for this purpose. We do not believe that monetary sanctions, although commonly imposed by other regulators, are appropriate or useful in the context of charitable activities. If a charity is fined, it has less money to spend on its charitable activities.  For charities, the current sanctions are sufficient, particularly given the powers which the Charity Commission already has to investigate and penalise charities which make mistakes in this area. As charities do not seek to make any commercial profit out of the services they provide or their charitable activities generally, the vast majority of international charities have no intentional contact with such people and groups. which they operate which are at risk of bringing them into contact with designated individuals and organisations. Their entire purpose is to assist the local population where these groups and individuals may be based. With very few exceptions, any contact by charities with these people and groups is entirely unintentional. It is usually either down to individual staff mistakes, lack of access to local intelligence which, say, a large multinational company

might have. Or where risk issues are only identifiable in hindsight, or because charities lack the resources that, say, banks and large commercial entities have to implement and run sophisticated compliance systems.

Of course charities must follow the law, like every other organisation. We think the ministerial review procedure is excellent, and would like to see an equivalent review process used for other regulatory fines. This process is an opportunity for you to include consideration of the status of the offender as one of the factors in deciding whether a fine is, in fact, appropriate, given the strength and importance of the UK's continuing commitment to international aid.

Otherwise, the respondent did find the guidance quite complex, even as a lawyer. It might be quite hard for the average charity employee to understand. Simplified guidance for the public would be very welcome. We hope to see your final system covered in the Charity Commission's very good anti-terrorism compliance toolkit.

3. Is there anything else you would expect a compliance model to tackle?

Yes       No

(if yes please explain what below)

See earlier comments.

4. Do you understand our proposed case assessment approach?

Yes       No

(if no please explain why below)

Click here to enter text.

5. What are your views on our proposed case assessment approach?

None, as it is an internal Treasury process, other than to hope that the case assessment can take into account the nature of the activities which triggered the assessment, and whether they are public and charitable benefit. The respondent greatly appreciates your transparency and openness, and the proposed Ministerial review procedure.

6. Does this guidance give you enough information to help you understand how a penalty is calculated?

Yes       No

(if no please explain why below)

7. OFSI will reduce the level of penalty if there is voluntary disclosure. What are your views on OFSI's approach to this?

Excellent idea, and an approach we would like to see taken by other regulators. However, we would suggest that where there is full disclosure, as most charities will provide, and no commercial gain being made by the offender, there will be the possibility of the penalty being low, or nil. See later comments on the role of the Charity Commissions as the primary regulator for our sector. For charities, there is a very real possibility of a double penalty which is not faced by commercial entities.

8. Is the process for imposing a penalty and making representations clear from this guidance?

Yes       No

(if no please explain why below)

Click here to enter text.

9. Do you understand the guidance on seeking a Ministerial review?

Yes       No

10. What are your views on the process for seeking a Ministerial review?  
Again, sounds like a very good idea – we could do with similar for the ICO

11. Does this guidance clearly explain why and how OFSI will publish information on penalties imposed for breaches of financial sanctions regulations?  Yes  
 No  
What are your views on the level of information OFSI will publish?  
None at the moment.

12. Considering the document as a whole, does this guidance help you clearly understand OFSI's approach to imposing monetary penalties?  
What do we think?

Please e-mail this form to: [OFSIConsultation@hmtreasury.gsi.gov.uk](mailto:OFSIConsultation@hmtreasury.gsi.gov.uk)

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