

Securing a compliant safeguarding culture

Safeguarding concerns are high on the Charity Commission’s agenda and all charities, whether large or small, need to stay on top of the developing regulatory regime.



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Emma advises on all aspects of regulatory and public law, both contentious and advisory, including in respect of equality duties and human rights. Within her broader practice, Emma specialises in education (particularly the regulation of qualifications), safeguarding and health and social care.

Emma Dowden-Teale sets out the latest sector developments on safeguarding and explains how faith-based organisations can respond

‘There’s no room for doubt when it comes to safeguarding – it’s too important’. Jane Hobson, Head of Guidance and Practice at the Charity Commission, cemented the commission’s focus on making sure that charities are taking their safeguarding duties seriously when announcing the commission’s updated safeguarding guidance in October 2018. The commission has clarified its serious incident reporting guidance, too, which strengthens the focus on reporting safeguarding-related incidents.

In the past 12 months, media headlines focusing on misconduct in charities and their partner organisations have put those working with and for charities in the spotlight. With the commission’s approach constantly evolving and guidance in varying stages of development, charities have had a lot to think about over the last year. The #ChurchToo movement has highlighted situations where the church has historically turned a blind eye to sexual abuse and drawn attention to cultural factors within churches that have contributed to perpetrators escaping accountability.

The situation is now clearer, although it is critically important to monitor emerging best practice and apply it to your individual organisation. Many faith-based organisations have very particular ways of operating, systems of internal governance and activities that are more likely to be carried out within a tight-knit community where there is a good deal of existing trust. The boundaries between organisational responsibilities and personal relationships are often blurred. In this context, you need robust checks and balances to ensure that a safeguarding culture is adequately embedded.

What do we mean by safeguarding?

Safeguarding has long had a particular meaning in legislation relating to education, health and social care where services are being provided to children

and vulnerable adults. The commission now uses the term in an entirely different way for the purposes of charity regulation. Its expanded definition essentially encompasses the different duties of care that charities owe to take reasonable steps to prevent harm (of all kinds) to:

- those who benefit from the charity’s activities, regardless of age or vulnerability or whether they directly receive services or benefits;
- all staff, volunteers and contractors; and
- those who otherwise come into contact with the charity, including through the work of partners and grant recipients.

The Department for International Development (DfID) has also pushed safeguarding up the agenda recently. It uses the phrase slightly differently, in that it is generally used to refer to the prevention of sexual exploitation, harassment and abuse of or by the staff or volunteers of charities or their partners.

There has been a shift in focus from those traditionally considered at risk, to all those involved or who come into contact with the charity and its work.

Taking a zero-tolerance approach

Safeguarding is a key governance priority for all charities (regardless of size or income), but what you need to do depends on tailored and context-sensitive risk assessment of the charity’s activities, how and where it carries them out and who it has contact with. These risks ought then to be mitigated accordingly.

All charities should start with a zero-tolerance approach to harm and entrench this within expressions of their values. They should have policies and procedures – such as codes of conduct, whistleblowing, grievance, disciplinary, complaints, safeguarding and safety/security – through which safeguarding runs as a golden thread. These are key to setting the charity’s culture and expectations and to ensuring concerns can be addressed. Policies should cover internal escalation from staff, volunteers, beneficiaries and partners, external reporting to the police, regulators and funders, and adequate oversight.

All those working for the charity (including volunteers) must know how to spot and refer or report concerns via clear reporting systems. You may have policies, facilities for carrying out DBS checks, training and reporting mechanisms that are provided by a denomination or other umbrella body. In addition, the Charity Commission now expects that trustee boards should have oversight of safeguarding matters via a designated safeguarding trustee or equivalent mechanism, regular reporting to the board and review of risk registers. Concerns must be dealt with promptly and on an adequately secure need-to-know basis. Privacy and data protection are not barriers to information sharing, but information must only be shared as necessary and in a proportionate, relevant, adequate, accurate, timely and secure manner. Make it clear in your privacy notice and contracts how and when information will be shared, and remember that where safety is at risk you may be permitted to share information without consent to prevent harm.

Faith communities such as churches and mosques may not immediately think of involving the Charity Commission when there are any safeguarding issues. However, the commission expects serious incidents to be reported, and will now ask charities to explain why incidents were not reported if they subsequently come to light. It is important to follow the commission's guidance closely and report any safeguarding or other reportable serious incidents (such as fraud) that take place within a faith community that is set up as a registered charity. Recently the commission has been working with major denominations including the Church of England and the Roman Catholic Church to introduce new reporting processes. You should ensure you are familiar with any specific processes arranged for your denomination.

If your organisation or church supports mission partners overseas (whether organisations or individuals involved in ministry), the Charity Commission will also expect you to consider safeguarding issues that could arise in the ministry you are supporting. Due diligence into mission partners should consider the adequacy of their safeguarding policies and procedures. You should ensure that you are informed about safeguarding incidents that occur in overseas projects you support,

so you can consider whether they are being handled appropriately by the mission partner and whether you need to make a report to the Charity Commission or other regulatory bodies in the UK.

Our top tips for handling safeguarding include:

- Develop a clear approach to safeguarding.
- Make safeguarding and people protection a key value that runs through all approaches, policies, procedures, agreements and actions.
- Tailor your safeguarding activity to your organisation and the range of risks that it presents.
- Keep up to date with safeguarding and people protection best practice.
- Policies and procedures provide a bedrock for a safeguarding culture, but communication and reinforcement are critical.

Find out more

Our Safeguarding Best Practice Group meets quarterly in twilight sessions (5.30pm-7pm) at Bates Wells' offices at 10 Queen Street Place to discuss key issues in round table discussions. If you would like to attend a future session, please contact Emma Dowden-Teale for more information.

Jane Hobson, 'There's no room for doubt around safeguarding: protecting people is too important' (Charity Commission blog, 25 October 2018) (<https://charitycommission.blog.gov.uk/2018/10/25/theres-no-room-for-doubt-around-safeguarding-protecting-people-is-too-important/>).

The Charity Commission, 'How to report a serious incident in your charity' (Charity Commission Guidance, last updated 17 October 2018) (<https://www.gov.uk/guidance/how-to-report-a-serious-incident-in-your-charity>).

Guidance for Parochial Church Councils and other Church of England charities: <https://www.parishresources.org.uk/pccs/trusteeship/serious-incident-reporting/>.