

Safeguarding – is your charity meeting its obligations?

In light of recent serious incidents that have affected the public and charity sectors, not only have the requirements in relation to safeguarding developed, but so too has the scope of ‘safeguarding’ within the charity sector.



Emma Dowden-Teale
Partner
T: 020 7551 7890
e.dowden-teale@bwbllp.com

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 leads the firm’s multi-disciplinary safeguarding practice.



Claire Whittle
Senior Associate
T: 020 7551 7605
c.whittle@bwbllp.com

Claire has experience in a wide range of public and regulatory work. She works with a diverse range of clients, including public and private sector bodies, charities, social enterprises and individuals. Claire is, among other things, a safeguarding expert.

Emma Dowden-Teale and Claire Whittle summarise developments and highlight key points for charities

Generally, legislation refers to safeguarding in the context of working with children and vulnerable adults. Recently government has, in effect, broadened the scope of what it considers ‘safeguarding’ in the charity and humanitarian sector, to include not only children and vulnerable adults, but also the duty of care charities owe to other groups that they come into contact with: their staff and volunteers; beneficiaries generally; and those who live and work in their areas of operation.

In this context, it is essential that charities review the suitability, robustness and effectiveness of their processes and policies in relation to safeguarding; and in relation to staff safety and staff conduct more broadly (for example, HR and whistleblowing policies). Key developments are summarised below:

1. The Charity Commission

In September 2017 the commission produced an updated version of its guidance on reporting serious incidents and in December 2017 it published updates to its Safeguarding Strategy.

The commission also issued a regulatory alert in December 2017 reminding charities of their safeguarding obligations and the commission’s expectations of them.

This is the moment in time for charities to raise any issues that have emerged in the light of recent developments and the current climate. Trustees should carry out a review, including on the adequacy and robustness of the charity’s safeguarding measures, procedures and policies and the management and reporting of past incidents. Trustees should consider reporting any previously undisclosed safeguarding issues or serious incidents, complaints or allegations. Failure to do so may be considered misconduct and/or mismanagement and may be a breach of trustees’ duties.

Recent increases in serious incident reports relating to safeguarding have led the commission to establish a

new taskforce, announced as part of its ‘suite of steps on safeguarding’, to ensure all reports are dealt with efficiently.

In March 2018, two safeguarding summits were convened by the Charity Commission. The first, held jointly with the Department for International Development (DfID), focused on charities and umbrella bodies working internationally. The second, held for charities and umbrella bodies working in the UK, was co-chaired by the Minister for Civil Society, Tracey Crouch MP.

Charity Commission: regulatory alert – <https://www.gov.uk/government/news/regulatory-alert-to-charities-safeguarding> – suite of steps on safeguarding – <https://www.gov.uk/government/news/charity-commission-announces-suite-of-steps-on-safeguarding>

Information on the safeguarding summits: <https://www.gov.uk/government/news/safeguarding-summit-statements-by-the-international-development-secretary-and-dfids-permanent-secretary> <https://www.gov.uk/government/news/uk-charities-commit-to-strengthening-safeguarding-culture-and-capability>

2. Charities working overseas

DfID has established a new safeguarding team, which has contacted the international NGOs to which DfID contributes financially regarding their safeguarding obligations.

At the joint safeguarding summit in March, DfID announced a series of steps to tackle safeguarding issues. Crucially, it will introduce enhanced safeguarding standards for organisations it works with, and funding will depend on meeting these standards. An international safeguarding centre to support organisations to implement best practice on safeguarding and maximise transparency in the charity sector was also proposed. DfID has encouraged organisations to appoint a Director of Safeguarding, and has noted the importance of charities reporting incidents when they occur.

The parliamentary International Development Committee has launched an inquiry into sexual

exploitation and abuse in the aid sector, which is entirely separate to the work of the Independent Inquiry into Child Sexual Abuse (whose work continues). A draft International Development (Safeguarding Vulnerable Groups) Bill will make safeguarding a key DfID consideration; and allow for the most stringent DBS checks for those who provide aid, even when not working specifically with children and/or vulnerable adults.

Proposals for an international safeguarding centre can be found at <https://www.gov.uk/government/news/actions-to-tackle-exploitation-and-abuse-agreed-with-uk-charities>

The launch of the sexual exploitation inquiry is covered at <https://www.parliament.uk/business/committees/committees-a-z/commons-select/international-development-committee/news-parliament-2017/sexual-exploitation-launch-17-19/>

And the draft bill is at <https://www.parliament.uk/documents/commons-committees/international-development/Sexual-exploitation-and-abuse-in-the-aid-sector-explanatory-Bill.pdf>

3. Government strategy on preventing child abuse within the UK

The government has outlined updated plans to tackle child abuse, which include improvements to information sharing between police, social workers and healthcare professionals.

<https://www.gov.uk/government/news/government-outlines-strengthened-plans-to-tackle-child-abuse>

4. Updated Statutory Guidance

Following a consultation on amendments to the 'Working Together to Safeguard Children' guidance, the government intends to widen some obligations on safeguarding partners; and include specific sections on sports organisations and religious organisations, following the enactment of the Children and Social Work Act 2017, which will be brought into force later this year.

The government's response to the consultation is at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/683115/Changes_to_

[statutory_guidance-_Working_Together_to_Safeguard_Children.pdf](#)

Key action points

It is vital that organisations have appropriate governance structures and clear policies and processes that are fit for (new) purpose and are followed in practice. The rise of public and political awareness of safeguarding and appropriate sexual conduct within charities means that organisations must keep up to date with rapid development of regulatory requirements and expectations.

Organisations are expected to maintain a safe and trusted environment for everyone who comes in to contact with them, including their staff and volunteers. The Charity Commission, in particular, is encouraging organisations to report all serious incidents (recent and past) as soon as possible. All charities that may come into contact with children and vulnerable adults are expected to have a safeguarding procedure and a trustee who leads on safeguarding; they should also have appropriate codes of conduct and HR policies to deal with 'safeguarding' in their duty of care for staff, and appropriate governance in place to deal with any incidents that arise.

Ultimately, charities are required to develop a culture that places beneficiaries and safeguarding at the heart of charity, public sector and aid work, coupled with effective policies and procedures that manage incidents fairly and lawfully, if and when they arise.

Find out more

Recent BWB articles on safeguarding and serious incidents:

<https://www.bwbllp.com/knowledge/2017/09/28/serious-incident-reporting-guidance/>

<https://www.bwbllp.com/knowledge/2017/12/19/recent-guidance-on-safeguarding-for-charities-and-the-housing-sector/>

BWB's multi-disciplinary Safeguarding team can provide advice on all aspects of safeguarding work including policies and procedures, dealing with safeguarding incidents and disciplinary procedures and required reporting. Members of the team have recently spoken at the annual Bond conference on what safeguarding means for governance and assisted NCVO in producing safeguarding guidance for its members.