

## The commission gets serious

The Charity Commission has issued new guidance on serious incident reporting, amid concerns that charities are currently under-reporting.



**Emma Knuckey**  
Consultant  
T: 020 7551 7790  
e.knuckey@bwbllp.com

Emma has been advising on charity law for more than 15 years. Prior to joining Bates Wells, Emma spent seven years as an in-house lawyer at the Charity Commission providing legal advice to the commission's various case-working teams.



**Barbara Eze**  
Trainee Solicitor  
T: 020 7551 7928  
b.eze@bwbllp.com

Barbara is a first-year trainee currently sitting in the Charity & Social Enterprise department.

### Emma Knuckey and Barbara Eze report on the latest developments

Serious incidents (SIs) in charities continued to create headlines in 2018, and the Charity Commission has now turned its attention to the level of reporting. The final report of the commission's interim taskforce on safeguarding, published in October 2018, found that only 1.5% of all registered charities had filed a report to the commission since 2014.

The report highlights that reporting levels vary across sectors; the commission also acknowledges that serious incidents may be a rarity for some charities and that there are instances of over-reporting.

The commission plans to analyse the data further, to get a better picture of which charities are not reporting SIs, and to take action to improve the level of reporting. It is not yet clear what form this action will take.

More than 2,000 SI reports were made on safeguarding incidents alone between February-September 2018, dwarfing the number of reports made in previous years. Despite this, the commission expressed its concern that 'significant and systemic under-reporting' occurs in charities operating both locally and internationally.

In October 2018, the commission also published revised guidance on serious incident reporting that clarifies certain points. The changes include:

- **Definition of 'significant':** significant is defined as 'significant in the context of your charity, taking account of its staff, operations, finances and/or reputation' – highlighting the fact that trustees must decide whether or not to report, based on the specific circumstances in their organisation.
- **Safeguarding:** there is a more detailed section on safeguarding incidents, including greater clarity on the reporting of safeguarding-related workplace matters and more examples of what may or may not constitute a serious incident.
- **Criminal investigations:** there is a separate two-page document on criminal investigations and guidance on reporting offences and handling overseas criminal incidents.

- **Partner organisations:** there is more information on reporting by federated charities and incidents involving more than one charity. Although each of the charities involved needs to make a report, charities can agree for one of them to make the report on behalf of all of them, subject to certain conditions.
- **Bulk reporting:** new wording suggests that charities will need to get permission from the commission before they adopt periodic/multiple reporting.

Serious incident reporting is a priority area for the commission. Failure to report serious incidents promptly may well result in regulatory action. Trustees should be aware of the commission's focus and ensure that it is reflected in their policies and procedures.

**'The commission has expressed concern that "significant and systemic under-reporting" occurs in charities operating both locally and internationally'**

#### Find out more

The commission's revised serious incident reporting guidance can be found at <https://www.gov.uk/guidance/how-to-report-a-serious-incident-in-your-charity>

Further details about the revised guidance can be found in our e-flash at <https://www.bwbllp.com/sectors/charity/knowledge/2018/11/07/charity-commission-updates-serious-incident-reporting-guidance/>

If you're looking for a straightforward serious incident reporting policy that sets out what constitutes a serious incident as per the guidance issued by the Charity Commission, then don't miss our Get Legal policy at <https://getlegal.bwbllp.com/store/products/sirpolicy>