**SERIOUS INCIDENT REPORTING POLICY & PROCEDURE**

The trustees of DMC recognise their responsibility to report serious incidents to the Charity Commission in addition to others such as the Police, Regulator of Social Housing or Information Commissioner’s Office, as appropriate.

This policy is for DMC trustees. Employees should use the Whistleblowing Policy & Procedures to report their concerns about the charity.

**WHAT IS A SERIOUS INCIDENT?**

A serious incident is an adverse event, whether actual or alleged, which results in or risks significant:

* harm to the charity’s beneficiaries, staff, volunteers or others who come into contact with DMC through its work
* loss of the charity’s money or assets
* damage to the charity’s property
* harm to DMC’s work or reputation

**WHO SHOULD REPORT?**

The responsibility for reporting serious incidents in a timely manner rests with the Board of Trustees. They have delegated the reporting process to the General Manager and Clerk to the Trustees who remains in contact with trustees throughout. The trustees may need to explain to the Commission at a later date if they choose not to report an incident.

**THE PURPOSE OF REPORTING**

There are three main purposes of reporting to the Charity Commission:

1. *The Commission needs to ensure trustees comply with their duties:* By reporting a serious incident, DMC trustees have identified a risk to the charity and demonstrated they are taking appropriate action to deal with it.
2. *The Commission may need to provide regulatory advice or guidance or use its statutory powers:* Any regulatory advice and guidance provided will normally be limited to ensuring the trustees meet their legal duties.
3. *The Commission can assess the risk to other charities, identify trends and understand the risks* facing the charity sector.

**PROCEDURE**

**When to report**

* An incident is highlighted to the General Manager or a trustee
* The General Manager liaises with the Management Team about the issue and follows the relevant policy and procedures
* A report is made to the Charity Commission as soon as is reasonably possible

**What to report**

The main categories of reportable incident are:

* *Protecting people and safeguarding incidents*: Incidents that have resulted in or risk significant harm to beneficiaries and other people who come into contact with the charity through its work
* *Financial crimes*: Fraud, theft, cyber-crime and money laundering
* *Large donations* from an unknown or unverifiable source
* *Suspicious financial activity* using the charity’s funds
* *Financial loss*: Other significant financial loss including insolvency, forced withdrawal of banking services without an alternative
* *Terrorism or extremism links*: Including ‘proscribed’ (or banned) organisations, individuals subject to an asset freeze, or kidnapping of staff
* *Significant data breaches/losses*
* *Incidents involving partners* that materially affect the charity

It is the responsibility of the trustees to decide whether an incident is significant and should be reported. The Charity Commission guidance, [Examples table: deciding what to report](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/752170/RSI_guidance_what_to_do_if_something_goes_wrong_Examples_table_deciding_what_to_report.pdf) and [guidance on decision making](https://www.gov.uk/government/publications/its-your-decision-charity-trustees-and-decision-making), will be used to guide DMC trustees. Further information is available below.

**Reporting criminal activity**

If a reportable incident involves actual or alleged criminal activity, DMC trustees will also report it to the relevant agencies:

* Safeguarding incidents: See DMC’s Safeguarding Policy & Procedures
* Fraud and theft: See DMC’s Anti-Fraud Policy
* Cyber crime: See DMC’s Data Protection Policy & Procedures.
* Terrorism and extremism: Report to the police:
	+ via the [National Crime Agency website](http://www.nationalcrimeagency.gov.uk/contact-us)
	+ call the Metropolitan Police Anti-Terrorist Hotline on 0800 789 321
	+ call 101 or report it at a local police station

Incidents shall be reported promptly to the Charity Commission rather than waiting until someone is arrested, charged or convicted.

**Types of safeguarding incident to report**

A report is made to the Commission if a serious safeguarding risk materialises such as:

* *incidents of abuse or mistreatment (alleged or actual) of beneficiaries of the charity* which have resulted in or risk significant harm to them and:
	+ this happened while they were under the care of the charity
	+ someone connected with the charity, for example a trustee, staff member or volunteer, was responsible for the abuse or mistreatment (alleged or actual)
* *other incidents of abuse or mistreatment (alleged or actual) of people who come into contact with the charity through its work*, which have resulted in or risk significant harm to them and are connected to the charity’s activities
* *breaches of procedures or policies at the charity which have put people who come into contact with it through its work at significant risk of harm*, including failure to carry out relevant vetting checks which would have identified that a person is disqualified in law from holding their position within the charity. This might be because they are disqualified under safeguarding legislation from working with adults at risk.

The above may include incidents in the workplace that have resulted in or risk significant harm to trustees, staff or volunteers. DMC trustees will judge whether incidents are serious in the context of the charity.

**The Commission’s role in relation to safeguarding incidents**

The Commission’s role is to ensure trustees are handling the incident appropriately and, where necessary, put in place improved governance and internal controls, in order to prevent further harm. The Commission is not responsible for dealing with incidents of abuse or mistreatment and it does not administer safeguarding legislation. It cannot prosecute or bring criminal proceedings, although it may refer concerns on to ‘lead agencies’, such as the police, local authorities and the Disclosure and Barring Service (DBS), as well as to specialist bodies responsible for designated areas, like education, health and social care.

**External safeguarding incidents**

Sometimes DMC trustees may become aware of safeguarding incidents that have occurred outside of the charity. This might be, for example, where:

* the charity is alerted to alleged abuse of a beneficiary, staff member, volunteer or someone else who it comes into contact with through its work, which has occurred outside of the charity and:
	+ the abuse was not connected to its activities in any way
	+ the person responsible for the abuse was not a trustee, staff member or volunteer

There is no need to report these incidents unless the incident was not handled appropriately by the charity which then resulted in harm to the person concerned.

**Financial crime: fraud, theft, cyber-crime and money laundering**

Fraud, theft and cyber-crime are different criminal offences. They may relate not just to a charity’s funds and financial assets, but also to other assets, such as databases and confidential or sensitive information. The impact on a charity can be significant, going beyond financial loss, they may also bring adverse publicity to the charity and damage its good reputation with donors, beneficiaries and the public, as well as that of the charity sector more generally.

The main categories of reportable financial crimes are defined below:

* Fraud and theft: See DMC’s Anti-Fraud Policy
* Cyber crime: See DMC’s Data Protection Policy & Procedures.
* ‘Money Laundering’ is where criminals turn the proceeds of crime (‘dirty’ money) into property or money (‘clean’ funds) so that they seem lawful and legitimate to avoid suspicion or detection. DMC trustees recognise their legal duty for due diligence in only using the charity’s funds and assets in furtherance of DMC’s purposes and that donations are used appropriately.

DMC trustees use the Charity Commission’s [Fraud and theft information checklist](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/646317/Fraud_and_theft_information_checklist.pdf)  to guide them.

The higher the value of the loss, the more serious the incident is likely to be, indicating it should be reported. Other factors likely to indicate seriousness include:

* where the person accused of taking the funds/assets is involved in the charity, particularly if he/she holds a senior position
* where the person accused is involved with other charities
* numerous incidents have taken place that appear connected, indicating a pattern or trend
* a single incident has been committed repeatedly over a long period of time
* a number of separate incidents have occurred over a short period of time
* the funds lost/at risk are from a public appeal, collection or grant funding
* where there are signs of public interest, such as significant media reporting
* where the charity has had to take serious action against an individual, such as disciplinary action, investigation or suspension.

Repeated or frequent incidents can be symptomatic of weak financial controls and poor governance. Therefore, if there have been repeated incidents of low value fraud, theft or cyber-crime in your charity, DMC trustees will report this.

If trustees decide that an incident is not serious enough to report, they will take appropriate reasonable steps eg tightening financial controls and procedures, to ensure it doesn’t happen again, using the Commission’s guidance [Internal financial controls for charities (CC8)](https://www.gov.uk/government/publications/internal-financial-controls-for-charities-cc8).

**Unverified or suspicious donations**

DMC does not attract large donations, however, the trustees act with due diligence and are mindful of donations from sources that cannot be verified, by ensuring appropriate checks are made before accepting anonymous or suspicious donations. Records are kept of substantial donors and transactions, to avoid tax liability.

Trustees report unverified or suspicious donations totalling £25,000 or more, once checks have been made and use their judgement in the case of incidents under £25,000 taking into account all the relevant factors.

Trustees use the [Commission’s Compliance Toolkit guidance on due diligence, monitoring and verifying the end use of charitable funds](https://www.gov.uk/government/publications/charities-due-diligence-checks-and-monitoring-end-use-of-funds), if necessary.

Other suspicious financial activity is also reported to the Commission, such as requests from third parties to:

* cash a cheque for a large sum of money
* pay a fee to release funds to be donated to the charity

**Other significant financial loss**

DMC trustees report any significant financial loss due to other causes, where this threatens the charity’s ability to operate and serve its beneficiaries, or where the charity’s financial reserves are not sufficient to cover the loss, for example:

* significant fire, flood or storm damage destroying or seriously damaging the charity’s main premises
* losing a court case and having to pay substantial legal fees or damages out of charity funds
* loss of significant public funding or key delivery contracts that threatens the charity’s ability to operate and being unable to replace these in order to ensure the charity’s survival
* significant financial penalties for breaches or non-compliance imposed by HMRC, Financial Conduct Authority, HSE, ICO, Fundraising Regulator or other regulators.

DMC will report any loss of funds or property with a value:

* totalling £25,000 or more, or
* totalling less than £25,000 but which is in excess of 20% of the charity’s income

For lower amounts, the trustees will decide if they are significant and should be reported, taking the charity’s income, work and other factors into account.

**Links to terrorism and extremism**

DMC trustees will report when they become aware of allegations being made, or have evidence to suspect that:

* DMC trustees, staff, volunteers or anyone connected with the charity, has known or alleged links to a proscribed (banned) organisation or other terrorist/ unlawful activity
* someone within or closely connected to the charity, or one of DMC’s delivery partners, is placed on a UK or international terrorist list or is subject to an asset freeze
* charity funds or assets have been used to pay bribes, protection money or ransoms
* charity funds or assets have been used/ diverted (perhaps via a delivery partner) to support a terrorist group or for other terrorist purposes
* the charity has been used to circumvent asset freezing measures
* charity personnel have been kidnapped or harmed by terrorist groups when representing the charity or carrying out charity work

DMC uses the Commissions Compliance Toolkit guidance on protecting charities from harm, if required. They are aware of the government’s proscribed (banned) organisations list available online.

DMC trustees will also report

* If the charity’s premises have been misused as a platform for the expression or promotion of extremist views, or the distribution of extremist materials
* media reports alleging that DMC has been misused for such purposes, particularly if these could have a significant negative impact upon the charity’s reputation

Further information on extremism is available in the Commission’s Compliance Toolkit.

**Other significant incidents**

DMC trustees report to the Commission if:

* a trustee is disqualified from holding that position using the Commission’s automatic disqualification rules
* the charity has been forced into insolvency or to wind up, eg , unmanageable debts or reduced income streams
* charity operations are threatened because the bank has withdrawn banking services and another bank cannot be found to accept the charity
* the charity is subject to a police investigation or a significant investigation by another agency/regulator.
* the charity has experienced major governance problems, such as mass resignation of staff or trustees, or other events, leaving it unable to operate
* trustees or employees are the subject of criminal proceedings, in connection with the charity or their role in it
* there has been a significant data breach or loss
* an incident has occurred involving one of the charity’s partners in the UK or internationally, which materially affects the charity, staff, operations, finances and/or reputation

**How to report**

DMC trustees take immediate action to:

* prevent or minimise further harm, loss or damage
* report it to the Commission as a serious incident using the online form Report a serious incident, using the Commission’s current privacy notice. If information is particularly sensitive, the trustees advise the Commission of this. Updates may also be submitted using this form.
* report it to the police (and/or other relevant agencies) if trustees suspect a crime has been committed
* plan what to say to staff, volunteers, members, the public, the media and other stakeholders
* review what happened and prevent it from happening again – this may include reviewing internal controls and procedures, internal or external investigation and/or seeking appropriate help from professional advisers.

If trustees fail to report a serious incident that subsequently comes to light, the Commission may consider this to be mismanagement, for example where the trustees have failed to manage the risks properly and breached their legal duties. This may prompt regulatory action, particularly if further abuse or damage has arisen following the initial incident.

**Declaration in the annual return**

As part of the annual return, trustees sign a declaration confirming there were no serious incidents during the previous financial year that should have been reported to the Commission but were not. If incidents did occur, but weren’t reported at the time, these are submitted before filing DMC’s Annual Return.

**BIBLIOGRAPHY**

Charity Commission: *How to report a serious incident in your charity*, June 2019

<https://www.gov.uk/guidance/how-to-report-a-serious-incident-in-your-charity>