



**REGULATORY PRIORITIES 2024-26**

## **OSCR's Regulatory Priorities 2024-2026**

### Why regulatory priorities?

OSCR's [Corporate Strategy](#) sets out how OSCR will regulate and support charities to deliver the services the people of Scotland need, looking at the broad activities we will undertake and the outcomes we are working towards over the next three years. It states that:

*We will continue to use our data and intelligence to focus our work on activities which have high regulatory impact.*

Targeting action only where it is needed is a key principle of good regulation and enables OSCR to utilise resources effectively. OSCR's regulatory priorities set out the kinds of issues and risks affecting charities where we think we should target our activities so that we deliver smart, responsive and effective regulation and positively impact on Scotland's charity sector and its beneficiaries.

In setting out our regulatory priorities, we also explain why we think these are the areas that we should target in line with the [Scottish Regulators' Strategic Code of Practice](#). This code says that regulators should:

*Adopt risk and evidence-based protocols which help target action where it's needed and help to ensure the achievement of measurable outcomes.*

We are looking to evolve from the Risk Framework which we first published in 2016 and revised in 2018. The Risk Framework was a key element in starting OSCR's journey to becoming a risk-based regulator, but it reflects the priorities of that time. It was also focused primarily on case-based activity. We think it is now vital to have a set of regulatory priorities for the next three years that help us to focus and target **all** the regulatory activities we



undertake. That means not just:

- our inquiry activity where we investigate matters of concern; and
- the decisions we make about whether or not to register charities,

but also:

- the guidance we provide to charity trustees
- our monitoring of charity annual reports and accounts, and analysis of other intelligence and data about charities
- the work we do with sector bodies, professional bodies and stakeholders to provide training and support to charities, advisors and trustees
- our engagement with policy makers and legislators to make sure policy and legislation affecting charities recognises the needs and nature of charities and effective charity regulation; and
- how we will focus and prioritise the use of the new powers and duties that will be given to OSCR by the new [Charities \(Regulation and Administration\) \(Scotland\) Bill](#) that is currently awaiting Royal Assent.

There are of course regulatory issues where the potential harm is so immediate and clear that OSCR's response must always be to use our inquiry and protective powers to deal with the risk in that individual case, for example to suspend trustees or freeze a bank account or remove a charity from the Scottish Charity Register. However, our experience and feedback from charities and stakeholders tells us that deliberate wrongdoing in charities that needs this kind of action from OSCR is rare.

Honest confusion on the part of trustees about the right thing to do or genuine disagreement about how to deal with difficult issues is far more common, and suspending trustees or making directions are usually disproportionate or inappropriate ways of dealing with such issues. They can also be very blunt instruments with which to intervene in matters that can be complex or deep-rooted in a charity or community. These issues are important, but regulation



needs to be preventive and supportive, providing guidance and learning to trustees to identify what it means to act in the interest of their charity in particular situations, what acting with care and diligence means in challenging times and how they can do their best to avoid or rectify issues that may arise.

Identifying the correct approach to a particular regulatory issue means we must make choices – whether those are the day-to-day ones associated with risk assessing incoming intelligence or registration applications, making longer term decisions about what guidance we should produce or update, or who we should engage with regarding specific issues. Our experience demonstrates that being able to explain these choices and the rationale for decisions we have taken is vital to maintaining confidence in our role as a regulator and in charities generally. We have recently updated our **guidance** and processes for those raising concerns, but it is essential that we are able to outline our approach across the full spectrum of activities we undertake.

OSCR will be transparent with the sector and the public about how we decide what issues need to be tackled. This will help the understanding of the evidence and thinking that underlies our decisions. Just as importantly, we want our sense of what our priorities should be to be informed by the views of charities, trustees and other stakeholders, and we are keen to get the views of the sector and other stakeholders on the areas we will focus on.

## How will OSCR use its regulatory priorities?

We will use our regulatory priorities:

- as a basis for prioritising engagement with stakeholders and partners
- to inform casework decisions, processes and criteria
- as a basis for prioritising the creation or review of relevant guidance
- to inform the agenda for our ongoing work to review and update our regulatory partnerships and joint working arrangements.



## How will we ensure the framework stays relevant?

As we've all seen over the past few years, the world (and its impacts on charities) is unpredictable. New issues and challenges for OSCR and the charity sector emerge relatively frequently. We anticipate the resolution of some of the issues set out in this document in the next few years to allow us to refocus on other priorities.

These regulatory priorities will be reviewed annually by our staff and Board, taking into account:

- progress against the key outcomes in OSCR's Corporate Strategy
- trends in incoming intelligence
- the results of our stakeholder engagement programme
- survey and research results
- economic, social and other relevant data.

## What are our regulatory priorities?

We have set out below the regulatory priorities that we are considering at the start of our **2023–26 Corporate Strategy** in order of priority.

We want to explain in broad terms:

- what each priority is
- the evidence that has led us to prioritise each issue
- how each priority relates to delivering the outcomes outlined in our Corporate Strategy
- what activities in our Business Plan will help us address the priorities
- what the benefits will be of focusing on each priority.



## What do you think?

- Do you agree that OSCR should target its activities to focus on identified priorities?
- What do you consider to be the advantages and disadvantages associated with this approach?
- Are the priorities described below the ones you would expect OSCR to focus on?

Priority	Why do we think we should focus on this?	Link to <u>Corporate Strategy</u> Priorities	What will we do about this over the next 3 years?	Benefits
<b>1. Charities that fail to engage with the regulator and demonstrate to the public how they make a difference</b>	<p>Around 10–12% of charities on the Register are failing to meet their legal duty to file annual accounts and engage with OSCR and are therefore failing to provide key information to the public about what they do and how they spend their money.</p> <p>Data from our Defaulting Charities and Revitalising Trusts projects indicates significant numbers of these charities are undertaking little or no activity.</p>	<p>We will ensure the public have access to the information they need about charities in Scotland and how they are regulated.</p> <p>We will provide charities with the tools and guidance they need to meet regulatory obligations.</p> <p>We will deliver smart, responsive and effective regulation that positively impacts on Scotland’s charity sector and its beneficiaries.</p>	<p>Better targeting of proactive casework and accounts monitoring.</p> <p>Greater targeting of our communications with charities, for instance with newly registered charities and around the Annual Return.</p> <p>Engage with charities that fail to file accounts through our Defaulting Charities project.</p> <p>Work jointly with Foundation Scotland through the <a href="#">Revitalising Trusts</a> project to help unlock charitable funds held in inactive charities.</p>	<p>Increase in proportion of charities on the Register that are actively providing benefit and reporting transparently to the public.</p> <p>Maintain public confidence in charities and OSCR.</p> <p>Reduction in OSCR resources required to pursue non-compliant charities.</p>



	Experience from previous casework.		<p>Plan for full use of the new powers contained in the Bill.</p> <p>Work with umbrella bodies, funders, and other stakeholders to re-engage with relevant charities.</p> <p>Make changes to risk assessment of incoming intelligence.</p>	
<b>2. Misuse of Scottish charities for private gain</b>	<p>Our <a href="#">Public and Charity surveys</a> found that confidence and transparency about how charities use their assets is a key driver of public trust.</p> <p>Referrals from other agencies, regulators and funders indicate misuse of assets is a key concern for them when it happens, though that is not necessarily often.</p>	<p>We will deliver smart, responsive and effective regulation that positively impacts on Scotland’s charity sector and its beneficiaries.</p> <p>We will maintain a focus on best value, continuous improvement and collaboration.</p>	<p>Make changes to risk assessment of incoming intelligence.</p> <p>Take early and decisive action to protect charitable assets and beneficiaries.</p> <p>External communication around inquiry reports and ‘lessons learned’ to support good governance.</p> <p>Use intelligence from the trustee database to be implemented under the new Charities Bill.</p>	<p>Increased public confidence that donations and funding are being used appropriately.</p> <p>Wider stakeholder visibility of OSCR enforcement activity.</p>

			<p>Work with funders and other stakeholders to identify what else would drive confidence.</p> <p>Invest in relationships with other regulators to maximise access to useful intelligence.</p>	
<p><b>3. Charity trustees' understanding of core governance matters and activities can be flawed and incomplete in areas such as:</b></p> <ul style="list-style-type: none"> <li>• <b>Trustee disqualification</b></li> <li>• <b>Governing documents</b></li> <li>• <b>Trustee quorum</b></li> <li>• <b>Narrative reporting and accounts</b></li> </ul>	<p>Risk assessment of incoming intelligence indicates the majority of relevant complaints about charities from the public received by OSCR originate in trustee misunderstanding of their duties or their governing documents.</p> <p>Evidence to Parliament during the progress of the Bill indicated some key misunderstanding in the sector around criteria for disqualification of trustees.</p> <p>Responses to existing annual return questions from charities indicate that there is a lack of understanding of</p>	<p>We will provide charities with the tools and guidance they need to meet regulatory obligations.</p> <p>We will deliver smart, responsive and effective regulation that positively impacts on Scotland's charity sector and its beneficiaries.</p> <p>We will maintain a focus on best value, continuous improvement and collaboration.</p>	<p>Develop a new Annual Return regime with a sector improvement focus to support better understanding of governance matters and provide guidance on where trustees need to focus in their charity.</p> <p>Analyse queries received and better focus our guidance based on demand and need. Communicate to all stakeholders about changes to disqualification criteria under the Charities Bill.</p> <p>Work in partnership with sector bodies to maximise our understanding of issues and support their work with specific charity groups.</p>	<p>Charity trustees are fully informed about their duties and confident in the governance of their charities, minimising disputes and compliance failures.</p> <p>There is better understanding of who can and cannot be a charity trustee.</p> <p>OSCR positively contributing to the sector in the most effective and efficient way.</p>





	<p>governance matters amongst some trustees.</p> <p>Numbers of queries about governance received from charities and other stakeholders.</p> <p>Random monitoring of incoming accounts indicates substantive issues around understanding of trustee quorums.</p>			
<p><b>4. Poor relationships and conflict within charities and between charities and communities</b></p>	<p>Risk assessment of incoming intelligence indicates a substantial proportion of complaints from the public about charities relate to disagreement with decisions made by charity trustees or a breakdown of trust with a charity.</p> <p>Substantial numbers of concerns about charities come from members, staff or trustees, reflecting disagreement</p>	<p>We will ensure the public have access to the information they need about charities in Scotland and how they are regulated.</p> <p>We will provide charities with the tools and guidance they need to meet regulatory obligations.</p> <p>We will deliver smart, responsive and effective regulation that positively impacts on Scotland's charity sector and its beneficiaries.</p>	<p>Make changes to risk assessment and prioritisation of activity resulting from incoming intelligence.</p> <p>Maximise benefits from new powers under the Bill, such as positive direction and appointing interim trustees.</p> <p>Work through umbrella bodies, funders and other stakeholders to help guide charity trustees through issues.</p>	<p>Charities are able to maximise the benefit they provide to the communities they serve.</p> <p>The public have confidence that charities are well run and responsive to public needs.</p> <p>Charity trustees are confident in running their charities and it is easier to retain</p>

	<p>or breakdown of trust within charities.</p> <p>Concerns received from stakeholders including funders, MSPs and charity beneficiaries.</p> <p>Evidence of issues from local and national media reporting.</p>		<p>Build new relationships with community bodies to support mutual understanding of issues and regulation.</p> <p>Develop new guidance materials to support charity trustees to manage internal and external relationships more effectively.</p> <p>Produce targeted communications with selected subsectors and stakeholders.</p>	<p>good trustees and recruit new trustees.</p> <p>OSCR is drawn into fewer disputes where regulatory impact is difficult to achieve or it has no clear remit.</p> <p>There are fewer situations where poor relationships impact on communities and individuals.</p> <p>OSCR contributes to the National Performance Framework outcome for inclusive, empowered, resilient and safe communities.</p>
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<p><b>5. Charities’ management of their reserves may not be sufficiently active to make best use of their resources and may be constrained by mistaken perceptions of ‘OSCR requirements’</b></p>	<p>Findings of the recent <a href="#">IVAR report</a> on charity reserves.</p> <p>Randomised monitoring of charity accounts indicates that there are still a number of charities who do not prepare a Trustees’ Annual Report and therefore do not explain their policy on reserves.</p>	<p>We will provide charities with the tools and guidance they need to meet regulatory obligations.</p> <p>We will maintain a focus on best value, continuous improvement and collaboration.</p>	<p>Work with professional bodies and intermediaries.</p> <p>Enhance OSCR guidance on reserves.</p> <p>Target communication on reserves policy towards key subsectors.</p> <p>Target our monitoring of charity accounts to identify reserves issues.</p> <p>Develop a new Annual Return regime with a focus on helping trustees to run their charity better and actively consider how funds are being used.</p>	<p>Charities’ management of their reserves maximises sector resilience in face of cost of living and future challenges.</p> <p>OSCR contributes to helping the charity sector deal with financial challenges.</p>
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