



CHARITY COMMISSION  
FOR ENGLAND AND WALES

**OSCR**  
Scottish Charity Regulator

The **Charity**  
**Commission**  
for Northern Ireland

**Reporting matters of material  
significance to a UK charity regulator:  
evaluation report**

## Reporting matters of material significance to a UK charity regulator: evaluation report

This report summarises feedback received in response to the consultation on reporting matters of material significance to a UK charity regulator.

Throughout the report the Charity Commission for England and Wales is referred to as CCEW, the Office for the Scottish Charity Regulator is referred to as OSCR and the Charity Commission for Northern Ireland is referred to as CCNI.

### 1 Background

1.1 Auditors and independent examiners have a duty to report significant matters which they discover through the course of their audit or examination work to the charity regulator in their jurisdiction.

1.2 In England and Wales, the Charities Act 2011 sets out this duty in section 156. There is a requirement for auditors and examiners who become aware of a matter which they believe would be of material significance to CCEW in exercising certain of its inquiry functions, to immediately make a written report on the matter to CCEW.

1.3 In Scotland, the Charities and Trustee Investment (Scotland) Act 2005 sets out this duty in section 46. There is a requirement for auditors and examiners who become aware of a matter which they believe would be of material significance to OSCR in exercising its functions to immediately report the matter to OSCR.

1.4 In Northern Ireland, the Charities Act (Northern Ireland) 2008 sets out this duty in section 67. There is a requirement for auditors and examiners who become aware of a matter which they believe would be of material significance to CCNI in exercising its functions to immediately make a written report on the matter to CCNI.

1.5 There is no definition in legislation as to what constitutes a matter of material significance.

### 2 Introduction

2.1 Previously the CCEW and OSCR issued a joint list of matters which they considered to be of material significance. This was done to aid the understanding of auditors and examiners of the matters which should be reported. The list was prepared jointly to ensure consistency.

2.2 As the Charity Commission for Northern Ireland (CCNI) is now in place and charity law in Northern Ireland has requirements in this area similar to those in England and Wales and in Scotland, the three regulators agreed it would be beneficial to harmonise reporting requirements and update the list of matters to cover all three jurisdictions.

2.3 Some time has passed since the original list was developed and it was agreed by CCEW, OSCR and CCNI that it would be beneficial to review the list of matters in light of developing themes and also regulatory experience.

2.4 The consultation document outlined some changes to the existing matters which require to be reported. As a result of the proposed changes the matters of material significance were increased from eight to ten in England and Wales and Scotland. The new matters proposed were areas where regulators have an interest and where it has been found that reports have not always been made, or been made in time to allow for useful intervention. The language in some of the existing matters was amended to aid clarity. The full list of material significance is a new requirement for auditors and independent examiners in Northern Ireland.

### **3 Consultation**

3.1 The consultation period lasted for 12 weeks from 19 May 2016 to 11 September 2016. It invited respondents to consider the revised matters. The main areas we sought views on were:-

- Whether the matters outlined were the correct matters which should be reported to us,
- whether the descriptions of the matters are clear and helpful
- whether there are any other matters which should be included, or indeed if any other matters should be removed.

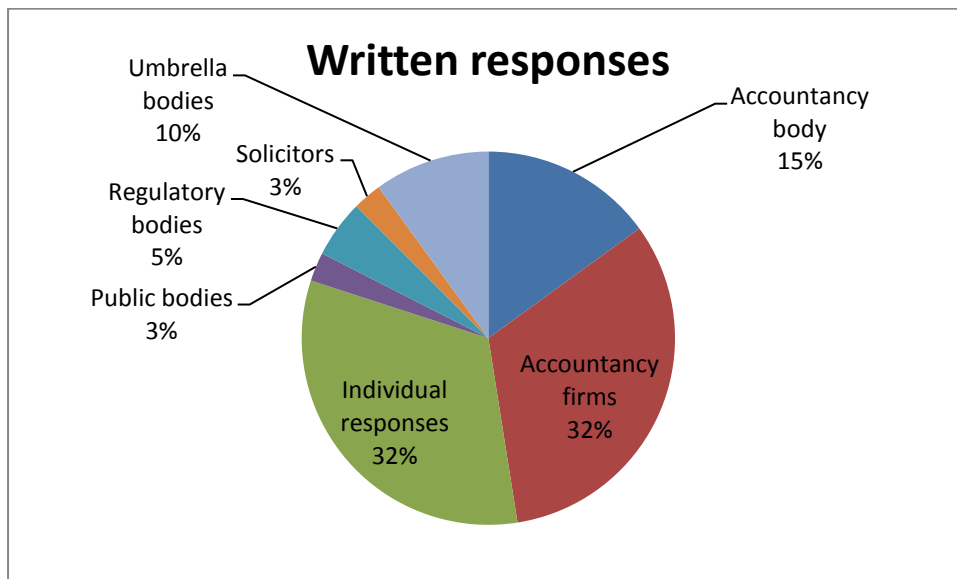
We were also interested in establishing whether more general guidance for auditors and independent examiners when reporting a matter of material significance would be useful to help both auditors and independent examiners to better understand their duties.

During the consultation period we received 40 written responses. An event was also held in Northern Ireland where the consultation questions were considered and we included feedback from this event in our analysis.

The UK Charity Regulators would like to thank everyone that responded to the consultation.

### 3.2 Respondents

The breakdown of respondents is shown below. 32% of the responses were received from accountancy firms. 32% of responses were received from individuals, these were in the main from professionals working within charities as finance personnel and also from independent examiners. We also received responses from the main accountancy bodies, and some umbrella bodies.



### 3.3 Analysis

The majority of the responses received framed their responses to tie in with the questions posed within the consultation document which meant it was possible to analyse the answers to each of the questions. It was clear that some respondents had comments to make on specific areas and therefore only answered some of the questions within the document.

The feedback which was received was valuable and detailed, highlighting valid points in relation to the matters.

## 4 Findings

We considered the responses alongside each individual question. Where respondents did not agree with our proposed actions we carefully considered their rationale. In some areas we felt that respondents had not fully understood the intention of the change and therefore that additional guidance or a change to wording was required. In other cases we agreed

that we had not fully considered the impact of our proposal and as such made amendments in accordance with the responses.

Below we have outlined the questions, a brief summary of the responses we received and the action we took.

*4.1 **Question 1** – The list of material matters of significance which must be reported was developed to aid auditors and independent examiners in understanding the duties under the legislation. Do you agree that it is useful to have a list of matters which must be reported? If not, what means do you suggest of helping auditors and independent examiners meet their requirements?*

We received 32 comments relating to whether the list should be retained, all of these agreed that it is helpful to retain a list of matters.

*4.2 **Question 2** – Do you agree that the descriptions of the matters to be reported are clear and helpful? If not please advise where further clarity is required.*

There were 31 answers to this question with 80% agreeing that the descriptions of matters are clear. There were comments that specific comments around matters had been made within later questions. Of those that disagreed there were comments around inconsistency of terminology around materiality and the use of accounting terminology in reference to non-accounting matters.

*4.3 **Question 3** – The terminology in Matters 1 and 2 has been amended to agree to that used in the Statement of Recommended Practice for Charities (SORP), do you agree that this is helpful for consistency? If not please advise what terminology you would recommend and why?*

31 responses were received to this question with 68% in support of the alignment of terminology. Those which didn't agree highlighted that there may be differences between what would be material for a set of accounts and what would be material to the UK charity regulators. There were also comments that this terminology referred to those preparing fully accrued accounts and preparers of receipts and payments accounts may not be fully conversant of this.

*4.4 **Question 4** – Matter 3 has been expanded to specifically include the charity's bank account in the areas where funds could be used for money laundering. This is based upon our experiences where the charity's bank account has been used to move money. Do you agree that the expanded definition is helpful? If not please advise what alternative definition you would use.*

There were 30 specific responses to this question with 26 in agreement. Those disagreeing felt that this should already be captured within the charities funds and should not require separate clarification. There were also comments from those in agreement that the wording should be changed to make it clearer – so it should say ‘including’ bank accounts rather than ‘or’ bank accounts.

Within this section we received a number of comments around the Proceeds of Crime Act and whether reporting to UK Charity Regulators would be classed as ‘tipping off’.

*4.5 Question 5 – Matter 8 from the previous list of matters to be reported has been removed. This is due to the fact that this led to auditors and independent examiners advising the Regulator where they had simply ceased to hold office. Where ceasing to hold office occurs due to a reportable matter this should be covered by an alternative matter. Do you agree that this matter should be removed? If not please advise why it should be retained?*

We received 21 responses to this question with 86% in agreement. It was acknowledged by respondents that this relates very specifically to Northern Ireland and accountants acting for charities registered in Northern Ireland would need to be fully conversant with their duties.

*4.6 Question 6 – Matter 9 has been introduced to ensure that auditors and independent examiners are fully aware that the reporting requirements for matters of material significance are separate from the requirement to qualify an opinion in appropriate circumstances. This will be useful to the regulators as there have been a number of instances where matters have not been reported separately but the auditor’s or examiner’s report is qualified. Do you agree that the inclusion of this within the matters of material significance will assist auditors and independent examiners in understanding their duties and meeting this requirement? Please give your reasons for this response.*

32 commented on this question with 78% agreeing the matter should be removed. There were comments that it must be made clear however that resignation does not absolve the responsibility to report.

*4.7 Question 7 – Auditors regularly offer guidance and areas for improvement to their clients. We recognise the important role this plays in ensuring charities meet their regulatory requirements. Where charities fail to act upon the recommendations made by their advisors this may be an indication of governance concerns and should be reported to the regulator. Do you agree that this matter should be included as a reportable matter? If not please provide your reasons for this.*

There was divided opinion on this question. We received 30 responses with 56% in agreement and 44% not. There were a number of comments around the different natures of qualified audit reports, with reference being made to those of a more ‘technical’ nature.

There was also concern that timing of audits would be affected due to the reference to subsequent action taken by trustees.

*4.8 **Question 8** – It is important for public trust in charities to ensure that all relationships are properly managed and where necessary disclosed. Matter 11 highlights the need for auditors and independent examiners to report to us where they believe that relationships are not managed well or are not correctly highlighted to users of the accounts. Do you agree that this should be included as a matter of material significance? If not, please provide your reasons why.*

The majority of respondents disagreed with this proposal. We received 35 responses of which 80% disagreed. There was commentary around the fact that there are a number of instances where auditor's make 'best practice' suggestions to their client which they would expect their client to exercise discretion over implementation, or which may not be practicable to implement such as segregation of duties. There was a concern that a requirement to report these would damage the relationship between the auditor/examiner and the client and may also lead to recommendations not being finalised.

There was also a strong consensus that if a client did not follow a more formal recommendation of an auditor/examiner then this in itself would fall under one of the other matters to be reported and as such there was no requirement for this separate distinction.

*4.9 **Question 9** – While the reporting requirements have not changed significantly we have increased the areas identified as matters of material significance to provide clarification for those with reporting responsibilities. Do you agree that this aids clarification and is not an increase in regulatory burden? If not please provide your reasons for this.*

Again there were some concerns over the inclusion of this matter and particularly the wording of the matter. There were 30 responses to this question with 37% in agreement. Much of the commentary referred to the reference to 'guidance issued by the charity regulator' and questioned whether it was reasonable for auditors and independent examiners to be fully conversant with all guidance issued.

*4.10 **Question 10** – In addition to the matters identified as reportable, we have received feedback that some further guidance around reporting requirements, including more practical examples would be useful. Do you agree that further guidance in this area is required?*

There were 29 responses in this area with 16 believing there would be an additional regulatory burden. These concerns related specifically to two main areas, that being the requirement to report where management letters were not followed and the issue around

whether auditors/examiners now needed to be conversant in full with conflicts of interest provisions.

*4.11 Question 11- In addition to the matters identified as reportable, we have received feedback that some further guidance around reporting requirements, including more practical examples of reporting matters of material significance would be useful. Do you agree that further guidance in this area is required and if so should this be provided by the regulators and/or included in auditing standards?*

Out of the 27 responses to this question 85% agreed there should be additional guidance and this should be prepared by the UK charity regulators. Comments received indicated that case studies would be useful.

## **5 Action taken**

A number of changes have been made to the list of matters of material significance to reflect the feedback received from the consultation process and address concerns raised. These are:-

- We have considered the feedback regarding the matter in relation to reporting on management letter points not followed. We noted particularly that auditors and independent examiners had concerns that they would be expected to report matters which they were providing to assist clients with best practice rather than due to a legal requirement. We also noted that where there were significant failures these should be reported under separate matters.

It has been agreed that this matter should be removed. Where there are significant failings in internal controls we would expect auditors and examiners to report these under other matters and they should be able to exercise professional judgement around other areas.

- The comments around the alignment with accounting terminology were carefully considered. We agree that this may send out the wrong message to accounting professionals and as such have reverted to the original wording.
- We agree that matter 3 should be amended to say 'including the charity's bank account(s)' rather than 'or the charity's bank account(s)' and have amended accordingly.
- We noted the comments around reporting where conflicts of interest were not well managed. It was not the intention that auditors and examiners should undertake



additional work to identify whether conflicts of interest have been well managed. These should be matters that are apparent through the undertaking of their normal work. As such we have amended the wording to remove the reference to 'guidance issued by the charity regulator'. We also recognised that not all auditors and examiners will be preparing SORP compliant accounts and have included the phrase 'or applicable regulations' to ensure that receipts and payments accounts are fully considered.

- We carefully considered the requirement to report separately where an audit report is qualified. We agreed that it is for the UK Charity Regulators to determine whether there is a burden placed upon them in receiving these reports. We also consider all qualified audit opinions to be of useful Regulatory value as in addition to considering the reports in isolation we can consider whether any trends are occurring. Therefore qualifications which may be considered 'technical' may still be of a regulatory interest.

We appreciate the comments around actions being taken by trustees and recognise that further clarity is required. The intention is that if further action has been taken then this should be included in any report, there should be no delaying of reports to allow for further action to be taken, we also recognise that in many 'technical' qualifications further action may not be required. This will be further addressed in guidance.

- We recognise the need for guidance and will develop practical guidance to assist auditors and examiners in meeting their requirements.
- In our discussions we noted that the wording in Matter 6 was not particularly clear as it referred to 'trusts' rather than 'governing documents'. We have updated this.
- We have also updated Matter 9 to reflect the additional requirement within International Auditing Standards to state in their audit report where a material uncertainty relating to going concern exists.
- We considered whether the updated list of matters added to the Regulatory burden. Under charity law within all three jurisdictions there is a clear requirement for auditors and independent examiners, to report matters to the regulator where these are of material significance. The list of matters is intended to provide assistance to auditors and independent examiners in meeting this duty by providing a list of matters which we would expect to be reported. We do not believe therefore that by

extending the list of matters we are extending the Regulatory burden but rather clarifying the expectation under charity law.

We have now developed a final list of 9 matters to be reported together with supporting guidance.

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### Final list

**Matters suggesting dishonesty or fraud involving a significant loss of, or a material risk to, charitable funds or assets**

**Failure(s) of internal controls, including failure(s) in charity governance that resulted in, or could give rise to, a material loss or misappropriation of charitable funds, or which leads to material charitable funds being put at major risk.**

**Knowledge or suspicion that the charity or charitable funds including the charity's bank account(s) have been used for money laundering or such funds are the proceeds of serious organised crime or that the charity is a conduit for criminal activity**

**Matters leading to the knowledge or suspicion that the charity, its trustees, employees or assets, have been involved in or used to support terrorism or proscribed organisations in the UK or outside of the UK, with the exception of matters related to a qualifying offence as defined by Section 3(7) of the Northern Ireland (Sentences) Act 1998**

**Evidence suggesting that in the way the charity carries out its work relating to the care and welfare of beneficiaries, the charity's beneficiaries have been or were put at significant risk of abuse or mistreatment**

**Single or recurring breach(es) of either a legislative requirement or of the charity's governing document leading to material charitable funds being misapplied**

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**Evidence suggesting a deliberate or significant breach of an order or direction made by a charity regulator under statutory powers including suspending a charity trustee, prohibiting a particular transaction or activity or granting consent on particular terms involving significant charitable assets or liabilities**

**On making a modified audit opinion, emphasis of matter, material uncertainty related to going concern, or issuing of a qualified independent examiner's report identifying matters of concern to which attention is drawn, notification of the nature of the modification/qualification/emphasis of matter or concern with supporting reasons including notification of the action taken, if any, by the trustees subsequent to that audit opinion, emphasis of matter or material uncertainty identified /independent examiner's report.**

**Evidence that significant conflicts of interest have not been managed appropriately by the trustees and/or related party transactions have not been fully disclosed in all the respects required by the applicable SORP, or applicable Regulations.**