



**An Rialálaí
Carthanas**

**Charities
Regulator**

Concerns Policy

Division	Compliance and Enforcement
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1.0 Background – Who we are

The Charities Regulator was established as an **independent** Authority on a statutory basis in October 2014 in accordance with the 2009 Charities Act. The Charities Regulator is responsible for the registration and regulation of all charities that carry out activities in the Republic of Ireland.

Our mission:

'To regulate the charity sector in the public interest so as to ensure compliance with the law and support best practice in the governance, management and administration of charities'.

Our Values:



Our Functions:

- Increase public trust and confidence in the management and administration of charitable trusts and charitable organisations.
- Promote compliance by charity trustees with their duties in the control and management of charitable trusts and charitable organisations.
- Promote the effective use of the property of charitable trusts or charitable organisations.
- Ensure the accountability of charitable organisations to donors and beneficiaries of charitable gifts, and the public.



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- Promote understanding of the requirement that charitable purposes confer a public benefit.
- Establish and maintain a register of charitable organisations.
- Ensure and monitor compliance by charitable organisations with the Charities Act 2009.
- Carry out investigations in accordance with this Charities Act 2009.
- Encourage and facilitate the better administration and management of charitable organisations by the provision of information or advice, including in particular by way of issuing (or, as it considers appropriate, approving) guidelines, codes of conduct, and model constitutional documents.
- Carry on such activities or publish such information (including statistical information) concerning charitable organisations and charitable trusts as it considers appropriate.
- Provide information (including statistical information) or advice, or make proposals, to the Minister on matters relating to the functions of the Regulator.

2.0 Statement of Policy

Charities are independent organisations run by charity trustees. They play a vital role in our society and provide public benefit in diverse ways to communities in Ireland and across the world. Occasionally, people will have concerns about some aspect of a charity and will need to know where to take their concerns. This policy sets out how we will respond to concerns raised about charities.

3.0 The role of the Charities Regulator

The Charities Regulator is responsible for the registration and regulation of all charities that carry out activities in Ireland. A key role of the Charities Regulator is to monitor and ensure compliance by charitable organisations with the provisions of charities legislation, in particular, the Charities Act 2009.

We have a duty to identify and investigate wrongdoing. This policy explains that duty and how we carry it out in practise.



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This policy explains:

- What we can and cannot deal with
- How to raise a concern about a charity
- How we will deal with concerns about charities
- What to expect if you raise a concern with us
- What to expect if your charity is the subject of a concern
- Considerations when providing information to the Regulator
- How we decide on the outcome

The Charities Regulator acts in the interest of the wider public and not on behalf of any individual member of the public or group. We operate in accordance with our values which include acting independently, fairly, proportionality and in an open manner.

This policy is intended to explain how the Charities Regulator deals with concerns. It is not, nor is it intended to be, a definitive statement of the law in this area and charities are recommended to obtain their own legal advice on issues raised in this policy.

4.0 What concerns we can and cannot deal with

Where an issue is raised regarding a charity, the principal focus of the Charities Regulator is on whether there has been a breach of charity law.

For example:

- A risk of significant loss or damage to a charity, its assets or beneficiaries
- Where charity trustees have breached their duties
- Serious or sustained misconduct by those in management and control of a charity;
- Where a charity does not meet the legal requirement to be a charity (the legal requirement includes having charitable purposes and providing public benefit)
- Where a body may be representing itself as being a charity in Ireland when it is not.



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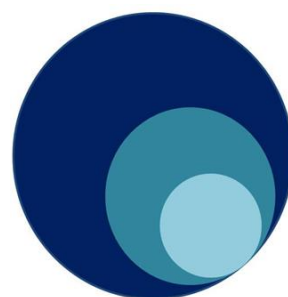
5.0 We usually cannot deal with the following:

- Matters that do not relate to charity law. For example, contractual employment issues.
- Complaints relating to services provided by the charity – these should be reported to the charity.
- Disputes between charity trustees - for example, disputes that relate solely to decision making - these should be worked out internally or with professional support (for example, through a mediator).
- Overruling a decision taken by the charity trustees that is valid and within their powers to make.
- Issues that are primarily within the remit of other regulators.

6.0 How to raise a concern about a charity

If you have a concern about a charity you should consider raising your concern with the charity itself in the first instance. In many cases, this will allow the concern to be resolved by the charity trustees. If you are unable to raise the concern with the charity, or if you have raised the concern and no action has been taken, you should identify the most appropriate bodies to raise your concern with. You may raise a concern with the Charities Regulator by completing our online concern form.

All concerns received by the Charities Regulator will be dealt with in confidence subject to any legal duty of disclosure.



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7.0 How we deal with concerns about charities

We take an evidential, risk-based and proportionate approach to regulating charities. This means targeting our help and resources at the areas of highest risk and where we think our intervention will have the greatest impact.

We will acknowledge concerns as quickly as possible and certainly within 15 working days, where contact details have been supplied to us.

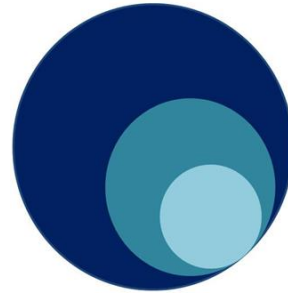
We assess concerns to establish:

- Whether we have the legal power to act.
- Whether there is risk:
 - to the charity's assets (including reputation) and/or its beneficiaries
 - of charitable status being abused
 - to the charity sector.
- Whether the concern should be dealt with by another regulator, inspectorate or public body
- The level of action required by us as the Regulator.

We may carry out background inquiries to make sure that any information provided to us is correct and credible. This may include making contact with the charity.

We will not act on unsubstantiated allegations, rumour or opinion. To do so would be unfair to the charity, its activities and beneficiaries. Where we suspect an offence has been committed, we are obliged to provide information to An Garda Síochána and certain other institutions.

We will prioritise our actions to ensure that our resources are used to best effect.



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8.0 What to expect if you raise concerns about a charity with us

We aim to conclude our inquiries as quickly as possible. However, some inquiries may be complex and require input from many sources, and may require Court action.

The charity will not be told who has raised the concern without that person's permission. However, there may be legal circumstances where we are obliged to provide the identity of the person who raised the concern. For example, if we are required to do so by a Court. Additionally, the identity of the person raising the concern may be obvious to the charity because of the type of issues raised.

It is for us as the Charities Regulator to decide what is in the public interest to pursue; we do not act on behalf of individuals or organisations that bring concerns to us. Also, we do not comment or give updates on inquiries while they are ongoing, as this could prejudice the charity or our work. When our inquiries are complete, we will let you know the outcome in general terms. We will not usually provide you with detailed findings on each and every issue. You will not have a right of appeal under charity law about our decision.

9.0 What to expect if your charity is the subject of a concern

It is the Charities Regulator's expectation that all charities will comply with charity law. We will support charities by giving guidance and making recommendations or signposting them to other sources of help. However, we will take proportionate regulatory action where we identify a need to do so.

All concerns received are assessed and risk rated. Following our assessment, some concerns may be deemed to be outside of our scope and referred on to relevant other Regulators. In these cases, no contact may be made with the charity or entity involved.

We will generally contact your charity once it has been established that the concerns raised in respect of your charity merits inquiry from the perspective of charity law.



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Contacting your charity does not imply that we agree with the concerns raised or infer any wrongdoing on the part of the charity. We will explain to you what the concerns are and will ask for information in order to give us a better understanding of how your charity operates generally, and of the particular issues raised with us.

Initially, we will contact the charity Trustees. Where we have been advised that a solicitor has been instructed to act for the charity, we will direct our correspondence to them. However, there may be occasions where we need to contact charity trustees directly, and when this happens we will copy the solicitor acting for your charity into our correspondence.

We will not disclose the identity of those who have raised concerns with us unless we have been given permission to do so, or are required to do so by a law. This is because it is important that concerns about charities can be raised with us in confidence.

In the course of our inquiries we may ask for information from any charity trustee or person connected with your charity. This may include face to face meetings.

We will take all reasonable steps to minimise disruption to the work and reputation of your charity as well as staff, volunteers and trustees, during our inquiries. However, there may be instances when we have to use our formal powers and this may impact on the day to day running of the charity.

10.0 Providing information to the Regulator

In the course of our inquiries, we may collect information from the person who originally raised the concern, as well as the charity, or other relevant third parties. It may be an offence for anyone to knowingly provide false information to us.

Charity law provides us with the power to formally obtain any information from any person or organisation which is considered necessary for the purposes of our inquiries. Failure to comply with such a request is an offence and may result in a fine or imprisonment on conviction.



11.0 How we decide on the outcome

In making a decision, we will weigh up all the information we have obtained during the course of our inquiries, and consider any ongoing risk to the charity including its assets and beneficiaries. We consider whether any actions the charity trustees took may have been misguided or deliberate, any corrective action already taken, and the intentions of the charity's trustees going forward. We will decide whether we need to take any action in terms of using our formal powers, or whether it is more appropriate for us to provide support to the charity's trustees in the form of recommendations for improvement which we may follow up.

It is never our intention for our inquiries to result in the closure of a charity but in some situations, this may happen for other reasons – for example, if the charity is in financial difficulty. There may be cases where we decide that it is not proportionate or necessary for us to take a matter forward with a charity. In such cases, we will keep the information on record and may refer to it in future if another concern about the same charity is received.

In some cases, where we use our formal powers, or where there is a high level of public interest, we will publish a report on our website explaining what has happened and our actions taken in the specific case.

12.0 Annual Reporting on Concerns

The Charities Regulator will publish statistical information in relation to concerns received. The Charities Regulator may from time to time share statistical information with third parties.

13.0 Data Protection and Freedom of Information

All personal information received by the Charities Regulator in relation to a concern shall be stored in accordance with the Data Protection Act 2003 and the Freedom of Information Act 2014.

Personal information provided will only be used in line with the purpose for which it was provided, it will not be shared with third parties unless allowed or required by law. The Charities Regulator may use anonymised personal data for statistical purposes.



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14.0 Assistance for persons with Disabilities

If, because of a difficulty, a person needs assistance raising a concern with the Charities Regulator, he/she can contact our Access Officer who will try to assist them.

15.0 Policy Review

This Policy and forms associated with it will be reviewed regularly by the Head of Compliance and Enforcement in light of any legislative or other relevant indicators and in any case by its stated review date.

16.0 Staff Training

The Charities Regulator will empower dedicated staff and train them to deal with the receipt of concerns.

17.0 Revision History

Revision Number	Review Date	Reason for update
000	23 February 2017	Policy approved by the Board of the Authority