



An Rialálaí
Carthanas
Charities
Regulator

Policy Title:

Concerns Policy

Division	Compliance and Enforcement
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1.0 Background – Who we are and what we do

The Charities Regulator was established as an independent Authority on a statutory basis in October 2014 in accordance with the Charities Act 2009. 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.
- 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 the 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 generally respond to concerns raised about charities.

3.0 The role of the Charities Regulator

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. This policy explains that role and how we carry it out in practice.

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 concerns about a charity with us;
- What to expect if your charity is the subject of a concern;
- Considerations when providing information to the Regulator; and
- 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 stated values - including independence, fairness and proportionality.

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 independent legal advice on issues raised in this policy.

4.0 What we can deal with

Where an issue is raised regarding a charity or any other organisation¹, 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;
- Breach of duty by charity trustees;
- Serious or sustained misconduct by those in management and control of a charity;
- Failure by a charity to meet the legal requirement to be a charity (i.e. (1) having a charitable purpose and (2) providing public benefit);
- Where a body may be representing itself as being a charity in Ireland when it is not, in fact, a charity.

5.0 Matters that we do not ordinarily deal with

- Matters that do not relate to charity law. For example, contractual employment issues;
- Complaints relating to services provided by the charity, which should be reported to the charity directly;
- Disputes between charity trustees. For example, disputes relating solely to decision making, which should be resolved internally or with professional support through a mediator or otherwise;
- Requests to overrule 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. In particular, we advise that concerns in respect of fundraising should be raised with the charity in the first instance.

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.

If you wish to raise a concern with us you should complete our [online concern form](#).

¹ The Charities Regulator has a role in ensuring that organisations that may not be charitable organisations comply with certain provisions of the Charities Act 2009. To keep the policy brief, the majority of references to concerns in this policy relate to concerns about charities. However, it should be noted that where a concern is raised with us alleging that an organisation other than a charity may be in breach of the Charities Act 2009, the concern will be dealt with in accordance with this policy.

6.1 Concerns raised via Third Parties

Where a concern is raised about a charity, the Charities Regulator may need to seek further information or clarification in respect of the details of the concern and being able to deal with a contact directly facilitates this.

We will not usually deal with an individual's concern through a third party, unless there is a valid and necessary reason to do so. If a concern is raised with us by a third party on behalf of another individual, we may request the contact details of the individual on whose behalf the third party is acting.

6.2 Anonymous Concerns

While the Charities Regulator will accept anonymous concerns, it may be difficult for us to inquire into and respond effectively to such information, as it is not possible for us to seek further information or clarification on details which may be necessary to progress the concern.

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.

Where contact details have been supplied to us, we will acknowledge concerns as quickly as possible and within 10 working days of receipt of the concern.

We assess concerns to establish:

- Whether we have the legal power to act in the particular set of circumstances;
- Whether there is risk:
 - to the charity's assets (including reputation) and/or its beneficiaries;
 - of abuse of charitable status; and
 - to the charity sector.
- Whether the concern should be dealt with by another regulator, inspectorate or public body;
- The level of action required by the Charities 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 charities, organisations or other persons as appropriate.

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 will provide information to An Garda Síochána and other relevant bodies as appropriate.

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

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. It may also be necessary to initiate legal action before the Courts.

Your identity will not typically be identified to the charity concerned without your permission.

However, there may be circumstances where we may be required to provide your identity, for example, if we are required to do so by a Court. Even in circumstances where you are not identified, your identity may be apparent to the charity because of the issue raised. It is for 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. The Charities Regulator's decision is final.

In circumstances where you raise a concern with us, which relates to your specific interaction with a charity and you provide us with your name, in order to examine the issue you have raised we may need to provide your name and the details of your interaction with the charity to the charity concerned. In those circumstances, we will obtain permission from you to refer to your personal details when contacting the charity. It is important to note that in these instances, we are not acting on your behalf but are using the concern you have raised about a charity to assess if the charity is operating in compliance with charity law.

8.1 Vexatious concerns

The Charities Regulator reserves the right not to engage with a person or group on concerns which it regards as vexatious or where, upon completion of the concerns process, the person or group is unreasonably persistent in their contacts with our compliance team.

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

It is the Charities Regulator's expectation that all charities comply with charity law. We will support charities by referring them to guidance, including documents published pursuant to section 14(1) of the Charities Act 2009 to encourage and facilitate the better administration and management of charitable organisations, e.g. the [Guidelines for Charitable Organisations on Fundraising from the Public](#). However, it is ultimately the responsibility of charity trustees to control and manage their charity in a way which protects the charity's reputation and encourages public trust and confidence in their charity.

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 other regulators where appropriate.

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

Contacting your charity does not imply that we agree with the concern raised nor does it infer any wrongdoing on the part of the charity. We will explain to you what the concern is in general terms 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.

When we are communicating with your charity, we will initially contact the charity trustees. Where we have been advised that a solicitor has been instructed to act for a charity, we will direct our correspondence to them. We will also deal with a member of the charity's staff where it has been confirmed that they have been nominated by the charity trustees to deal with us on their behalf. However, there may be occasions where we need to contact charity trustees directly, and when this happens we will copy the solicitor/nominated staff member acting for your charity on our correspondence as appropriate.

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 not disclose the identity of those who have raised concerns with us to your charity unless we have been given permission or have a legal obligation to do so. This is because it is important that concerns about charities can be raised with us in confidence.

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, we acknowledge that there may be an impact on the day to day running of the charity, particularly in instances where we have to use our formal powers.

10.0 Providing information to the Charities 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 is an offence for a person to knowingly make a false statement to the Charities Regulator that an offence under the Charities Act 2009 has or is being committed, or that a provision of the Charities Act 2009 has not been or is not being complied with.

Charity law provides us with the power to formally obtain any information that is considered necessary for the purposes of our inquiries. Failure to comply with a statutory request to provide information may result in the de-registration of your charity.

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.

Where non-compliance or harm to a charity is identified, we will consider if any actions of the charity trustees were misguided or deliberate, any corrective action already taken, and the intentions of the charity 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 and proportionate for us to provide support to the charity trustees, which may be in the form of recommendations for specific action by the charity. Where we make a recommendation to a charity to take specific action(s), we will follow up with the charity as appropriate to ensure those actions have been taken.

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 we consider it to be in the 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 and other 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 to the Charities Regulator will only be used in line with the purpose for which it was provided and 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.

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 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
001	22 February 2018	Policy approved by the Authority for adoption following recommendation by the Regulatory and Governance Committee

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