



An Rialálaí
Carthanas
Charities
Regulator

Policy Title:

Concerns Policy

Date

December 2022

1.0 Background – Who we are and what we do

The Charities Regulator is a statutory body which regulates charities in Ireland. Our work includes registering charities, maintaining a publicly available [Register of Charities](#), ensuring compliance with charity law and trustee duties in relation to the control and management of registered charities, carrying out investigations into the affairs of registered charities and publishing guidance materials and information about registered charities in Ireland.

Our Mission:

To regulate the charity sector in the public interest to ensure compliance with charity law and support best practice in the governance 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, individuals may wish to raise a concern regarding a charity with the Charities Regulator. This policy sets out how the Charities Regulator will generally respond to concerns raised with it about charities.

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.

3.0 The role of the Charities Regulator

The Charities Regulator acts in the public interest 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.

A key role of the Charities Regulator is to monitor and ensure compliance by charities with charity law and in particular, the Charities Act 2009.

This policy explains:

- Matters we generally 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 about a charity with us;
- What to expect if your charity is the subject of a concern;
- Considerations when providing information to the Charities Regulator; and
- How we decide on the outcome.

4.0 Matters we ordinarily 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 requirements to be a charity which are:
 - (1) having a charitable purpose
 - (2) providing public benefit; and
- Where a body may be representing itself as being a charity in Ireland when it is not, in fact, a charity.

¹This policy also applies to concerns raised with us about organisations other than charitable organisations who come under the remit of the Charities Regulator

5.0 Matters we will 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 raised with 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; and
- Personal grievances a person may have with a charity.

In certain circumstances, while a concern may initially fall within one of these categories, it may nevertheless be appropriate for the Charities Regulator to be notified of the concern. Examples of these would include where an internal dispute leads to a total breakdown in the operation of the charity, thereby posing a risk to the charity's reputation, assets or beneficiaries or where a service provided by a charity was not in line with its charitable purpose. If you are in any doubt, please contact the Charities Regulator directly.

6.0 How to raise a concern about a charity

Anyone can raise a concern about a charity with the Charities Regulator. Concerns may be raised with us by charity trustees, employees or volunteers, members of the public, charity beneficiaries, donors, funding bodies or other authorities.

Where feasible, it is recommended that concerns be raised directly with the charity in the first instance. In many cases, this will allow the concern to be resolved by the charity trustees of the charity. In particular, we recommend that concerns in respect of fundraising should be raised with the charity in the first instance.

Where it is not feasible to deal directly with the charity, or if you have raised the concern and no action has been taken, you should identify the most appropriate bodies with whom your concern should be raised. In some circumstances, it may be appropriate for you to raise your concern with more than one body. For example concerns regarding criminal activity by a charity should be raised with An Garda Síochána in addition to the Charities Regulator.

If you wish to raise a concern with us, please complete and submit our [online concern form](#).

6.1 Concerns raised via Third Parties

Once a concern is raised about a charity, the Charities Regulator may require further details, information or clarification. Being able to contact the person who raised a concern directly will help the Charities Regulator in this regard.

We will not usually deal with an individual's concern via a third party, unless there is a valid and necessary reason to do so. In circumstances where a third party raises a concern 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 not be possible to progress the concern in terms of further enquiry or examination in the absence of contact details for the person raising 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 resources at the areas of highest risk and where we think our intervention will have the greatest impact.

Upon receipt of a completed online concern form and where contact details have been supplied, we will acknowledge the concern(s) as quickly as possible, and no later than 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 enquiries 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 and its volunteers and beneficiaries.

Where we suspect an offence has been committed, we will provide information to An Garda Síochána and other relevant bodies as appropriate.

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

We aim to conclude our enquiries as quickly as possible. However, some enquiries 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 disclosed to the charity concerned. 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.

We do not comment or give updates on enquiries while they are ongoing, as this could prejudice the charity and our regulatory work. When our enquiries 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 regarding a particular concern 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 first 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.

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

The Charities Regulator encourages compliance by all charities operating in the Republic of Ireland with charity law and supports charities by providing guidance to encourage and facilitate the better administration and management of charities for example 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 our scope and referred on to other regulators where appropriate.

We will generally contact your charity if it is established that the concern raised in respect of your charity merits enquiry.²

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 the particular issues that has been raised with us and how your charity operates generally.

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. When this happens we will copy the solicitor or nominated staff member acting for your charity on our correspondence as appropriate.

In the course of our enquiries we may ask for information from any charity trustee or person connected with your charity. This may occur by way of written requests or 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.

² It should be noted that we may contact your charity in respect of issues identified other than from concerns raised by members of the public such as media reports, monitoring or other compliance and enforcement work. However, the principles set out in this section in respect of how we will interact with your charity apply to both circumstances regardless of how a concern arises.

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 enquiries. 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 statutory powers under the Charities Acts.

10.0 Providing information to the Charities Regulator

In the course of our enquiries, 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 and/or records from charities that are considered necessary for the purposes of our enquiries. Failure to comply with a statutory request to provide information may result in the de-registration of your charity or may constitute an offence under the Charities Act 2009.

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 enquiries, 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 stated 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.

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 raised with us.

In some cases, where we use our formal powers in a specific case, or where we consider it to be in the public interest, we will publish a report on our website explaining what has happened and the actions we have taken in the specific case.



12.0 Annual Reporting on Concerns

The Charities Regulator will publish statistical and other information in relation to the concerns it receives on an annual basis. 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 2018 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 we will facilitate you in raising a concern through our Access Officer who can be reached by email accessofficer@charitiesregulator.ie.

15.0 Communicating with Charities Regulator staff

While we understand that persons who contact us in respect of concerns may be experiencing difficulties or be in a stressful situation, we will be polite and courteous to members of the public and expect the same in return. We will not tolerate unacceptable behaviour, including aggressive or abusive behaviour, unreasonable demands or unreasonable persistence. Where such unacceptable behaviour occurs, we may advise the person that we will not engage with them further.

16.0 Policy Review

This Policy and forms associated with it will be reviewed regularly and updated as required.

17.0 Staff Training

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

18.0 Legal Disclaimer

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. Organisations and individuals may wish to obtain their own independent legal advice when making decisions relating to any of the matters referred to in this document.

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