

Charity Commission:

Due Diligence – working with partners

Cardiff Third Sector Council
Chapter Arts Centre
Cardiff

Lin Ashby, Outreach Officer
17 November 2015

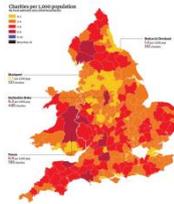


Role of the Charity Commission

Charity Sector in England and Wales

CHARITY
COMMISSION

Number of
registered charities



Sector Income



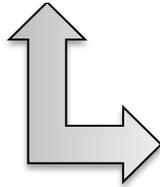
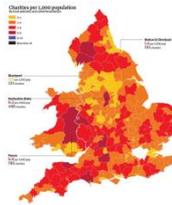
Sector Income



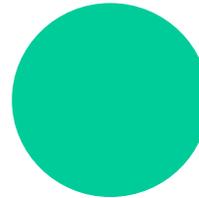
Charity Sector in England and Wales

CHARITY
COMMISSION

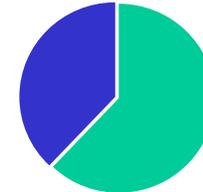
Number of registered charities



Sector Income



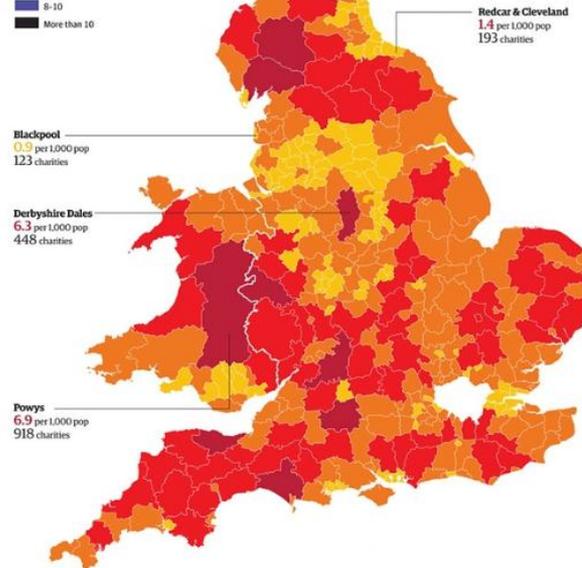
Proportion of Sector Income



181, 626 registered charities in England and Wales

Charities per 1,000 population

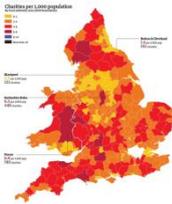
By local authority area (2006 boundaries)



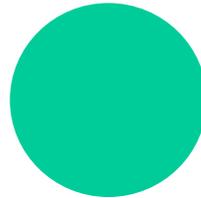
Charity Sector in England and Wales

CHARITY
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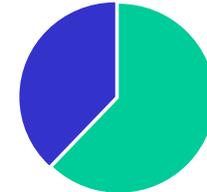
Number of registered charities



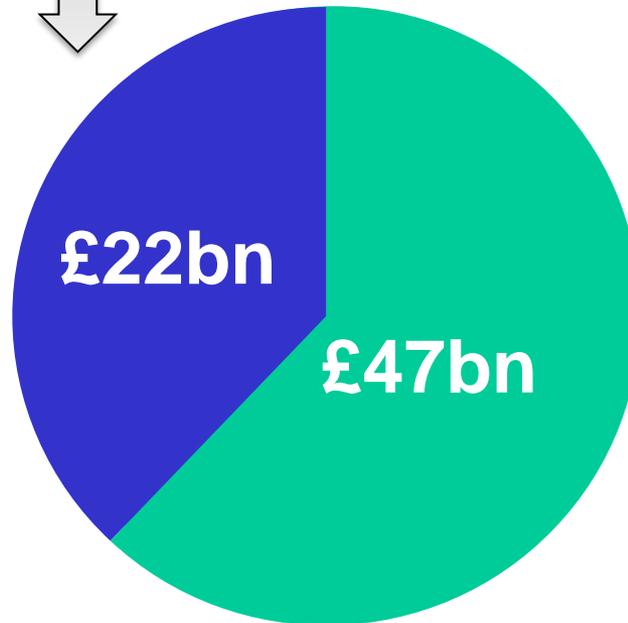
Sector Income



Proportion of Sector Income



Sector Income:
£69 billion



Role of the Charity Commission



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- Register charities
- Regulate charity compliance with charity law
- Provide advice and guidance to promote effective use of charity resources

Trustee Duties

The law and good practice

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The Charity Commission logo is a green rectangle with the words 'CHARITY' and 'COMMISSION' stacked vertically in white, bold, sans-serif capital letters. The background of the slide features a photograph of a modern, multi-story brick building with large windows. In the foreground, several people are visible, some appearing to be in a queue or waiting area.

Commission guidance explains what trustees:

- **Must** do – legal and regulatory requirements
- **Should** do – good practice

We expect trustees to:

- Follow and apply the good practice to their charity
- Be able to explain and justify their approach

Following good practice will help you:

- Run your charity effectively
- Avoid difficulties and basic errors
- Comply with your legal duties

Trustee Duties

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- Carry out the charity's purposes
- Comply with the governing document and the law
- Act only in your charity's best interests

Trustee Duties

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- Manage your charity's resources responsibly
- Act with reasonable care and skill
- Ensure your charity is accountable

What's next?

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- Read the *recently revised*: Essential Trustee

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/451020/CC3.pdf

- Share the document with your fellow trustees

Assessing Risk

Risk-based approach

- The greater the risks, the more charities have to do to ensure and to demonstrate that they have discharged their duty of care and other legal duties
- Greater effort and stronger measures for higher risks
- For other risks, there is greater discretion and flexibility about what to do
- Risks vary depending on size, nature, complexity of activities, area of operation, scale of funds

Risk Tools: Compliance Toolkit, Chapter 2

Tool 4: Risk management

Risk Matrix

A Risk Matrix is another common method for assessing risk, which can be used in conjunction with the SWOT and PESTLE analyses. Trustees may find this method useful when assessing areas of risk, for example when planning a new project to be carried out with a new partner organisation. The identification of appropriate risks may be best undertaken by involving those with a detailed understanding of the charity's operations and work and/or detailed knowledge of the particular operating environment or the nature of particular projects.

The level of risk should be measured by both the likelihood of something occurring and the severity of impact if it were to happen. The risk matrix can subsequently be used as a risk register for ongoing monitoring and review of risk throughout the life of a project. An example of a section of a risk matrix can be found below.

Risk Matrix

Areas	Risks	Likelihood	Impact	Controls
Reputation	A real or perceived link or association between the charity and terrorist activity damages the charity's reputation	LOW	HIGH	<ul style="list-style-type: none"> Draw up detailed partnership agreements Review partner's governance structures Review project audit and monitoring, including field visits Include an impact and risk assessment for all projects Take references and contact other affiliates of the partner for recommendations Request standard documentation and invoices Check the consolidated list of designated individuals and entities (see Chapter 1 of toolkit)

Tool 2: Risk management

Strengths, Weaknesses, Opportunities and Threats (SWOT) Analysis

This example shows how a SWOT analysis can be used by trustees to help identify and assess the risks associated with entering into a new partnership with another organisation to carry out the charity's purposes.

STRENGTHS: attributes of the partner, project or activity that will help to achieve the objective or improve the outcome.

WEAKNESSES: attributes of the partner, project or activity that might cause problems, be harmful to the quality of the outcome, or potentially prevent the objectives from being achieved.

OPPORTUNITIES: conditions or resources which could be used to help achieve the objectives, or which could help to improve the outcome.

THREATS: events or conditions which could restrict the achievability of the objectives, or which could damage the quality of the outcome.

Tool 3: Risk management

PESTLE Analysis

A PESTLE analysis may help when assessing the risk arising from the impact of external factors on a charity, particularly when working internationally.

POLITICAL	Factors may be altered by the government's influence on a country's infrastructure. This may include tax policy, employment laws, environmental regulations, trade restrictions, tariffs, reform and political stability. Charities may need to consider where a government does not want services or goods to be provided.
ECONOMIC	Factors include economic growth, interest rates, exchange rates, inflation, wage rates, working hours and cost of living. These factors may have major impacts on how charities operate and make decision.
SOCIAL	Factors include cultural aspects, health and safety consciousness, population growth rate and various demographics.
TECHNOLOGICAL	Factors include ecological and environmental aspects and available products and services. Charities may need to innovate, having considered the compatibility with their own technologies and whether they are transferable internationally.
LEGAL	Factors include any law which may impact on the charities' operations, including NGO regulation and criminal and terrorist legislation which will differ from country to country.
ENVIRONMENTAL	Factors include an awareness of climate change or seasonal or terrain variations which may affect charities' service delivery methods.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/340418/CT-2-T4.pdf

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/340415/CT-2-T2.pdf

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/340417/CT-2-T3.pdf

What next?



- Consider whether your risk assessments covers all the relevant risks

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/398925/CC26_Lowlnk.pdf

- For more guidance, read Chapter 2 of the Compliance Toolkit: Section C, pages 9 to 15

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/340417/CT-2-T3.pdf

'Know Your' Principles

'Know Your' Principles

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- Know your Donor
- Know your Beneficiaries
- Know your Partner

Trustees need to:

- Be reasonably assured that the donation is not from any illegal or inappropriate source
- ensure that it is otherwise appropriate for the charity to accept money from the particular donor, whether that is an individual or organisation
- ensure that any conditions that may be attached are appropriate and can be accepted

Know your Beneficiaries

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Trustees need to:

- Ensure your charity is furthering its purposes
- Have clear selection criteria and a process informed by sound risk assessment and management
- Ensure the beneficiaries can/will benefit from your charity's activities
- Ensure you are aware of any risks involved working with those beneficiaries

Know your Partner

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Why is it important that your charity knows its Partner?

Trustees have a legal duty to protect the charity's assets, including its reputation. They must therefore:

- Ensure a relationship with the partner is appropriate for the charity
- Ensure the partner can practically deliver on the promises it has made

Know your Partner

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Know your Partner tools

Tool 8: Know your partner

'Know Your Partner' – key issues to think about

Key Partner Details	<p>Are you satisfied with the partner's status and governance? Consider checking:</p> <ul style="list-style-type: none">• Its governing document• The proscribed organisation list• The designated entity list• The consolidated list of financial sanctions targets <p>Carry out internet searches and review local media to identify if, for example, the organisation has any links with political activity.</p>
Representatives and structures	<p>Who are the key senior personnel? Have you checked that they do not appear on the Designated Individuals list?</p> <p>Are the organisation's size, management and operational structure fit for purpose?</p> <p>Can you be reasonably sure the organisation is able to deliver the services required?</p> <p>How easy is it to contact the organisation's senior representatives and other key staff?</p>
Practical working relationship	<p>What do you know about the partner? Have you worked with them before?</p> <p>Does your experience of working with the partner in the past raise any concerns?</p> <p>Are its aims and values compatible with those of your charity?</p> <p>Are there likely to be any language, communication or cultural problems? How can these be overcome?</p> <p>Is the partner already working with other organisations? Will this present any problems?</p> <p>Are there arrangements in place to enable you to monitor the charitable services provided? Are you confident about any third parties involved in monitoring and feedback?</p>

Tool 9: Know your partner

VERIFICATION OF PROPOSED PARTNER FORM

Basic information

Name of partner	<input type="text"/>
Working name (if applicable)	<input type="text"/>
Principal address	<input type="text"/>
Website	<input type="text"/>
Main contact	
Name	<input type="text"/>
Telephone & email	<input type="text"/>
Trustees	
Name	<input type="text"/>
Address	<input type="text"/>
Name	<input type="text"/>
Address	<input type="text"/>
Name	<input type="text"/>
Address	<input type="text"/>
Name	<input type="text"/>
Address	<input type="text"/>
Senior management staff	
Name	<input type="text"/>
Position	<input type="text"/>
Name	<input type="text"/>
Position	<input type="text"/>

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/340427/CT-2-T9.pdf

What next?

- Read Chapter 2 of the Compliance Toolkit, Section G: *Working with Partners and Protecting the Charity*

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/413719/CT-2.pdf

- Have a due diligence policy that works for your charity and satisfies your oversight as trustees

Monitoring and verifying end use of funds



What are the legal duties of the trustees?

Trustees have a duty to ensure funds are used only in furtherance of the charity's purpose.

Trustees need to take reasonable and proper steps to ensure that any money or resources have reached their intended beneficiaries. Monitoring is an important way of ensuring this is the case.

Monitoring and verifying end use of funds

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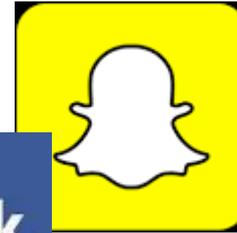
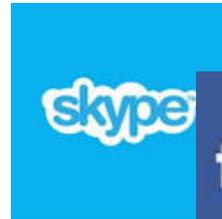
What does this mean in practice?

As a minimum, this means:

- Ensuring there is an audit trail for the movement of funds from the charity to the partner and the project
- Ensuring there is an audit trail and proper records that show the partner has spent the funds on legitimate goods/services
- Some form of proactive monitoring to be satisfied that the funds were actually used as intended
- Scrutiny for any suspicious signs and, where found, dealing with them appropriately

Monitoring tools

- Remote monitoring by the charity



- On-site inspections/visits, also carried out by others



- Feedback direct from beneficiaries



What next?

- Review your monitoring and verifying processes.
- Ensure audit trails are robust and fully recorded.
- Make sure you are satisfied that your funding is being used for the purpose it was given.
- Read Chapter 2 of the Compliance Toolkit, Section J: *Monitoring*

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/413719/CT-2.pdf

- Share good practice with other charities

Tools: Holding, moving and receiving funds safely

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[Chapter 4 Tool 1: Practical advice on operating bank accounts](#)

Ref. Chapter 4 Tool 1: Practical advice on operating bank accounts - PDF
PDF, 70.9KB, 1 page

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[Chapter 4 Tool 2: Checklist for donations received from outside the UK](#)

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[Chapter 4 Tool 4: Using intermediaries - financial controls checklist](#)

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[Chapter 4 Tool 6: Cash courier agreement form](#)

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[Chapter 4 Tool 7: Cash payments record form](#)

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[Chapter 4 Tool 8: Using other charities or NGOs to transfer funds outside the UK - checklist](#)

Ref. Chapter 4 Tool 8: Using other charities or NGOs to transfer funds outside the UK - checklist - PDF
PDF, 66.7KB, 1 page

<https://www.gov.uk/government/publications/charities-holding-moving-and-receiving-funds-safely>

Other useful guidance links

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Choosing to Collaborate

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/409625/Choosing_to_collaborate.pdf

Internal financial controls for charities

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/406469/cc8text.pdf

The Hallmarks of an Effective Charity

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/387134/CC10_LowInk.indd.pdf

Charities and Fundraising

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/455737/cc20.pdf