

2011 Serious and Organised Crime Forum: A charity and community perspective

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The Charity Commission: Charity Regulator

The Charity Commission logo, featuring the words "CHARITY COMMISSION" in white capital letters on a green rectangular background. Below the logo is a small illustration of a group of people walking on a path towards a lighthouse.

- Non-Ministerial Government department, the independent civil regulator, free from Ministerial control or direction
- Established since 1853
- Scope of regulation:
 - Maintaining a public register of charities
 - Providing general advice and guidance on the proper and effective administration of charities
 - Conferring regulatory advice and consents
 - Monitoring, investigating and remedying misconduct and maladministration and lack of compliance in charities, and protecting charity property
 - Obtaining, evaluating and disseminating public information about charities
- Accountable to First-tier Tribunal (Charity) and High Court for its regulatory decisions

The Regulated Charity Sector in England and Wales

CHARITY
COMMISSION

- 180,000 registered charities
- 100,000 excepted and 10,000 exempt charities that are not registered
- Annual income c£52 billion
 - 66% income accounted for by 1% of charities
 - 56% of charities have income of less than £10,000 pa
 - Only 6,000 charities with an income greater than £1million pa
- Holding investments of c£100 billion and assets of c£49 billion
 - The 10 “highest income” charities control 8% of income
 - The 10 “richest” charities control 27% of investments

Vulnerability of Sector

CHARITY
COMMISSION

- High levels of public trust because of voluntary and altruistic nature
- Relatively easy to set up
- Reach all parts of society and diverse nature
- Engines for social change and attract people committed to change
- Powerful vehicles for bringing people together – ready made legitimate social network
- Global presence – money, goods and people
- Complex global financial operations:
 - multiple donors and currencies
 - can operate cash intensively
 - cash and alternative remittance systems
- Different and generally lower levels of regulation in other parts of the world
- Historically, a lightly regulated sector?

Abuse of the charitable sector

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COMMISSION

- Charities set up for illegal purposes (sham)
- Charities used as a cover for criminal activity
- Charities as victims of crime
- Financial crime: theft, fraud
- Terrorist abuse – domestic and international
- Abuse of and failing to safeguard vulnerable beneficiaries
- Serious financial mismanagement and poor governance risking charity assets
- Charities used for significant private advantage

Scale of Fraud in the charitable sector

CHARITY
COMMISSION

- Fraud impacts on all parts of UK economy – including the charity sector
- National Fraud Authority (NFA) 2011 Annual Fraud Indicator measured fraud against charities as £1.3 billion or 2.4% of annual charity income
- Fraud within charities amounts to 3% of all fraud in the UK
- NFA concluded “significant potential” for fraud in the charitable sector

Regulatory Response

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COMMISSION

- **Detection** of abuse
- **Disruption** and ensuring compliance - investigations and use of remedial powers
- **Prevention and Deterrence** – sector outreach, raising awareness of risks and vulnerabilities and promoting compliance
- **Effective Collaboration** with domestic (and international) regulation and law enforcement agencies

Regulatory Response: Fraud

CHARITY
COMMISSION

- Trustees to resolve and pursue civil remedies where fraud occurs in their charity, such as:-
 - restitution, breach of contract, injunction
- Refer criminal concerns to the Police
- Where fraud committed by trustees or trustees fail to act the Commission may:-
 - consider the exercise of regulatory power
 - pursue restitution

Case Study: London Philharmonic Orchestra Ltd

CHARITY
COMMISSION

- Income FYE 2009 – £8.8 million
- 2009 - reports of significant fraud committed by Charity's former Finance Director (2005-2009)
- Estimated loss as a result of the fraud - £2.1 million
- Trustees referred the fraud to the Police, took professional advice and instigated civil action to 'freeze' assets of the former Finance Director
- Trustees cooperated with the Police's investigation
- Charity awarded £2.35 million from its civil claim
- October 2010 Finance Director sentenced to 4 years in prison

Looking to the Future

CHARITY
COMMISSION

- Effective working relationships and co-ordination with other agencies is essential
 - Intelligence, information and evidence sharing
 - Collaborative action with other agencies
- Trustees to discharge their legal duties and responsibilities to their charity
- Trustees to resolve fraudulent abuse and to pursue civil remedies
- Guidance and Advice for trustees on the Commission's website

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