



February 2024.

Charities & Non-profit newsletter

pem.



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Charities Act 2022 - Changes to be introduced in 2024.



The [Charity Commission website](#) states that phase 3 of the implementation is expected in early 2024. Updated guidance will be published when the provisions are brought into force. The key changes in this phase include:

- Making changes to governing documents**
 The Act is introducing a new statutory power to give unincorporated associations and trusts the same powers to make 'regulated alterations' as charitable companies and CIOs.
- Selling, leasing or otherwise disposing of charity land**
 These provisions were due to come into force on 14 June 2023 and include changes about what must be included in statements and certification for both disposals and mortgages. They include exemptions for liquidators, receivers, and administrators from having to comply with the restrictions on dispositions and mortgages such as having to obtain a Designated Advisors Report.
- Charity mergers**
 New rules will allow most gifts to charities that merge, to take effect as gifts to the charity they

have merged with. This means that shell entities will not need to be left registered in case of future bequests.

- Payment of trustees**
 The Act will enable the Commission to authorise a trustee to receive or retain a payment for work completed for the charity, where the Commission decides it would be inequitable for a trustee not to be paid.

Section 24 and Sch 1: Amendments of the Universities and College Estates Act 1925 which give a simpler general power for Universities and the Colleges of Eton and Winchester to managing land and mortgages without Parliamentary or Ministerial oversight, are expected to be included in the phase 3 commencement regulations but will come into force in spring 2025.

Ex gratia provisions

An ex gratia payment is a payment that a charity wishes to make but where there are no powers available to make a payment.

Examples include a bonus for a member of staff on

retirement, returning a donation, making a payment to a neglected potential beneficiary when settling an estate following a legacy, or restitution of an item to its country of origin.

Discussions in parliament over the impact of the ex gratia terms on museums and other institutions holding historic artifacts, including concerns that national museums may be able to return items to the country of origin without Charity Commission approval, lead to the delay in the implementation of these provisions. However, this has now been reviewed.

The government's intention set out in [a letter from the Minister for Arts and Heritage, Lord Parkinson of Whitley Bay, to the Chair of the Charity Commission, Orlando Fraser KC](#) explains the government's intention to commence these sections subject to an exclusion for relevant national museums and galleries.

The Department for Culture, Media and Sport (DCMS) is in contact with those organisations falling within the scope of this exclusion.

There will also be further exclusions to ensure that

Charity Commission approval will continue to be required for decisions made by charities concerning ex gratia payments to recipients outside the UK.

| Gross income of charity in last financial year | Size of ex gratia payment permitted without Commission authorisation |
|--|--|
| £25,000 or less | £1,000 |
| Over £25,000 but not over £250,000 | £2,500 |
| Over £250,001 but not over £1 million | £10,000 |
| Over £1 million | £20,000 |

The proposed limits are linked to a charity's income.

Additional guidance will be made available when these provisions commence, however trustees should remember final responsibility will rest with them and they must be able to justify any decisions. Statutory charities (those incorporated or governed by a specific Act of Parliament) may still be limited in what they can do as payments would not be able to breach any existing requirements of their constitution.

Public trust in charities and the role and experience of trustees.

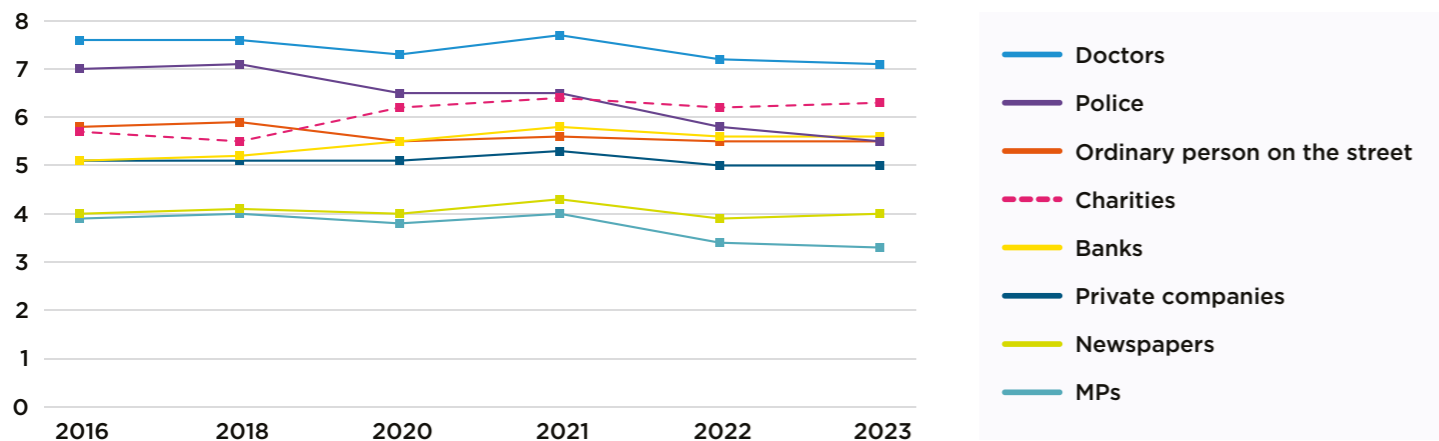
In January 2024, the Charity Commission published a new web report to bring together findings from their research programme into the public perception of the charity sector, and how charity trustees undertake vital roles.

The survey on [public trust in charities](#), published in July 2023, demonstrates that trust in charities is comparatively improving based on the mean trust by sector results. Trust in charities was found to differ significantly based on personal circumstances with blue collar workers in rural areas with small, traditional market towns having the lowest trust in charities overall, greater scepticism that donations and financial assets are well used, and least supportive of charities campaigning to influence change.

The report emphasises the need to manage the ‘trust gap’ and to ensure that there is consistent reporting about the responsible use of resources and money. 40% of people questioned said that they were more likely to trust a charity that focused on their local area (compared to 19% working across the charity).

Charity Commission research showed that trustees and the public have the same basic perceptions over the high standards expected of charities, and that charities should campaign for changes that support their aims.

[Charity Commission surveys](#) found that not all



trustees were comfortable with their financial oversight and only 75% could correctly identify what was and what was not a conflict of interest.

The Charity Commission found that their advice was considered very helpful by 54% of the people who used it and fairly helpful by 42%; however, 53% of trustees said that they never seek help from the Charity Commission but would rather talk to a friend (expert or non-expert).

The Charity Commission seeks to continue to develop guidance to support trustees. The strategic objectives of the 2018 to 2023 plan were:

- Holding charities to account
- Dealing with wrongdoing and harm
- Informing public choice
- Giving charities the understanding and the tools they need to succeed
- Keeping charity relevant for today’s world.

As the Charity Commission develops its strategy for the next five years the aspiration, as set out in the transitional business plan of 2023-24, is to be widely perceived as “an expert Commission, which is fair, balanced and independent in the way it delivers its regulation”.

The key themes of the new five year strategy are set out at the end of this newsletter.



Charity Commission announces new CEO.

David Holdsworth has been appointed as the next Chief Executive of the Charity Commission for England and Wales.

The Charity Commission announced his appointment on 7 February and more information can be found on [the website](#).

David returns to the Charity Commission, where he previously served as Deputy Chief Executive and Registrar, after executive roles at the Intellectual Property Office and the Animal and Plant Health Agency. Previously David led a transformation of the Commission’s data handling, digital capability and risk assessment.

He also oversaw the regulator’s response to the Grenfell Tower fire and was instrumental in setting up the National Emergencies Trust, which has since raised and distributed £100m for charities in subsequent UK disasters.

David Holdsworth said:

I am delighted to be returning to the Charity Commission and its vital work at such a crucial time. It will be a privilege to once again work with the Commission’s dedicated and talented experts.

Charities have always played a vital role in our national life, our communities and our ability to move forward together as a society. Never has this been more needed than now. I look forward to working with the sector as they work today to achieve a better, brighter tomorrow for us all.

I would also like to pay tribute to my incredible colleagues at the Animal and Plant Health Agency. The UK is lucky to have such an amazing group of people protecting our economy, animal, plant and bee health for the benefit of us all.

Fraud, investigations and policies.

You and your co-trustees should put appropriate procedures and safeguards in place and take reasonable steps to ensure that these are followed. Otherwise you risk making the charity vulnerable to fraud or theft, or other kinds of abuse, and being in breach of your duty.

CC3 paragraphs 2.4 and 7.

[The essential trustee: what you need to know, what you need to do - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

Charity trustees are responsible for managing their charity's resources responsibly. This means understanding the risk and identifying procedures to mitigate the risks. Policies provide a framework for these procedures and controls. There have been a couple of significant fraud cases hitting the headlines in January 2024 which emphasise the importance of internal controls.

A loss of £460,000 was reported after Age UK Gloucestershire reported their money had been taken from the charity in a series of small transactions since August 2016. The chief executive said that the charity's finance manager uncovered the fraud after finding a payment on its accounts that did not align with its budget. The fraud was reported as an extraordinary item in the March 2023 accounts.

The treasurer of Atherstone Conservative Club was

jailed in January 2024 for over three years after stealing £397,920 from May 2018 to January 2022. There were a number of elements to the fraud which included:

- the bar digital payments being transferred to a personal account
- a bounce back loan of £40,000 being reported to the club as £25,000
- personal mobile phone costs being charged to the club
- fraudulent financial statements being prepared
- fraudulently leading the club to believe that their financial issues were due to banks not releasing funds.

Both of these reports show how significant funds can be diverted without a rigorous system of internal controls and challenge. Charity Commission guidance on [Internal Financial controls for Charities \(CC8\)](#) contains guidance and a checklist to support trustees in assessing their internal controls. This may be used directly by trustees, or to support management reporting to trustees on the effectiveness of internal controls. Failures and risks around internal controls should also be considered as part of the charity's risk assessment and regularly reviewed.

However, controls are not the first step in the process for managing risk, that starts with the charity's strategy, and trustees understanding what could prevent the charity from delivering on its strategy and objectives.

An established framework of policies, procedures and controls will help trustees manage risk.

Therefore the demands of good governance, for large charities the failure to prevent fraud offence (discussed in more detail in the [December newsletter](#)), and the duty to act responsibly and in the best interests of the charity mean that trustees need to understand their policies, procedures and controls and whether they are operating effectively.

Helen Stephenson, Chief Executive of the Charity Commission said:

The Annual Return is important, it helps the Commission to identify risks and problems in the sector and it helps the public to make informed choice about charities. The new data we are gathering through AR23 will also support policy-makers, researchers, the sector, and the public to gain a more in-depth understanding of the nature and profile of charities in England and Wales.

The annual return allows the Charity Commission to collect information on policies, and the controls they imply, to assist in its understanding and review of the charities it regulates.

The policies included in the Charity Commission annual return are:

Governance policies

- Internal charity financial controls policy and procedures
- Safeguarding policy and procedures
- Financial reserves policy and procedures
- Complaints policy and procedures
- Serious incident reporting policy and procedures
- Internal risk management policy and procedures
- Trustee expenses policy and procedures
- Trustee conflicts of interest policy and procedures
- Investing charity funds policy and procedures
- Campaigns and political activity policy and procedures
- Bullying and harassment policy and procedures
- Social media policy and procedures
- Engaging external speakers at charity events policy and procedures

These policies may not always be relevant, depending on the activity of the charity, but they should all be considered and the trustees should assess and justify whether a policy is required or not, and why.

For small charities this list may seem daunting and potentially overwhelming. Trustees should think about how each policy should, and does, interact with their strategy and objectives and what they need from that policy. The table on the following pages includes some links to guidance to support trustees and management in developing and tailoring their policies.

| Guidance | Comment |
|---|---|
| Internal financial controls for charities - GOV.UK (www.gov.uk) | This policy should set out how trustees protect and manage the charity's assets and make informed decisions. The level of detail will depend on the complexity of the financial assets and record keeping. A charity with no employees, outsourced accounting support, and a relatively low number of receipts and payments will have identified different controls and policies to an organisation delivering a variety of services to disparate beneficiaries. |
| Safeguarding and protecting people for charities and trustees - GOV.UK (www.gov.uk) | As with all policies this starts with trustees understanding their risks and responsibilities: Who are the key people who come into contract with the charity - staff, volunteers and beneficiaries - and how should trustees keep them safe? The policy should be tailored to reflect the actions of the charity to keep people safe, and to set out how they would respond to allegations and incidents. |
| How to set a reserves policy for your charity - GOV.UK (www.gov.uk) Charity reserves: building resilience - GOV.UK (www.gov.uk) | The SORP paragraph 1.22 requires that: "the charity must explain any policy it has for holding reserves and state the amounts of those reserves and why they are held. If the trustees have decided that holding reserves is unnecessary, the report must disclose this fact and provide the reasons behind this decision." There is no easy answer to a level of reserves that the charity should hold but the unique circumstances of each charity should be reflected in its policy. |
| Complaints-handling-guidance.pdf (fundraisingregulator.org.uk) Report serious wrongdoing at a charity as a worker or volunteer - GOV.UK (www.gov.uk) | Complaints could damage the reputation of the charity if not handled quickly and fairly. The complaints policy will again reflect the activities and the risks perceived by the trustees. Risks may be specifically around fundraising or services or more general. A complaints policy should deal with how a complaint will be managed internally but should also set out escalation and whistleblowing policies. |
| How to report a serious incident in your charity - GOV.UK (www.gov.uk) | The Charity Committee guidance sets out what charities are required to report. However, the classification of something as serious is a matter of judgment. It is important that trustees set out their judgments of what is serious to the charity before an incident arises so that there is a clear framework to support their decisions on whether something should be reported or not. |
| Charities and risk management (CC26) - GOV.UK (www.gov.uk) | The guidance provides a risk management model and a template to use with examples of application and possible mitigations. The policy, risks and mitigations can be flexed to reflect the size and complexity of the operations. |
| Trustee expenses and payments - GOV.UK (www.gov.uk) | The Charity Commission guidance summarises case law, charity law and good practice. The basic principle is that trustees must not put themselves in a position where their personal interests conflict with their duty to act in the interests of the charity unless authorised to do so. |

| Guidance | Comment |
|--|---|
| Conflicts of interest: a guide for charity trustees (CC29) - GOV.UK (www.gov.uk) | Trustees have personal responsibility to declare conflicts of interest which affect them and charities should have strong systems in place so that they are able to identify conflicts of interest. Annex 4 of the guidance focusses specifically on drawing up a conflicts of interest policy. |
| Investing charity money: a guide for trustees - GOV.UK (www.gov.uk) | CC14 was updated during 2023 to reflect the decision of the High Court in the Butler-Sloss case. Included in the guidance is advice on "setting your charity's investment policy". However, an investment policy is not just for charities with significant levels of investments and the guidance also contains "advice for charities that mainly invest cash". The same legal duties apply to decisions around investing cash as to other investment decisions and a policy should be tailored to the circumstances and intentions of the charity and trustees. |
| Political activity and campaigning by charities - GOV.UK (www.gov.uk) | This applies specifically for charities that want to support, or oppose a change in government policy or the law. This will not apply to all charities but trustees should consider whether there are points where their activities could be seen as engaging in political activity or whether their employees or volunteers may do so. |
| Safeguarding for charities and trustees - GOV.UK (www.gov.uk) In plain sight: workplace bullying in charities and the implications for leadership - ACEVO | Particularly relevant for those charities working with staff and volunteers, bullying and harassment may also affect trustee boards. Trustees should use the guidance around safeguarding and conflict management to help develop a policy. The ACEVO report sets out six sector specific systematic stressors which can lead to bullying and also some recommendations. These can be used by trustees to support their policy and response. |
| Charities and social media - GOV.UK (www.gov.uk) | Guidance on the risks around social media and the responsibilities for trustees in using it are set out in the guidance. This also includes a checklist to help trustees develop a policy or check an existing one. Specifically it challenges trustees to understand how they use social media currently (or may plan to use it), and then to assess whether a policy is needed to respond to that action and risk. Using this checklist allows trustees to tailor the policy to them. However, given the potential speed of change with IT and social media, it is important that trustees review this checklist regularly as their use of social media may change and develop. |
| Chapter 5: Protecting charities from abuse for extremist purposes - GOV.UK (www.gov.uk) Engaging external speakers | Chapter 10 of this guidance focuses on how trustees manage potential risks when inviting speakers to participate in charity events and meetings. The guidance sets out how trustees should consider the risks and opportunities of any event. Where this is something that the charity may do, even if it has not done so previously, trustees should consider how they will assess the risks and opportunities and what would be the basis for a decision on whether to engage a speaker or not. To have prepared clear guidance should support trustees in managing any conflict or disagreement. |

Annual return update.

Regulation 3 of the Charities (Annual Return) Regulations 2022 originally had provisions to the effect that the information in questions 26 to 29 (Charity Addresses) and 31 to 32 (Structure and Membership) in Part A of the Schedule to the Charities (Annual Return) Regulations 2022, would not be required beyond annual returns relating to financial years ending on or after 1 January 2023.

However the [Charities \(Annual Return\) \(Amendment\) Regulations 2023](#) revoke that provision and the information will be prescribed in respect of annual returns relating to financial years ending on or after 1 January 2024.

The questions cover:

- Charity Addresses, that is confirming that the charities public address is correct in the register and that any administrative address (if different) is known to the Charity Commission and
- Structure, to the extent that charities must confirm whether they are part of a wider group; and whether the charity has members other than trustees who are entitled to vote under the charity's governing document.

There are no other changes to note for 2024.



FRED 82 and a revised SORP.

[FRED 82 Draft amendments to The Financial Reporting Standard applicable in the UK and Republic of Ireland \(FRED 82\) sets out draft amendments to FRS 102 and other FRSs.](#)

The periodic review was issued in December 2022 and the consultation period finished at the end of April 2023. The responses are being considered in preparation for the final standard. The implementation date was originally intended as periods beginning on or after 1 January 2025 but this has been put back to 1 January 2026. This will give the SORP (Statement of Recommended Practice) setting bodies, including the Charity SORP committee, time to respond and issue their own draft for consultation and then issue a final standard, hopefully before the start of the comparative period for implementation of the new requirements.

A final standard is expected in the spring, however charities can do some housekeeping to prepare for some of the more significant changes.

The principal changes relate to revenue accounting requirements (in both FRS 102 and FRS 105) which will broadly follow the five-step model set out in IFRS15 and amendments to lease accounts (FRS 102 only) which follow the IFRS 16 on balance sheet model with some simplifications.

Other changes include greater clarity for small entities applying section 1A regarding which disclosures need to be applied in order to give a true and fair view. Although this will not impact charities directly, many charity subsidiaries will be caught in these changes which may result in increased disclosures around deferred tax.

Leases – what can I do to prepare?

FRED 82 proposes to align the accounting for leases with international financial reporting standards (IFRS), as a result there will no longer be a distinction between operating leases and finance leases. All leases, subject to certain exceptions listed below, will generate a right of use asset, which will be presented as an asset on the balance sheet with a corresponding liability.

Consultation responses have raised concerns that more guidance is needed over how charities should account for leases at undervalue, peppercorn rents, and how the discount rate should be arrived at, notwithstanding the current public benefit entities (PBE) paragraphs (paragraphs that are specifically for organisations that meet the definition of PBEs).

FRED 82 puts forward two exemptions that entities can choose to take in relation to short term leases and leases for which the underlying asset is of low value.

Short-term leases are those that at the commencement date have a lease term of 12 months or less. If the lease contains a purchase option it cannot be accounted for as a short-term lease.

Leases for which the underlying asset is of low value are those where the lessee can benefit from the use of the underlying asset on its own or with other resources that are readily available to the lessee and where the underlying asset is not highly dependent on, or highly interrelated with, other assets. The consultation draft includes examples.

20.11 Examples of underlying assets that would typically be considered to be of low value are:

- a. tablet computers
- b. personal computers
- c. home printers and photocopiers
- d. mobile phones
- e. desk phones
- f. televisions
- g. small items of furniture
- h. portable power tools.

20.12 Examples of underlying assets that would not be considered to be of low value are:

- a. cars, vans, trucks and lorries
- b. cranes, excavators, loaders and bulldozers
- c. telehandlers and forklifts
- d. tractors, harvesters and related attachments
- e. boats and ships
- f. aircraft
- g. land and buildings.

We would recommend that in preparation for understanding any changes required for the final standard, charity management compile a list of all current leases, costs, and lease terms, and consider whether there are exemption options available to the charity or whether they would require accounting for as a right of use asset.

Transitional provisions are proposed which would provide an option for leases finishing within the year of transition to be accounted for as short-term leases.

Where charities have covenants or other monitored metrics they will need to consider the potential impact on any external and internally reported measures: both assets and liabilities will rise and rental payments (part of operating expenses) will be replaced by an interest expense.

Revenue – what can I do to prepare?

The revenue standard takes the principles in IFRS15 revenue from Contracts with Customers. The five steps are set out clearly in the FRED paragraph 23.3 et seq.

- Identify the contract(s) with the customer
- Identify the promises in the contract
- Determine the transaction price
- Allocate the transaction price to promises in the contract
- Recognise revenue when (or as) the entity satisfies a promise

One of the key elements set out in FRED paragraph 23.6 for charities to consider is that a contract should have commercial substance.

There is no definition of commercial substance in the amended glossary but there is one of customer. A customer is “a party that has contracted with an entity to obtain goods or services that are an output of the entity’s ordinary activities in exchange for consideration.”

Therefore charities that are funded by one entity to provide services or goods to another are unlikely to meet this definition.

As with the existing standard, the initial challenge will be for charities to identify whether this section applies or whether the incoming resources are from non-exchange transactions for public benefit entities which should be accounted for in accordance with section 34.

The definition of non-exchange transactions is unchanged:

A transaction whereby an entity receives value from another entity without directly giving approximately equal value in exchange, or gives value to another entity without directly receiving approximately equal value in exchange.

A revised SORP

The Charities SORP-making body [responded to the FRED 82 draft amendments](#) in May 2023, highlighting that over 99% of registered charities would be classified as ‘small’ in company law terms.

The response drew particular attention to concerns about the accounting for leases and the challenges of identifying:

- Reliable measurements for donated good and facilities.
- Value of donations to the charity.
- Disclosures for non-exchange transactions.

We await the final drafting of the amendments to the standard and the consultation on the revisions to the SORP.

If you are a UK charity or non-profit, we want to hear from you!

The Kreston UK Charities Group are gathering anonymised data from UK charities to understand the impact the economic climate has had on their financial positions and their ability to deliver their planned objectives.

As PEM are an independent member of [Kreston Global](#), a global network of 160 accounting firms across more than 115 countries, we would like to invite you to participate in a [short survey](#) (if you haven’t already done so) where the responses will form the basis for the Kreston UK Charities Report 2024, due to be published in April.

If you would like a copy of the report when it is completed, leave your email at the end of the survey. In the meantime, you can find the [Kreston UK Charities Report 2023](#) on our website.



A new strategy for 2024 to 2029.

The Charity Commission published a new strategy on 26 February 2024. The strategy covers the next five years and includes five priorities. Charity Commission Chair, Orlando Fraser KC, believes that in working to the strategy “the Commission will cement its ambition to be an expert regulator”, that is “fair, balanced and independent”.

The priorities of the new strategy are:

1. We will be fair and proportionate about our work and clear about our role
2. We will support charities to get it right but take robust action where we see wrongdoing and harm
3. We will speak with authority and credibility, free from the influence of others
4. We will embrace technological innovation and strengthen how we use our data
5. We will be the expert Commission, where our people are empowered and enable to deliver excellence in regulation.

If you would like to discuss any of the points raised in this newsletter, please [contact us](#).

The strategy sets out an intent to support the enthusiasm, generosity and capability of trustees.

It recognises a need to provide clear, relevant information on how to be an effective trustee, with resources appropriate for both the smallest as well as large and complex organisations.

The Commission plans to look at how they can share data and information more broadly, particularly to reduce duplication in collection points.

The Charity Commission is working to identify a set of strategic impact measures against which it will report in July 2025.

The new strategy can be found on the [Charity Commission website](#).



Kelly Bretherick
kbretherick@pem.co.uk



Nikki Loan
nloan@pem.co.uk



Michael Hewett
mhewett@pem.co.uk



Kathryn Hebden
khebden@pem.co.uk



Gemma Baratte
gbaratte@pem.co.uk



Judith Pederzoli
jpederzoli@pem.co.uk



Kate Millard
cmillard@pem.co.uk



Robert Plumbly
rplumbly@pem.co.uk

PEM
Salisbury House
Station Road
Cambridge CB1 2LA

t. 01223 728222
e. pem@pem.co.uk

pem.co.uk



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