



Inquiry Policy

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Purple	Light Grey	Light Grey	Light Grey	Light Grey
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Inquiry Policy

Charities are independent organisations run by charity trustees. They play an important role in our society, and many of us are involved with them either as charity trustees, as volunteers, through using the services they provide, or as donors. 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 will respond to concerns about charities. Factsheets supporting this policy and providing more detailed information and guidance can be viewed at www.oscr.org.uk

The role of the Scottish Charity Regulator

We are the independent registrar and regulator of charities in Scotland. We were established to decide who can be a charity and to keep a Register of charities.

One of our roles is to encourage, facilitate and monitor compliance by charities with the requirements of the Charities and Trustee Investment (Scotland) Act 2005 ('the 2005 Act').

We have a duty to identify and investigate wrongdoing. This policy explains that duty and how we carry it out in practice. This policy explains:

- What we can and cannot deal with
- How we will deal with concerns about charities
- What to expect if your charity is the subject of an inquiry
- How we decide on the outcome.

All of our powers are provided in the 2005 Act.

We act 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 values which include acting independently, fairly and proportionately, and targeting our action where it is needed [Corporate Plan & Values](#).

What concerns we can and cannot deal with

We can only deal with concerns that relate to charity law. For example:

- A risk of significant damage to a charity, its assets or beneficiaries
- Where charity trustees have breached their duties
- Serious or sustained misconduct by those in management and control of a charity
- Where a charity does not meet the legal requirement to be a charity (the legal requirement includes having charitable purposes and providing public benefit)
- Where a body may be representing itself as being a charity in Scotland when it is not.

We usually cannot deal with the following:

- Matters that do not relate to charity law. For example, contractual employment issues
- Criminal activity. For example, theft or embezzlement – these are matters for the police. However, we do want to know about any actions the charity trustees have taken to address such matters
- Disputes between charity trustees – these should be worked out internally or with professional support. For example, through a mediator
- Overruling a decision taken by the charity trustees that is valid and within their powers to make.

How we deal with concerns about charities

We will acknowledge your concerns as quickly as possible and certainly within 15 working days, where contact details have been supplied to us.

We assess concerns to establish:

- Whether we have the legal power to act.
- Whether there is risk:
 - to the charity's assets (including reputation) and/or its beneficiaries
 - of charitable status being abused
 - to the charity sector.
- Whether the concern should be dealt with by another regulator, inspectorate or public body
- The level of action required by us as the Regulator of Scottish charities.

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 the charity.

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 have reasonable grounds to believe there may be criminal activity, we will work with Police Scotland.

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

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

We aim to conclude our inquiries as quickly as possible and generally within six months. However, some inquiries may be complex and require input from many sources, or require Court action. Our target is therefore to conclude 75% of cases within nine months.

The charity will not be told who has raised the concern without that person's permission. However, there may be legal circumstances where we have to do so. For example, if we are required to do so by a Court. Additionally, the identity of the person raising the concern may be obvious to the charity because of the type of issues raised.

We will advise you within six to eight weeks if there are regulatory matters that we are taking forward with the charity. It is for us as the 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 write to let you know the outcome in general terms. We will not usually provide you with detailed findings on each and every issue. You will not have a right of appeal under charity law about our decision.

What to expect if your charity is the subject of an inquiry

We aim to encourage charities to comply with charity law and to support them by giving guidance and making recommendations or signposting them to other sources of help. However, we will take regulatory action where we identify a need to do so.

We will generally contact the charity once it has been established that there are grounds to conduct an inquiry. However, there may be exceptional circumstances where this is not appropriate.

Contacting your charity does not imply that we agree with the concerns raised or infer any wrongdoing on the part of the charity. We will explain to you what the concerns are 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.

Initially, we will contact your charity's Principal Contact. Where we have been advised that a solicitor has been instructed to act for the charity, we will direct our correspondence to them. However, there may be occasions where we need to contact charity trustees directly, and when this happens we will copy the solicitor acting for your charity into our correspondence.

We will not disclose the identity of those who have raised concerns with us unless we have been given permission to do so or are required to do so by a Court. This is because it is important that concerns about charities can be raised with us in confidence.

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 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, there may be instances when we have to use our [formal powers](#) during an inquiry and this may impact on the day to day running of the charity.

Providing information to the Regulator

In the course of our inquiries, we may collect information from the person who originally raised the concern, as well as the charity that is the subject of our inquiry and other relevant third parties. It is an offence for anyone to knowingly provide false information to us – to do so may result in a fine or imprisonment on conviction.

Where information is requested from a person to assist us with our inquiries, we expect the request to be dealt with in line with the timescale we set out.

Charity law also provides us with the power to formally obtain any information from any person or organisation which is considered necessary for the purposes of our inquiries. Failure to comply with such a request is an offence and may result in a fine or imprisonment on conviction.

How we decide on the outcome of an inquiry

In making a decision, we will weigh up all the information we have obtained during our inquiry, and consider any ongoing risk to the charity including its assets and beneficiaries. We consider whether any actions the charity trustees took may have been misguided or deliberate, any corrective action already taken, and the intentions of the charity's 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 for us to provide support to the charity's trustees in the form of recommendations for improvement which we may follow up.



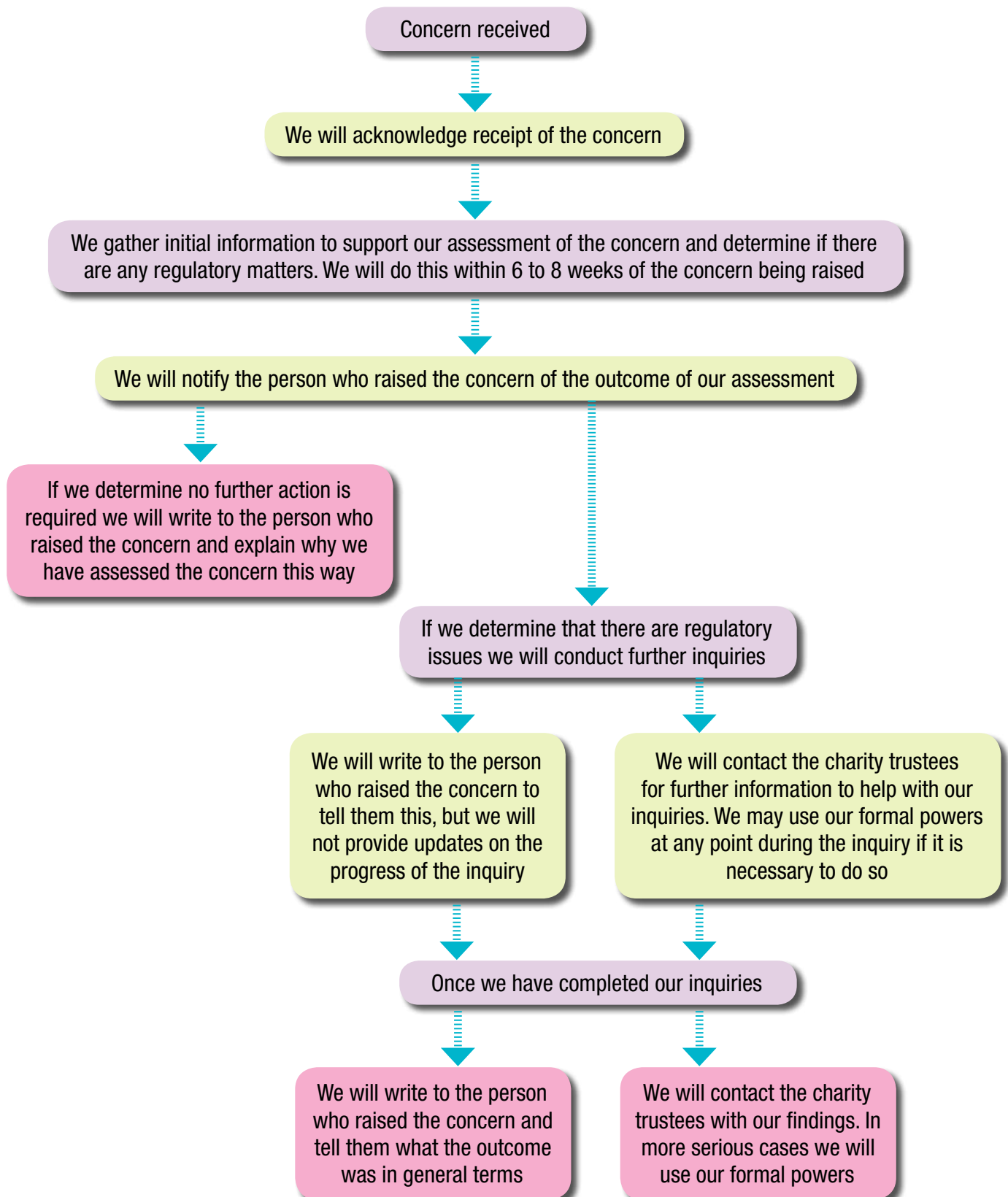
It is never our intention for our inquiry to result in the closure of a charity but in some situations, this may happen for other reasons – for example, if the charity is in financial difficulty.

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 inquiry cases, where we use our formal powers, or where there is a high level of public interest, we will publish an inquiry report on our website explaining what has happened and our actions. Charity law requires us to publish such a report where we use certain formal powers and allows us to publish reports in other situations where we consider it appropriate.

At the conclusion of an inquiry, those who raised the concerns have no right of appeal against our decision. This is because we act in the public interest and not on behalf of individuals or organisations in taking forward concerns. However, where we have used our formal powers, a charity, individual trustee or a body representing itself as a charity has the right of review and ultimately an appeal under charity law.

How we deal with concerns – follow the flowchart



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