

10. Cross border charities

For charity trustees and independent examiners of cross border charities only

Charities that are registered both with OSCR and the Charity Commission for England and Wales are referred to as 'cross border charities' and are regulated by both bodies. Under OSCR's cross border monitoring regime, the Charity Commission is considered to be the 'lead regulator' for enquiry purposes.

As there are differences in the accounting regimes in place within Scotland and England and Wales, it is important that cross border charities are familiar with both and understand that they are required to comply with the more stringent requirements, regardless of the jurisdiction in which these arise.

In practical terms, this means that, for periods starting before 1 April 2011, cross border charities must prepare fully accrued accounts where the income of the charity is £100,000 or more, despite the fact that the relevant threshold for the preparation of fully accrued accounts is £250,000 under the relevant regulations in England and Wales. Since 1 April 2011, the thresholds in Scotland have been increased to £250,000 and are therefore in line with the current regulations in England and Wales.

In addition, there are formal requirements for the content of receipts and payments accounts under the regulatory regime in Scotland and cross border charities preparing receipts and payments accounts are required to comply with these requirements. OSCR has a receipts and payments workpack that smaller charities can use to prepare their receipts and payments accounts and the Charity Commission will accept accounts prepared in accordance with the Scottish requirements, including those prepared using the workpack.

For English and Welsh charities that are subject to the independent examination regime, the Directions issued by the Charity Commission must also be followed and the independent examiner must, in his report, confirm that this is the case.

There is no comparable regime in Scotland and therefore the six steps to be undertaken in the independent examination process within this guidance booklet are what OSCR considers to be best practice in this area.

Cross border charities that are subject to independent examination must ensure that this is carried out in accordance with the Charity Commission Directions. However, in Scotland, there is also a requirement for an independent examiner to always consider the information contained within the Trustees' Annual Report in order to identify any inconsistency with the financial statements; this is different from the position in England and Wales where this is only required in relation to accrued accounts. OSCR will consider that where the Charity Commission Directions have been followed and supplemented by a review of the Trustees' Annual Report to identify any inconsistency, that the steps undertaken are appropriate and in line with the relevant requirements under the 2006 Regulations.

OSCR recommends that cross border charities refer to the Charity Commission's independent examination guidance: Independent Examination of Charity Accounts – Examiner's Guide (CC32) for details of the Directions and for example independent examiner's reports that are appropriate for cross border charities.

A specific example independent examiner's report is provided for reference at Appendix 4 – example 4.5.

It is also important to note that there is a difference in the filing deadline within the two jurisdictions – in Scotland, the appropriate Return forms and accounts must be filed with OSCR within 9 months of the charity's year end date. In England and Wales, the deadline is currently 10 months after the end of the financial year.