

## SERIOUS INCIDENT REPORTING POLICY

### Introduction

1. The purpose of this policy is to ensure that employees and Trustees of The Football Foundation (the “Charity”) are able to identify serious incidents, escalate them as appropriate and report them internally so that the Trustees can exercise oversight and consider whether to make a serious incident report to the Charity Commission for England and Wales (the “Commission”) among other potential actions.
2. In particular, this policy sets out how the Charity seeks to ensure compliance with the Serious Incident Reporting (“SIR”) requirements of the Commission, which are set out in guidance available on its website<sup>1</sup> (the “SIR Guidance”).<sup>1</sup>
3. This policy applies to all those working on behalf of the Charity including Trustees, paid staff, volunteers, Ambassadors, agency staff and contractors. Failure to adhere appropriately to the policy will be treated seriously. For staff, this may result in disciplinary action for gross misconduct or, for contractors, in contract termination. If you are not working under a contract (for example, you are a volunteer or Trustee), a breach of this policy may mean that we would have to ask you to cease being a volunteer or Trustee.
4. Although the Charity’s Trustees may delegate the responsibility for making reports of serious incidents to someone else within the Charity, such as a senior employee, the Trustees remain ultimately responsible for ensuring that the Charity reports any serious incidents in a timely manner.

### The duty to report a serious incident

5. Although there is no statutory requirement under charity law for charities to report serious incidents as they occur, registered charities with an income over £25,000 per year must confirm in their annual return that there have been no serious incidents or other matters that Trustees should have reported to the Commission but have not done so. The Commission also considers that, as a matter of good practice, all charities regardless of size or income should report serious incidents to the Commission promptly.
6. By adopting such a policy, it demonstrates to the Commission that the Foundation has the appropriate processes in place to manage risk and take the correct action. Failure to report a serious incident that subsequently comes to light could prompt or add to the seriousness of regulatory action by the Commission, particularly if further abuse or damage has arisen following the initial incident.
7. Reputational damage can also be reduced if the Charity can show that any serious incident has been handled appropriately.

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<sup>1</sup> The current guidance (updated 17 October 2018) ‘How to report a serious incident in your charity’ is accessible here: <https://www.gov.uk/guidance/how-to-report-a-serious-incident-in-your-charity> which may be Updated from time to time

8. In responding to this obligation, the Charity appoints a Trustee to take the lead on serious incidents and the subsequent reporting on behalf of the Board. While the Board would work with the Executive in such circumstances, overall responsibility would remain with the Board of Trustees. Appointing a Lead Trustee in this way, ensures that there is a central point for issues and concerns, while demonstrating Board-level commitment to serious incident reporting at the Charity.

### **What is a serious incident?**

9. The Commission defines a serious incident as an adverse event, whether actual or alleged, which results in or risks significant:
  - a. harm to a charity's beneficiaries, staff, volunteers or others who come into contact with the charity through its work;
  - b. loss of a charity's money or assets;
  - c. damage to a charity's property; and/or
  - d. harm to a charity's work or reputation.
10. "Significant" is in the context of the Charity, taking account of its staff, operations, finances and/or reputation.
11. The SIR Guidance identifies the following main categories of reportable incidents:
  - a. protecting people and safeguarding incidents. Incidents that have resulted in or risk significant harm to beneficiaries and other people who come into contact with the charity through its work (this includes incidents of abuse or mistreatment (actual or alleged) and a breach of procedures or policies which has put people who come into contact with the charity at risk, including failure to carry out checks that would have identified that a person is disqualified in law from holding their position within the charity (e.g. under safeguarding legislation, from working with children or adults)<sup>2</sup>;
  - b. financial crimes: fraud, theft, cyber-crime and money laundering;
  - c. large donations from an unknown or unverifiable source, or suspicious financial activity using the charity's funds;
  - d. other significant financial loss;
  - e. links to terrorism or extremism, including 'proscribed' organisations, individuals subject to an asset freeze, or kidnapping of staff; and
  - f. other significant incidents, such as:
    - a Trustee or senior manager being disqualified from holding that position;
    - something has happened to force the charity into insolvency or to wind up;
    - forced withdrawal of banking services and difficulties securing alternative accounts;

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<sup>2</sup> The Commission's guidance '*Safeguarding and protecting people for charities and trustees*' (25 October 2018) is available here: <https://www.gov.uk/guidance/safeguarding-duties-for-charity-trustees>

- the charity is subject to a police investigation or a significant investigation by another agency/ regulator (the SIR Guidance states that a charity does not need to report routine regulatory inspections unless they resulted in significant adverse findings that place the future of the charity in doubt, are likely to damage the charity's reputation or public confidence in the charity, or relate to any of the other categories of serious incidents);
  - major governance problems, such as mass resignation of staff or Trustees, or other events, leaving the charity unable to operate;
  - the charity's Trustees or employees are the subject of criminal proceedings, in connection with the charity or their role in it;
  - there has been a significant data breach or loss within the charity; and
  - an incident involving one of the charity's partners in the UK or internationally that materially affects the charity, its staff, operations, finances and/or reputation (this includes delivery partners, subsidiary companies, funding recipients and organisations linked to the charity (for example as part of a federated structure).
12. The Commission recommends that any incident or matter that could get into the public domain or be reported in the media is reported to it as soon as possible (even if initially on an interim basis) so that the Commission can prepare its own public response and be in a position to say that it is already liaising with the Charity in relation to it.
13. The SIR Guidance provides more details about the types of matters that should be reported and also includes a table of examples of matters that usually should or should not be reported. This Policy and the SIR Guidance are not exhaustive, and matters may still constitute serious incidents if they do not fall within any of the categories identified above. If there is doubt as to whether something constitutes a serious incident, the Relevant Officer (see below), CEO and/or a member of the Senior Management Team should be contacted.

### **Reporting principles and procedures**

14. Through this policy and a summary document on Serious Incident Reporting, the Foundation aims to raise awareness to anyone who represents it (including Trustees, staff and volunteers), so that they can identify serious incidents and know what to do if one occurs.

### **Internal reporting by employees**

15. Staff or volunteers should not seek to make a serious incident report to the Commission themselves. Instead they should report their concerns in accordance with the relevant policy, or via the CEO or a member of the Senior Management Team so that appropriate action can be taken.
16. The following Foundation policies relate to contexts in which serious incidents may arise:
- a. Anti-Corruption and Bribery Policy
  - b. Safeguarding and Welfare Policy
  - c. Complaints Policy

- d. Whistleblowing Policy
  - e. Data Protection Policy
  - f. Data Breach Policy
  - g. Bring Your Own Device and Data Security Policy
17. Staff should follow the relevant policy and report serious incidents to the individual named in that policy (the “Relevant Officer”). In the unlikely event that a serious incident is not covered by one of the above-listed policies, staff should report the incident to the Director of Business Services, whose contact details are at the end of this Policy.
  18. Where an incident relates to the Relevant Officer or Director of Business Services, staff should report the incident or allegation directly to the CEO, who in turn, will report the matter to the nominated Trustee, or an alternative member of the Board if the nominated Trustee is not available or would be subject to a conflict of interests or loyalty in relation to the issue. The nominated Trustee’s contact details can be found at the end of this policy.
  19. Upon receiving a report, the Relevant Officer or Director of Business Services will promptly (on the same day) report the incident to the CEO who will then promptly (on the same day) inform one or more of the Trustees (in accordance with any applicable policy).
  20. The Trustee receiving the report will discuss the matter with the nominated Trustee to determine next steps. In most circumstances the report will be shared with the full Board of Trustees for them to consider whether a serious incident report is required. However, there may be circumstances where this is not appropriate, in which case the nominated Trustee will decide how to deal with the matter, taking account of any relevant policies and procedures and taking advice as appropriate. Consideration will also be given to taking steps to address particular issues e.g. anonymising the report before sharing it with the full Board.

### **Reporting to the Commission**

21. The Trustees (who have been made aware of the incident) will respond to serious incidents promptly and ensure that all appropriate steps have been or are in process. The Trustees will also attempt to prevent or minimise any further harm, loss or damage.
22. Assessing whether a reportable serious incident has occurred is a matter for the Trustees to determine, having reviewed and considered the SIR Guidance and any related Commission documents or other guidance, and they may seek advice from professional advisers before doing so.
23. The Trustees will report serious incidents to the Commission promptly. The urgency of reporting will depend on factors including the nature and seriousness of the incident, the potential impact on the Charity and whether it is likely that there will be media coverage of the incident.
24. The Trustees will liaise with relevant staff to gather the appropriate information required to report the matter to the Commission. The Trustees may also decide to delegate the

responsibility for reporting the incident to a senior member of staff, however, any delegation should be clear about the scope of the report.

25. It may be appropriate for an initial report to be made to the Commission covering those facts that are known and then provide further updates to the Commission following internal investigation, or as matters develop.
26. The serious incident report should be filed by emailing [RSI@charitycommission.gsi.gov.uk](mailto:RSI@charitycommission.gsi.gov.uk) or such other address or method of reporting as the Commission requires.
27. The following information should be included in the report:
  - a. the individual submitting the report and their connection to the Charity;
  - b. the authority they have to report on behalf of the Trustees;
  - c. who within the Board of Trustees is aware of the incident, for example all Trustees, some of them or only the nominated Trustee;
  - d. what happened and when the Charity first became aware of it (it is not necessary to provide names of individuals involved in the initial report);
  - e. the effect of the incident on the Charity or its beneficiaries or both;
  - f. the action being taken to deal with the incident and prevent resulting risks and future occurrences;
  - g. whether and when it was reported to the police or another regulator/statutory or other agency (including official reference numbers) any action taken, whether any guidance was offered and the extent to which the guidance has been followed;
  - h. media/donor/patron/public relations handling plans that have been or will be prepared by the Charity, if any;
  - i. insurance coverage, if any, and notification to and/or correspondence with the insurers where relevant;
  - j. any other review or investigation that will take place as a result of the incident or allegation, including in respect of governance arrangements, contracts with third parties or policies and procedures; and
  - k. specifying whether the information is confidential and/or may risk identification individuals if disclosed externally.

#### **Other actions to take**

28. Where appropriate, the Foundation will prepare a communication plan covering what it will say to staff, volunteers, beneficiaries, members, supporters, patrons, the public and the media.
29. The Foundation will review what happened and identify and take steps to prevent it from happening again – this may include strengthening internal controls and procedures and/or seeking appropriate help from professional advisers.

30. Consideration must also be given to whether a serious incident should be reported to the Foundation's insurers in accordance with any relevant insurance policy.
31. In addition to making a serious incident report to the Commission, where appropriate the Trustees will also inform or make reports to other relevant regulators or agencies. The Foundation should report:
  - a. crime, or suspected crime, to the police and obtain a crime reference number;
  - b. any incidents of harm or risk of harm to children or vulnerable adults (including any concerns, suspicions or allegations) to the relevant local authority and obtain a reference number;
  - c. incidents of fraud and cyber-crime that take place in connection with the Charity to Action Fraud and obtain a crime reference number;
  - d. any serious data breaches to the Information Commissioner's Office; and
  - e. any incidents relating to possible terrorist financing offences to police or the National Crime Agency (NCA) and obtain a reference number.
32. Where there is actual or suspected criminal activity, or other serious incident that has occurred in another country, the Foundation will ensure that it is made aware of the requirements of local law and regulation, including in respect of reporting. In this instance the Foundation will follow Commission guidelines in this regard.<sup>3</sup>

**The Charity must carefully consider and have due regard to any and all advice given by statutory or other bodies in relation to its handling of the incident or allegation. It must be carefully and securely documented and explained to the Commission in the serious incident report made.**

### What happens next?

33. The Commission will acknowledge receipt of the report. It is understood that it will assess the risk and look at how the Foundation is dealing with the incident, and may take steps to verify the details, for example and where relevant, by contacting the police. The Commission may also follow up if it:
  - a. needs more information about the incident;
  - b. considers the Foundation's needs regulatory advice and guidance;
  - c. has to use its legal powers to protect the Charity and/or the people who come into contact with the Charity through its work;
  - d. decides to request updates on future development;
  - e. needs to monitor the Charity's progress in dealing with it.
34. In very serious cases the Commission may take steps to exercise its enforcement powers, for example, opening a statutory inquiry into the Charity.

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<sup>3</sup> The Charity Commission has issued guidance on reporting criminal incidents in the UK and overseas, accessible here:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/749335/guidance\\_on\\_criminal\\_reporting\\_inc\\_overseas.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/749335/guidance_on_criminal_reporting_inc_overseas.pdf).

## **Data protection and confidentiality**

35. When Trustees report serious incidents, some of the information provided may be of a sensitive nature. The Commission is obliged to handle this responsibly and with care, and only for the purposes of carrying out its statutory functions.
36. As a public authority and a 'controller', the Commission is subject to the Freedom of Information Act 2000, the Data Protection Act 2018, and the General Data Protection Regulation (EU) 2016/679 (and any other law and related guidance as may subsequently be in force).
37. The Commission does not routinely guarantee that information provided will be kept confidential. This is because information sharing is often necessary for the Commission to further its statutory functions and objectives and, in some cases, it is required by law to share information (e.g. to other relevant public authorities). Despite this, all serious incident reports should be marked as confidential. In addition:
  - a. any personal data should be removed to the greatest extent possible and, if appropriate, the risk of identification of individuals (though unnamed) should be highlighted;
  - b. any particularly sensitive information in the report should be identified;
  - c. any specific exemptions from disclosure (such as an exemption under the Freedom of Information Act) should be specifically referred to and relied upon; and
  - d. the report should contain a request that it is not disclosed to third parties and that the Commission notifies the Charity if it receives a request to disclose information to third parties (e.g. the media or individuals).

## **Learning from serious incidents**

38. Senior employees and Trustees should consider whether the Foundation has taken appropriate steps to respond to a serious incident and ensure that sufficient controls and procedures are put in place to mitigate and manage any future risks to the Charity and its beneficiaries, and to prevent similar incidents from occurring in the future.

## **Review of this policy**

39. This policy will be subject to review by the Board of Trustees every 2 years; upon the Commission issuing updated guidance in relation to serious incident reporting, whichever occurs first, or as otherwise appropriate. The most recent version of this policy can always be found on Cezanne, the Foundation's HR and information system.

**Relevant contact details:**

Director of Business Services: Jennie Goodman	Email:	<a href="mailto:Jennie.Goodman@footballfoundation.org.uk">Jennie.Goodman@footballfoundation.org.uk</a>
	Telephone:	0207 842 8850

**Questions**

40. The Foundation recognise that, from time to time, employees may have questions or concerns relating to our policies. We encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. If anyone has any questions about this policy, they should speak to a member of the Senior Management Team for clarification.

**Football Foundation  
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