Friends of Indian Queens School (FOS)

Serious Incident Reporting Policy

Charity Details

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This policy will be reviewed annually by the Friends of Indian Queens School (FOS) committee prior to the AGM.

Introduction

The purpose of this policy is to ensure that everyone at Friends of Indian Queens School FOS is able to identify serious incidents, escalate them as appropriate and report them internally so that the Trustees can exercise adequate oversight and consider whether to make a serious incident report to the Charity Commission among other potential actions.

In particular, this policy sets out how Friends of Indian Queens School FOS seeks to ensure compliance with the Serious Incident Reporting requirements of the Commission (www.gov.uk/guidance/how-to-report-a-serious-incident-in-your-charity).

Although the trustees may delegate the responsibility for making reports of serious incidents, the Trustees remain ultimately responsible for ensuring that any serious incidents are reported in a timely manner.

The duty to report a serious incident

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.

The trustees of Friends of Indian Queens School FOS take serious incidents and threats to the charity very seriously and consider that reporting serious incidents to the Commission and other relevant authorities comprises an important part of the effective and appropriate response to any such incident.

If the trustees fail to report a serious incident that subsequently comes to light, the Commission may consider this to be indicative of mismanagement in the administration of the charity as a charity and may ask the trustees to explain why it was not reported at the time. The failure to report a serious incident could prompt or add to the seriousness of regulatory action, particularly if further abuse or damage has arisen following the initial incident.

The potential for reputational damage can also be lessened if the trustees are able to show that any serious incident has been handled appropriately.

What is a serious incident?

The Charity Commission defines a serious incident in its SIR Guidance 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.

"Significant" means significant in the context of the charity, taking account of its staff, operations, finances and/or reputation. The SIR Guidance identifies the following main categories of reportable incidents:

1. 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 which 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);

2. financial crimes: fraud, theft, cyber-crime and money laundering;

3. large donations from an unknown or unverifiable source, or suspicious financial activity using the charity's funds;

4. other significant financial loss;

5. links to terrorism or extremism, including 'proscribed' organisations, individuals subject to an asset freeze, or kidnapping of staff; and

6. other significant incidents, such as:

    a. a Trustee or a senior manager being disqualified from holding that position;

    b. something has happened to force the charity into insolvency or to wind up;

    c. forced withdrawal of banking services and difficulties securing alternative accounts;

    d. the charity is subject to a police investigation or a significant investigation by another agency/ regulator;

    e. major governance problems, such as mass resignation of staff or trustees, or other events, leaving the charity unable to operate;

    f. the charity's trustees or employees are the subject of criminal proceedings, in connection with the charity or their role in it;

    g. there has been a significant data breach or loss within the charity; and

    h. an incident has occurred involving one of the charity's partners in the UK or internationally which 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)).

The Commission recommends that any incident or matter which 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.

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 in doubt as to whether something constitutes a serious incident, you should discuss it with the Chair of Trustees.

Who should reports be made to?

Staff and volunteers should not seek to make a serious incident report to the Commission themselves. Instead they should initially report their concerns internally to the Chair of Trustees, as soon as possible and in any event within 24 hours.

The following are some of the policies which relate to contexts in which serious incidents may arise. This is not an exhaustive list:

- Policies relating to financial management;
- Data Protection Policy;
- Safeguarding Policy;
- Complaints Policy;
- Whistleblowing policy

Where a serious incident is covered by one of these policies staff or volunteers should follow the procedure set out in the relevant policy in addition to the report to the Chair of Trustees.

Where an incident relates to the Chair of Trustees, the incident or allegation should be reported to any other Trustees.

Reporting processes

Upon receiving a report the Chair of Trustees will assess whether it may potentially be a serious incident and if so, will promptly (on the same day) report the incident to the Charity's Trustees. Consideration should be given as to whether any particular steps can be taken to address particular issues e.g. whether the report could be appropriately anonymised before sharing with the trustees.

Reporting to the Commission

The Trustees will respond to serious incidents promptly, in a comprehensive and systematic manner; will assure themselves that all appropriate steps have been or are in process; and will seek to prevent or minimise any further harm, loss or damage.

Assessing whether a reportable serious incident has occurred is a matter for the Trustees, who have delegated this responsibility to the Chair of 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.

Serious incidents will be reported 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.

The SIR Guidance notes that it is important to provide enough detail in the report to give the Commission a clear picture of what happened and when, the extent of any loss or harm, how the charity is dealing with it and the planned/possible next steps (see below for further details of the information to provide in the report). The Chair of Trustees will liaise with relevant staff to gather the appropriate information required to report the matter to the Commission.

It is important to balance the fact-finding exercise with the need to report incidents promptly. Some discretion may need to be exercised in these circumstances. It will always be open to make an initial report to the Commission covering those facts that are known to date, and provide further updates to the Commission following internal investigation or as matters develop, including regarding the actions which have been taken to respond to and manage the incident. The SIR guidance states that if, having submitted a report to the Commission, the charity becomes aware of any material changes to the facts reported or significant developments, the charity must inform the Commission as soon as it becomes aware of them.

The serious incident report should be filed by completing the form found at https://register-of-charities.charitycommission.gov.uk/report-a-serious-incident. The following information will be required:

- **General**
  - your own contact details;
  - the charity name and its registration number ;
  - your connection to the charity (i.e. the capacity in which you are submitting the report);
  - reference numbers and contact details if you've reported it to other organisations, like the police; and
  - names and registration numbers of other charities involved in the incident, if relevant.

- **Details of the incident**
  - date of the incident;
  - what happened;
  - date the charity found out about the incident;
  - how the charity found out about the incident;
  - what impact the incident has had on the charity's beneficiaries, finances, staff, operations or reputation; and
  - whether all or only some of the trustees are aware of the incident (for example only some of the trustees may be aware where the Serious Incident involves a trustee, someone connected to a trustee, or senior member of staff).

- **How your charity is handling the incident**
  - which of the charity's policies or procedures relate to the incident and whether they were followed;
  - what steps the charity has taken to deal with the incident;

- what steps the charity has taken to prevent similar incidents; and
- where applicable, the charity's media handling or press lines, including a link to a press release if available

Other actions to take

A communications plan will be prepared covering what information will be shared with staff, members, beneficiaries, the public and the media. Consideration will be given to whether it is appropriate to obtain external advice, such as legal and/or communications advice.

The trustees 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.

Consideration must also be given to whether a serious incident should be reported to the charity's insurers.

In addition to making a serious incident report to the Commission, it may be necessary to inform or make reports to other relevant regulators or agencies. The trustees should report:

- crime, or suspected crime, to the police and obtain a crime reference number;
- any incidents of harm or risk of harm to children or vulnerable adults (including any concerns, suspicions or allegations) to the relevant local authority
- incidents of fraud and cyber-crime that take place in connection with the Charity to Action Fraud and obtain a crime reference number;
- any serious data breaches to the Information Commissioner's Office; and
- any incidents relating to possible terrorist financing offences to police or the National Crime Agency ("NCA") and obtain a reference number.

What happens next?

The Commission will typically acknowledge receipt of the report. It is understood that it will assess the risk and look at how the charity 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:

- needs more information about the incident;
- considers the charity needs regulatory advice and guidance;
- has to use its legal powers to protect the charity and/or the people who come into contact with the charity through its work;
- decides to request updates on future development; and

- needs to monitor the progress in dealing with it.

In very serious cases the Commission may take steps to exercise its enforcement powers, for example, issuing a warning or opening a statutory inquiry, though it is rare that it would do so without some form of preliminary communication or dialogue.

Data protection and confidentiality

When Trustees report serious incidents, some of the information provided may be of a sensitive nature. The Commission is obliged to handle this responsibly, with care and only for the purposes of carrying out its statutory functions.

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).

The Commission's SIR Guidance states that the Commission does not routinely guarantee that information provided will be kept confidential, because information sharing is often necessary in order 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 (unless the information is already wholly available in the public domain, which is highly unlikely). In addition:

- 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;
- any particularly sensitive information in the report should be identified;
- any specific exemptions from disclosure (such as an exemption under the Freedom of Information Act) should be specifically referred to and relied upon.

Learning from serious incidents

It is important that the trustees appropriately manage and respond to a serious incident. This includes learning from the incident and taking steps to minimise further harm in consequence of the incident and to prevent similar incidents from occurring in the future.

Trustees should consider whether appropriate steps have been taken 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 Institute and its beneficiaries. This should be documented.