

Working in High Risk Areas: Duties and Regulatory Expectations

UK Charity Commission and Muslim Charities Forum workshop hosted on the 7th October 2015

This event focused on the duties of trustees of UK registered charities, but highlighted relative and useful best practice for all NGOs operating in high-risk contexts. Security Managers are particularly encouraged to read the sections on risk and movement of funds.

The Charities Commission has a range of compliance guideline documents which are useful for all employees in managing risk to people, assets or reputation. Please see page three of this document for links to these resources.

Introduction to the UK Charity Commission

- The Charity Commission's role is to register, regulate and advise/guide charities
- The Commission's powers are evolving and increasing, it is important to stay up to date
- It is always beneficial for NGOs to come forward and report wrongdoings or regulation breaches. NGOs should not wait to be caught.

With over 160,000 registered charities in the UK and a sector income of £68 billion, the commission has a huge task to ensure the compliance of all charities. It is therefore emphasised that it is the duty of charities to come forward if they think their actions have fallen foul of guidelines and laws. Reporting such breaches promptly will be looked upon favourably by the Charity Commission, as opposed to waiting and hoping that breaches will not be noticed. Active reporting allows the Charity Commission to respond with a positive message when asked about an NGO's purported regulatory breaches by the media. This point was re-emphasised throughout the workshop.

Staff Duties & Legal Requirements

- Employees must ensure that the actions they take are fulfilling the purpose of the charity while managing risks and protecting people and assets. To this end, all employees must be able to explain and justify the decisions they have taken.
- Employees must be aware and have knowledge of the political context and legal jurisdictions under which they are working. If they do not, it may be best to seek external help.

An informative talk by Abdul Varachhia outlined the legal responsibilities and requirements of employees in the context of international work. The aid-delivery landscape is much changed from previous eras and all employees must be aware of the legal and political contexts they are working in, both at local and international levels. There are 18 multilateral treaties addressing different aspects of terrorist acts and, emanating from the UK, regulatory measures such as the Bribery Act 2010 and Section 19 of the Terrorism Act have extra-territorial effect (see attached slides for more information concerning individual laws). It is worth noting at this point that it is not illegal for NGOs to talk to terrorist organisations, for example to gain access to an area, but resultant decisions or talks must not be in the interest of the terrorist organisation.

The UK Home Office maintains the Proscribed Terrorist Organisations list which is available via this link: <https://www.gov.uk/government/publications/proscribed-terror-groups-or-organisations--2>. A consolidated list of all those individuals and entities whose assets have been frozen in the UK (i.e. designated organisations)

is available on the HM Treasury's website via this link: <https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets>.

The commission accepts that, due to the nature of humanitarian work, things may go wrong, while completely eliminating risk can be both impractical and undesirable. When things do go wrong it is more acceptable and less likely to cause serious issues if organisations are able to explain how particular decisions were arrived at and show that they had adequate procedures in place both to manage the risk and respond adequately. Staff should minute meetings where important decisions are made and efforts to mitigate risks must be documented. Sometimes this will mean seeking outside help from experts – The EISF is happy to put organisations in contact with security professionals who have a range of risk management skills.

It is important that, as NGO employees, personal views, religious ideologies, clan affiliations etc. are left at home. While these are often important in motivating people to join the sector, these views must be compatible with the mandate of the charity and with humanitarian principles. Relatedly, employees must be aware of their social media presence and how their personal lives and views are presented. This, in turn, can impact how your organisation is perceived. Governments, non-state armed groups, collaborative organisations and other actors may undertake research on platforms such as Twitter, Facebook and Instagram. An individual's cyber presence should not be underestimated and appropriate care should always be taken to manage the associated risks.

Assessing Risk & Knowing Your Principles

The Charity Commission expects that when NGOs are undertaking operations in hazardous environments; the greater the risks, the more effort they should expend in adequately dealing with those risks.

- Continuous risk assessments are vital in ensuring there is an awareness of evolving situations at all levels.
- Consider using existing guides, such as the EISF 'Security Audit' or our recently published 'Security to go: a risk management toolkit for humanitarian aid agencies'. Both of these are available at the end of this document.

The central theme that emerged from the discussion on assessing risk was that when operating in hazardous environments, employees should ensure that they increase the effort they expend in assessing and managing risks when the threats increase. While this seems logical, complacency can often lead to mistakes. NGOs must have adequate knowledge of any actors involved with their work, ranging from donors to local partners, must take care to check who their partners are also working with and local perceptions. This will involve continuous assessment and maintaining up-to-date knowledge of ever-changing contexts.

The Charities Commission provides a range of compliance guideline documents, links to some of these are provided at the end of the document.

Moving & Receiving Funds

- NGOs must have appropriate financial controls and records in place to ensure all funds are accounted for and spent appropriately.
- Monitoring does not end with the transfer of funds, it is important to check funds are used as intended
- Risk assessments when transferring funds must consider speed, cost and security. If the transfer is not vital, is there a slower but more secure option? This may be the best choice to ensure protection against financial, legal and reputational costs

Employees must take reasonable and proper steps to ensure that money or resources have reached their intended beneficiaries. This means ensuring that there is an audit trail for the movement of funds and further evidence that the recipient has spent the funds on legitimate goods/services. Monitoring can be undertaken via on-site checks, receipts, beneficiary feedback or numerous other ways. Innovative monitoring methods are emerging as a result of increased social media use. One example given was particularly interesting. This entailed the use of the SnapChat app, a photo messaging app that immediately deletes the picture from the sender's phone. This can be used to provide both evidence of aid delivery and anonymity regarding a worker or beneficiaries' identity and affiliations.

The Charity Commission recommends that, where available, banking services are used to transfer money. However, the speaker noted that there may be exceptional or particular circumstances whereby formal banking facilities are not available or appropriate, while it was noted that in some instances tighter banking regulations are forcing NGOs to seek alternative methods. In these circumstances, the Commission recommends only using cash for small payments and ensuring this process is properly documented. In circumstances where cash is taken out of the UK by person, the individual must ensure that they comply with the legal requirement to declare cash to HMRC when leaving/entering the UK (over €10,000).

Intermediaries can also be used to move and receive cash, including money service businesses, informal value transfer systems (Hawalla/Chiti), payment services (e.g. mobile money transfer) and other charities and NGOs. The increasing use of systems such as Hawalla and mobile transfers is accepted by the commission and is often much safer than cash handovers that can make both the carrier and recipient vulnerable to violence.

Be sure to check out the 'due diligence checks and monitoring end use of funds' document in the list of useful documents in the following section.

Useful Documents

['Protecting charities from harm: compliance toolkit'](#)

['The essential trustee: what you need to know, what you need to do'](#)

['Collaborative working and mergers: an introduction'](#)

['Charities: due diligence checks and monitoring end use of funds'](#)

['UK national risk assessment of money laundering and terrorist financing'](#)

From the EISF library:

['Security to go: a risk management toolkit for humanitarian aid agencies'](#)

['Managing risk: why, when, how?'](#)

['Safety and security of staff abroad: an analysis of international organisations working in non-industrialized countries'](#)

['Security Audits'](#)