



# ***ICAEW CPD course for charity trustees***

**PRESENTED BY SALLY KNIGHT, FCA DCHA**

# ***Welcome and learning outcomes***

To enable you, as an ICAEW member, to understand the legal responsibilities associated with your charity trustee role and keep up to date with developments that impact these responsibilities.

## **Documenting your CPD activity**

At the end of the presentation, don't forget to document your CPD activity. If you use our website's on-page CPD widget, you can record your learning and add it to your online membership record.

The CPD widget will prompt you to answer the following two questions:

- **Why did you choose this activity for your CPD?**
- **What did you learn from the activity?**

# ***Structure of the session***

## **PART 1: Fundamentals**

- What is a charity? What sort of organisation are you involved with and how is it regulated?
- Being a charity trustee and the 6 main duties, with a focus on the need to:
  - Make effective decisions
  - Manage conflicts of interest / loyalty
  - Manage your charity's resources responsibly
  - Maintain accountability
  - Identify and manage risks
  - Report serious incidents

## **PART 2: Current and upcoming developments**

- UK GAAP for charities
- Highlights from the Charity Commission
  - Charity Annual Return for 2023
  - CC8: Internal financial controls
  - CC14: Investing charity money
  - CC's 5-minute guides
- Charities Act 2022 – brief update on implementation
- Fundraising and the Fundraising Regulator

## **PART 3: Further support and resources**



# ***ICAEW CPD course for charity trustees***

**PART 1: FUNDAMENTALS AND ENDURING RESPONSIBILITIES**

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# ***What makes an organisation ‘charitable’?***



- It is established for one or more of the **13 charitable purposes** as defined by charity legislation (in England and Wales)
- It has **Objects** which fall under one or more of the charitable ‘heads’ / purposes, *and*:
  - it exists to provide a **public benefit**, either:
    - generally, or
    - to a sufficient section of the public
- All charities must have a:
  - **governing document** - constitution / ‘rule book’ which sets out how the charity will be run
  - **Board of Trustees** i.e. a governing body being those ‘charged with governance’ although in practice you may be referred to under a different name

# *What type of charity are you involved with....and how is it regulated?*

Know, understand and abide by your organisation's Governing Document

## **Unincorporated:**

- Charitable trust
- Association – can be charitable but doesn't have to be

## **Incorporated (limited liability):**

- Charitable company (limited by guarantee)
- Charitable Incorporated Organisation (CIO)
  - Foundation CIO
  - Association CIO
- Incorporated by Royal Charter / Statute

- 'Exempt' charities
- 'Excepted charities

Charities may also fall within scope of **other regulatory regimes**, and will have to comply with **other legislation**

**Other types of not-for-profit structures include:** Community Interest Companies (CICs); other Companies which do not have charitable status; Co-operative Societies; Community Amateur Sports Clubs (CASCs); Community Benefit Societies (can be charitable)

# Who regulates your UK charity?

(Diagrams are not to scale)

## England & Wales

Charities Act 2011, updated by the Charities Act 2022  
+ some provisions of the Charities (Protection and Social Investment) Act 2016

+ [2008] Reg's



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## Scotland

Charities and Trustee Investment (Scotland) Act 2005 as amended by the Charities (Regulation and Administration) (Scotland) Act 2023

+2006 Reg's and amendments



## Northern Ireland

Charities Act (Northern Ireland) 2022  
(and. 2008/2013)

+ 2015 Regulations



Charities may also fall within scope of **other regulatory regimes**, and will have to comply with **other legislation**

# Being a charity trustee



- Trustees are the people who have overall responsibility for running a charity; they must ensure that the charity
  - complies with its Objects
  - operates for the public benefit
  - complies with all relevant legislation
- Reading through CC3: The Essential Trustee guidance, and understanding the 6 main duties, should be a key part of your introductory and ongoing training as a trustee
- CC3 and lots of other guidance, available at [www.gov.uk/guidance/charity-commission-guidance](http://www.gov.uk/guidance/charity-commission-guidance)
- CC3 also forms the 'Foundation' for the Charity Governance Code; the Code should prompt trustees to think about best governance practice for their charity

[www.charitygovernancecode.org/en](http://www.charitygovernancecode.org/en)

**Charity  
Governance  
Code**



# 'The Essential Trustee': 6 main duties

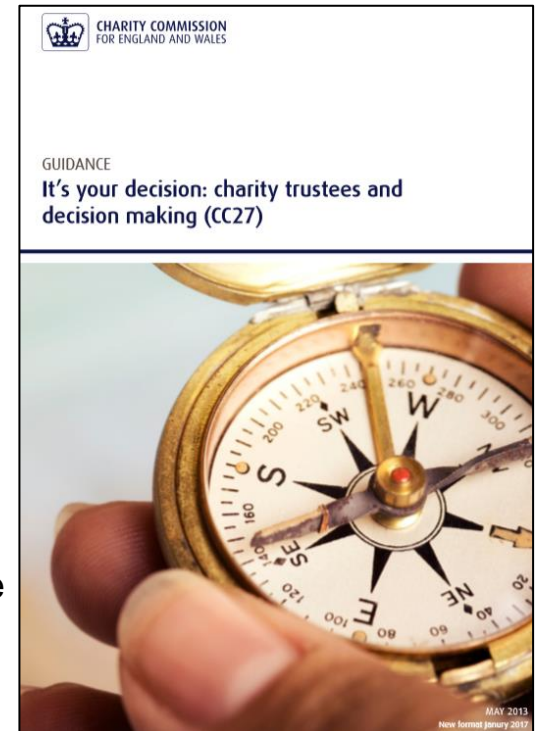


- As trustees, you have *collective* responsibility for running the charity, ensuring compliance with the charity's governing document and relevant laws and regulations, and **making effective decisions**
- Remain focussed on the overriding importance of acting in the charity's best interests, and therefore identifying and **managing conflicts of interest and loyalty**
- As an accountant / finance professional you are also likely to have a specific role in ensuring the **charity manages its resources responsibly – especially financial resources -** and maintains financial / legal **accountability**
- Hopefully things will go well – but you also need to know what to do if things go wrong. As trustees, you have a legal duty to **Report Serious Incidents** to the charity regulator/s

# Make effective decisions

**Principle 4, of the Charity Governance Code states that:** ‘The Board makes sure that its decision-making processes are informed, rigorous and timely, and that effective delegation, control and risk-assessment, and management systems are set up and monitored’.

- How do you ensure that you, as trustees, make appropriate and effective decisions?
- Follow the basic principles in CC27 and legal requirements. As trustees, you must:
  - act within your powers
  - act in good faith and only in the interests of the charity
  - make sure you are sufficiently informed
  - take account of all relevant factors
  - ignore any irrelevant factors
  - identify, manage and record conflicts of interest
  - make decisions that are within the range of decisions that a reasonable Trustee body could make
- Ensure clarity of the matters reserved for the Board, what can and should be delegated, and the reporting processes back to the Board
- Ensure that Board agendas and papers make clear what is expected of the Board, and that minutes accurately and fairly record the decision and decision-making process



**Trustees always retain ultimate responsibility**

# ***Manage conflicts of interest / loyalty***

- A key area of concern / interest to the Charity Commission
- As trustees, you must **make decisions based only on what's best for your charity**
  - Do not allow your personal interests, or the interests of people or organisations connected to you, to influence those decisions
  - **Board's collective responsibility** to act properly - not just the trustee with the conflict
- Financial conflicts (even if the charity would 'get a good deal')
- Loyalty conflicts

## **Adopt a structured approach:**

- **Declare**
  - early; clearly document; refer to governing document; conflicts of interest policy; keep an up to date register of interests
- **Take action to stop the conflict from affecting your decision**
  - remove the conflict; or
  - manage the conflict
- **Keep a clear record to show that you have acted properly**
  - what; who; when; how

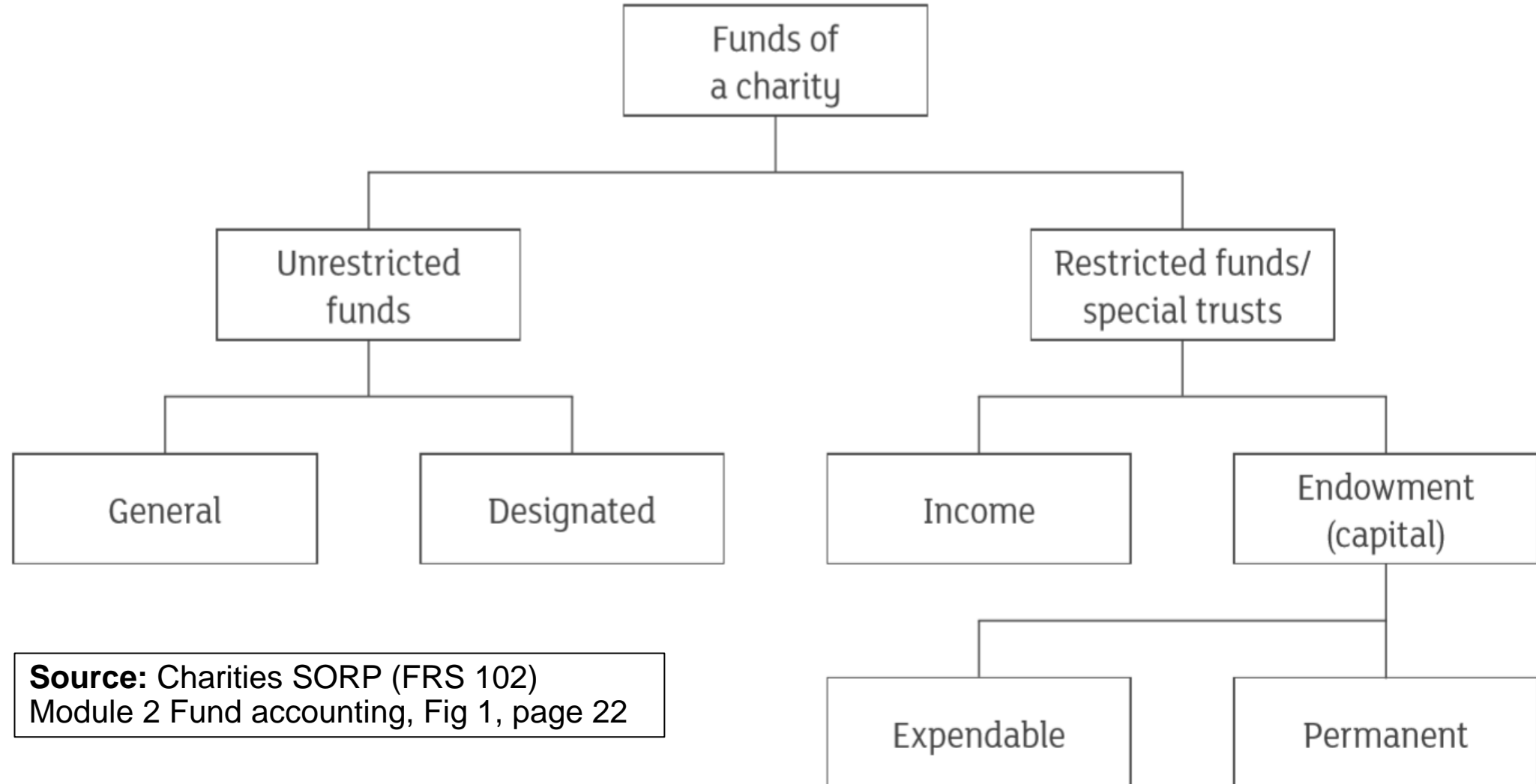
# ***Manage your charity's resources responsibly***

Your duty here is in relation to 'resources' in its widest sense, not just financial resources. In terms of **financial resources**, trustees need to ensure that:



- the charity has a robust and appropriate **financial plan / strategy** and **reserves policy** (CC19 guidance on charity reserves)
  - the charity has **sufficient funds** to carry out its activities in line with its Objects and strategic objectives, and public benefit obligations
  - there are adequate **internal controls** in place which protect the charity's funds (CC8 guidance on internal financial controls)
- 
- the charity keeps accurate **accounting records** / financial information
  - there are systems and information in place to **alert trustees** if things are difficult or going wrong
  - all relevant **financial reporting and scrutiny requirements** are complied with

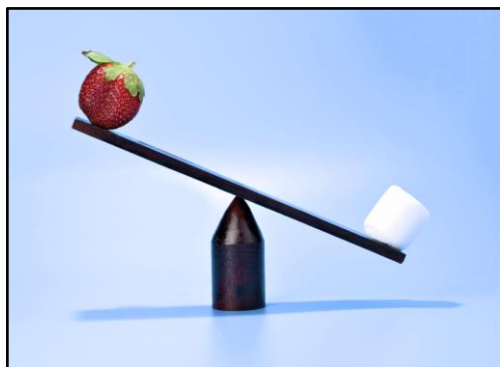
# *Understand your charity's funds*



**Source:** Charities SORP (FRS 102)  
Module 2 Fund accounting, Fig 1, page 22

# *Challenges you may come across*

- Complexity of charity accounting and understanding the content and role of the Charities SORP – many differences from ‘commercial’ accounts
- Length and detail of the Trustees’ Annual Report and Accounts, including emphasis on demonstrating outcomes and impact; other (detailed) disclosures



- Your role (perhaps) as the main ‘finance’ expert – in a formal or informal position. Finance is always a collective Board responsibility although there may be a higher expectation of trustees with special knowledge and experience
- If applicable, ensuring an efficient and effective Finance / Audit Committee structure and accountability back to the main Board
- Your expectations of what should be possible vs. availability of resources / quality of systems in the charity / wider challenges for the sector

# Maintain accountability



Trustees need to ensure that:

- the charity produces and submits the required **format / content** of financial information to the regulator/s and other external parties – within required **timescales**
- the documents have been subject to the correct form of **external scrutiny**
  - external audit; or
  - independent examination \*\*; or
  - nothing needed

\*\* ICAEW resources and Charity Commission guidance available e.g. CC 31 & 32

This is a complex area; the requirements / options will depend on factors including the charity's:

- place of registration and the regulatory regime of the jurisdiction/s
- legal form and its governing document, which may contain additional reporting requirements
- size, particularly its income levels and value of assets; plus:
- any additional requirements from the charity's donors or funders

and don't forget trading subsidiaries, and charity tax!

# ***Types of charity accounts (E&W)***

## **1. Receipts and payments (R&P) accounts**

- Simplest method (CC16 R&P accounts pack)
- Can only be used where a **non-company charity** (includes CIOs) has a gross income of £250,000 or less during the financial year
- R&P accounts contain a statement summarising all money received and paid out by the charity in the financial year, and a statement giving details of its assets and liabilities at the end of the year
- **Charitable companies are not allowed by company law to adopt this method**

## **2. Accruals accounts**

- Non-company charities with gross income of over £250,000 during the financial year, and **all charitable companies** must prepare accruals accounts that comply with the applicable Statement of Recommended Practice (SORP)
- Accruals accounts contain a Balance Sheet, a Statement of Financial Activities, [a Statement of Cash Flows, if income exceeds £500,000] and explanatory notes
- These accounts are required in accountancy terms to show a 'True and Fair view'



# Identify and manage risks



**You have a collective Board responsibility, to**

- Ensure that consideration of risk, and how risk is managed, is a central part of the Board's planning and decision-making processes
- Consider strategic and big picture risks, including risks to the charity's reputation
- Ensure there is suitable risk 'governance', which is likely to include a risk management strategy and consideration of Risk appetite – which staff and volunteers also understand
- Ensure that suitable processes and controls are in place to actively manage or mitigate the effects of 'risk'
- Document and report on risk, for example, in line with the Charities SORP para 1.46 requirement for larger charities (best practice for smaller charities)

# ***Report Serious Incidents***

- If a serious incident takes place within your charity, **trustees** must make prompt, full and frank disclosure to the charity regulator/s

[www.gov.uk/guidance/how-to-report-a-serious-incident-in-your-charity](http://www.gov.uk/guidance/how-to-report-a-serious-incident-in-your-charity) (updated June 2019)

- How to report; decisions and actions which need to be taken **by trustees**
  - Includes list of reportable matters and an 'Examples table' – it is the **trustees'** responsibility to decide when and what to report
- Trustees may also need to report when an incident has occurred involving one of the charity's partners in the UK or internationally (Dec 2019 guidance)
  - These reporting responsibilities are separate to the duties that charity auditors and Independent Examiners have, to report certain matters to the charity regulator/s under the 'matters of material significance' and 'reporting of relevant matters' regimes



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**PART 2: CURRENT AND UPCOMING DEVELOPMENTS  
[UPDATED 29 SEPTEMBER 2023]**

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# UK GAAP for charities

## (Generally Accepted Accounting Practice)

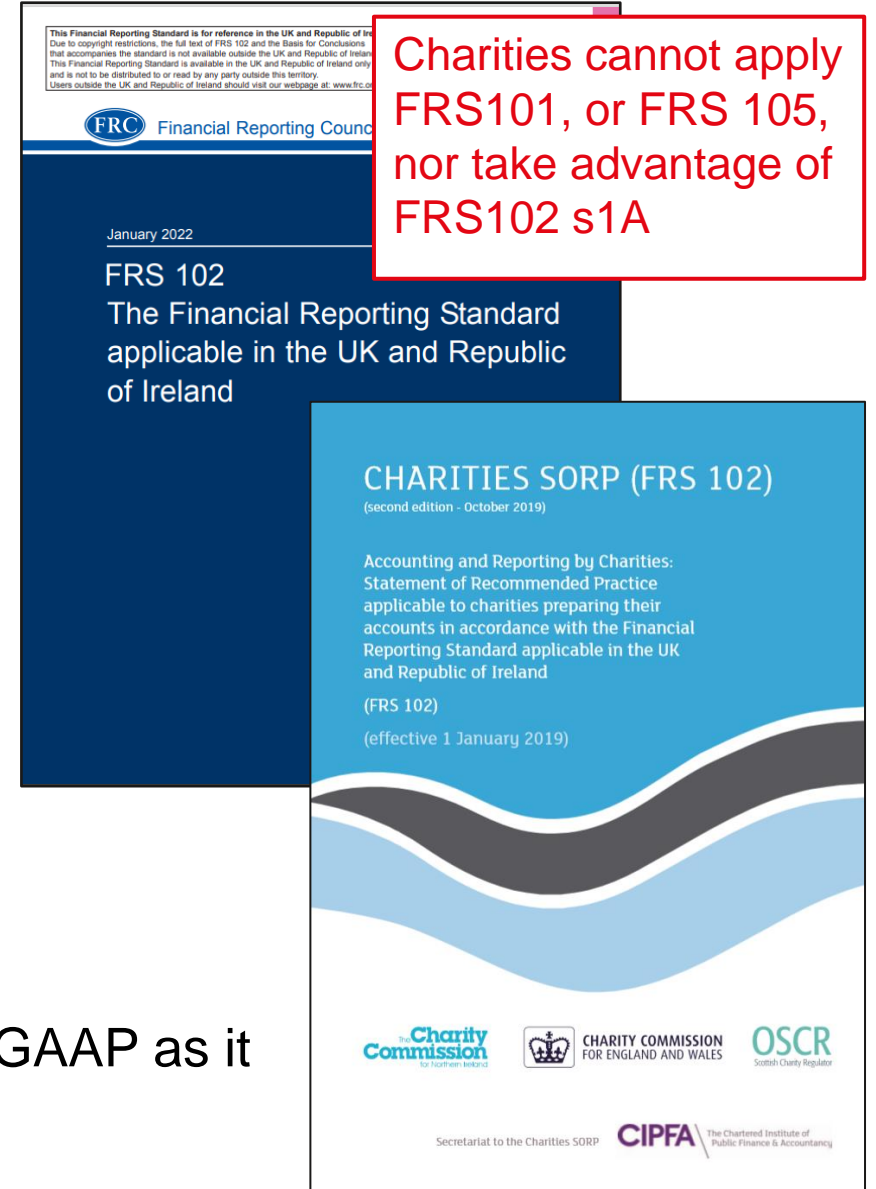
UK-Irish GAAP applies to charities preparing accruals accounts / showing a T&F view. The two key 'ingredients' are currently:

### 1. FRS 102 (Jan 2022)

- Underpins charity (and other) reporting in the UK
- Awaiting publication of the revised FRS following the 2nd periodic review and consultation on the Exposure Draft, FRED 82, in 2022/23
- Effective date for revised FRS 102 is reporting periods beginning on or after **1 Jan 2026** [updated after recording, on 29 Sep 2023]

### 2. Charities SORP (FRS 102) 2<sup>nd</sup> edition (Oct 2019)

- The SORP provides interpretation of FRS 102 and UK GAAP as it applies to charities, plus additional requirements
- Being revised in line with the revised FRS 102



## The charity sector regulated by us

2022-23 at a glance



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- The Charity Commission is continuing its aim to become a more **data-driven** regulator, and a more authoritative source of information
- From 31 July 2023, [‘My Charity Commission Account’](#) is the new way for *each* trustee, charity contact and authorised advisor to access the CC’s online services
- Focus is on providing the right support, advice and guidance for **trustees**
- In return the CC expects trustees to **engage with its guidance** to inform decision-making and avoid disputes
- [What we expect in return - GOV.UK](#) (26 April 2023)

Source: Charity Commission 2022/23 Annual Report and Accounts  
(CC’s ARA is published in mid-July each year)

# Charity Annual Return for 2023

- The Annual Return is an online form that *all* charities with annual incomes of £10,000 or more (and *all* CIOs) must complete within 10 months of the end of their financial reporting period
- The Annual Return for 2023 has been revised, with new questions
- **Trustees / charity staff should familiarise themselves with the questions** - don't leave until the last minute; leave enough time to collate and check the responses
  - [Charity Annual Return 2023: question guide - GOV.UK](#)
  - [Charity Annual Return 2023: glossary - GOV.UK](#)
- A **'My Charity Commission Account'** login is required to submit the **2023 Return**, by the charity's main representative
- Good practice for trustees to periodically look at their charity's entry on the Charity Commission register – what information is being disclosed?




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# CC8 Internal financial controls: Guidance and checklist (updated April 2023)

- Internal financial controls for charities (CC8)

- Trustees must ensure that there are **internal controls** in place which:
  - enable them to meet their legal duties to keep adequate accounting records and safeguard the charity's assets
  - administer the charity's finances and protect its assets in a way that identifies and manages risk – especially of fraud, theft, loss, cyber-crime
  - ensure that financial information is timely, accurate and relevant
- This can be challenging especially in a small charity with fewer opportunities for segregation of duties, or secondary review
- **Trustees must balance trust with scrutiny; set policies, ask for clear documentation and seek explanations**



It's good practice to complete the CC8 checklist on Internal Financial Controls – and regularly review and update it

The checklist can be downloaded for editing.

You could also add a '**Not Applicable**' column; **Comments sections**; '**Reviewed by**' / **date**; **Date for next review** (and make it landscape!)

NB It still doesn't prove the control is **working in practice**



# ***CC14 Investing charity money: guidance for trustees (updated August 2023)***

- [Investing charity money: guidance for trustees \(CC14\) - GOV.UK](#)
- Accommodates the 'Butler-Sloss' judicial review outcome (2022)
- Updated CC14 guidance has a simpler structure and is easier to interpret, with examples of acceptable practice to ensure decision-making is in line with trustees' overall duties:
  - shows how to consider 'ethical' factors as part of the trustees' approach to investment, whilst also considering financial return
  - uses simpler language to describe 'social investments' i.e. where charity trustees invest money / property with a view to achieving the charity's purposes as well as for financial return
- Commentary on the steps trustees 'must' take legally, and 'should' take for best practice
- Highlights the need for trustees to consider **taking advice** (or be clear why it isn't needed), and to be **prudent** (top priority)
- **Keep investments and investment approach under regular review, have a robust investment policy, and record trustees' decision-making processes and outcomes**



# CC's 5-minute guides for trustees (ongoing)

- Good 'gateway guidance' for experienced trustees as well as those new to the role; complement the fuller CC3 guidance
- The guides include signposting to longer-form guidance and resources from other sector bodies
- Strongly recommend that *all* trustees review these as part of their induction / ongoing training process

- [Delivering purpose](#)
- [Managing finances](#)
- [Conflicts of interest](#)
- [Making decisions](#)
- [Reporting information](#)
- [Safeguarding people](#)
- [Political activity and campaigning by charities](#)



Full **CC9 Guidance updated Nov 2022** for the Elections Act 2022 – also includes guidance about elections and referendums

# ***Charities Act 2022 (England & Wales only)***

- The Charities Act 2022 gives effect to the Law Commission's recommendations to reform and 'fix' various technical issues in charity law, streamline overly bureaucratic regulation, and clarify 'grey areas' and previous drafting ambiguities
- Charities Act 2011 (currently) remains the core legislative framework, although key sections are being updated and amended by the Charities Act 2022 in line with the implementation plan
- **No changes to charity accounting, reporting or scrutiny**
- 'Keeling schedule' shows indicative changes to the Charities Act 2011 made by the Charities Act 2022 for illustrative purposes only [Charities Act 2011](#)
- 3 key stages for implementation:
  - 31 Oct 2022; 14 June 2023; 'by the end of 2023'
  - [Charities Act 2022: implementation plan](#)
- What is your role, as a charity trustee, and perhaps as an office holder (Chair / Treasurer)?

# ***Charities Act 2022: Changes in force from 31 Oct 2022***

Charity Commission's website gives more information about the changes being introduced, and the updated guidance: [Charities Act 2022: information about the changes being introduced - GOV.UK](#)

## **31 October 2022**

- **S4: Power to amend Royal Charters**
- S5: Orders under section 73 of the Charities Act 2011
- **S6 & 7: Cy-près powers *[fundraising appeals that raise too much or too little]***
- S8: Power of the court and the CC to make schemes
- **S30: Remuneration of charity trustees etc providing goods or services to charity**
- S32: Trustee of charitable trust: status as Trust Corporation
- S36: Costs incurred in relation to Tribunal proceedings etc
- Parts of S37 & S40 & Schedule 2

# ***Charities Act 2022: ‘Failed appeals’***

**‘Failed appeals’: Fundraising appeals that do not raise enough or raise too much**

- [31 Oct 2022 guidance - Charity fundraising appeals for specific purposes](#)
- Simplified rules and step by step summaries – for dealing with too little, or too much
- New guidance on fundraising appeal wording and record keeping
- Also updated: CC20 Charity Fundraising: Trustees’ Duties; CC40 Charity emergency appeals; NHS Charities Guidance
- The best option is to avoid the situation in the first place!

‘Getting your appeal wording right, and keeping good donor and appeal records, will help you avoid difficulties if your appeal does not raise enough money, raises too much money or you are unable to use the donations as intended’



# ***Charities Act 2022: Changes in force from 14 June 2023***

## **14 June 2023**

- S9-14 & 35a: Using **permanent endowment**
- S17, 19-22: Selling, leasing or otherwise disposing of **charity land** [S18 & 23 deferred to later in 2023]
- S25-28: **Charity names** – expansion of CC's current power to direct charity name changes
- S38 & 39: Connected persons – definition updated
- [Part of S40 & Sch 2: Minor and consequential amendments]

# ***Charities Act 2022: Changes expected by the end of 2023***

**Main provisions of the Act expected to come into force:**

## **'by the end of 2023'**

- S1-3: Charity constitutions
- S18 & 23: Charity land (those provisions deferred from June 2023)
- S24 & Sch 1: Amendments of the Universities and College Estates Act 1925
- S29: Powers relating to appointments of trustees
- S31: Remuneration etc of charity trustees etc
- S33-35: Charity mergers
- S37, S40 & Sch 2: For remaining purposes

**and S15 & 16: Ex gratia payments.....'under further consideration prior to commencement'**

# ***Fundraising and the Fundraising Regulator***

## **Fundraising reporting requirements:**

- The Charities (Protection and Social Investment) Act 2016 - legal duty for E&W charities, following SORP, with gross income > £1m
- Great opportunity for trustees to demonstrate good fundraising governance
- **CC20 Charity fundraising: a guide to trustee duties** was updated on 31 Oct 2022 to reflect Charities Act 2022 changes
- CC20 linked documents include a separate Word Checklist, and a summary of key fundraising principles for trustees

## **The Fundraising Regulator:**

- Publishes its Annual Report and Accounts, and Annual Complaints Reports online, together with research and best practice tips
- **Code of Fundraising Practice review** [Code review 2022-24 | Fundraising Regulator](#)
  - produce new draft Code (early 2024) followed by stakeholder engagement
  - publish new Code and timetable for implementation (early 2025)





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**PART 3: FURTHER SUPPORT AND RESOURCES**

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# ***Further support and resources***

## **Free ICAEW resources for charity trustees:**

- **Trustee Training Modules**

ICAEW's free online training provides a learning space where you can explore the knowledge and skills required to be an effective charity trustee through a range of reading materials, video recordings and reflective activities.

It covers the legal and financial responsibilities of charity trustees in more detail.

[www.icaew.com/technical/volunteering-community/trustee-training-modules](http://www.icaew.com/technical/volunteering-community/trustee-training-modules)

- **ICAEW Charity Community**

This free Community brings together tools, insights and resources for charity trustees and finance professionals. Community members receive regular newsletters, invitations to charity events and to free webinars, updates on charity sector developments and practical guidance to support you in your trustee role.

[www.icaew.com/groups-and-networks/communities/join-charity-community](http://www.icaew.com/groups-and-networks/communities/join-charity-community)

# ***Further support and resources***

## **Guidance and alerts from the charity regulators:**

- England and Wales: Charity Commission for England and Wales  
[www.gov.uk/government/organisations/charity-commission](http://www.gov.uk/government/organisations/charity-commission)
- Scotland: Office of the Scottish Charity Regulator (OSCR)  
[www.oscr.org.uk/](http://www.oscr.org.uk/)
- Northern Ireland: The Charity Commission for Northern Ireland  
[www.charitycommissionni.org.uk/](http://www.charitycommissionni.org.uk/)

