

## **CASPARI FOUNDATION SERIOUS INCIDENT REPORTING POLICY AND PROCEDURES**

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

The Charity 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.”

“Significant” means significant in the context of the charity, taking account of its staff, operations, finances and/or reputation.

1.1 The Charity Commission’s SIR Guidance identifies the following main categories of reportable incidents:

1.1.1 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);

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

1.1.3 large donations from an unknown or unverifiable source, or suspicious financial activity using the charity’s funds.

1.1.4 other significant financial loss.

1.1.5 links to terrorism or extremism, including ‘proscribed’ organizations, individuals subject to an asset freeze, or kidnapping of staff; and

1.1.6 other significant incidents, such as:

- (a) a Trustee or 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).

1.2 Any incident or matter which could get into the public domain or be reported in the media is reported to the Board of Trustees as soon as possible (even if initially on an interim basis) so that Caspari Foundation can prepare its own public response and be in a position to say that it is already liaising with the Charity Commission in relation to the incident.

## **2. Reporting principles and procedures**

2.1 Caspari Foundation will provide training to those who work for it (including Trustees, staff and volunteers) so that they can identify serious incidents and know what to do if one occurs.

### **Internal reporting .**

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

- (a) Policies relating to financial crime such as the Anti-Bribery and Corruption Policy
- (b) Data Protection Policy
- (c) Policy on safeguarding children and vulnerable adults
- (d) Complaints Policy
- (e) Whistleblowing Policy

2.3 Where a serious incident is covered by a Caspari Foundation policy, staff/volunteers should use the mechanism set out in the relevant policy and report the incident to the individual named in that policy (the "Relevant Officer"). In the unlikely event that an incident is not covered by an existing Caspari Foundation policy, staff should report the incident to the Business Director, as soon as possible and in any event within 24 hours.

2.4 Where an incident relates to a Director, staff/volunteers should report the incident or allegation directly to the Chair of Trustees or an alternative member of the Board of Trustees if the Chair is not available or would be subject to a conflict of interests or loyalty in relation to its subject matter.

2.5 Caspari Foundation's due diligence process will include a requirement for current project partners to report any serious incidents in their annual partner checklist.

2.6 Project partnership agreements will include a requirement for each of the partners to inform each other immediately of any serious incidents that could affect the project, organizations, or individuals involved.

2.7 Upon receiving a report, the Business Director will assess whether s/he thinks it could be a serious incident and, if so, will promptly (on the same day) report the incident to the Chair of Trustees.

2.8 The Chair of Trustees receiving the report will discuss the matter with the Board. If there are circumstances where this is not appropriate due to reasons of confidentiality, conflict of

interest/loyalty etc, the Chair of Trustees will decide how to deal with the matter, taking account of any relevant policies and procedures and taking advice as appropriate. 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 Board of Trustees generally.

## Reporting to the Charity Commission

2.9 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 minimize any further harm, loss or damage.

2.10 Assessing whether a serious incident is reportable to the Charity Commission is a matter for the Board of Trustees, they may seek advice from professional advisers before doing so. Advice on this can be found at:

[https://assets.publishing.service.gov.uk/media/5bd706d9ed915d789dcd63ef/RSI\\_guidance\\_what\\_to\\_do\\_if\\_something\\_goes\\_wrong\\_Examples\\_table\\_deciding\\_what\\_to\\_report.pdf](https://assets.publishing.service.gov.uk/media/5bd706d9ed915d789dcd63ef/RSI_guidance_what_to_do_if_something_goes_wrong_Examples_table_deciding_what_to_report.pdf)

2.11 The Board of Trustees will report serious incidents to the Charity Commission promptly. The urgency of reporting will depend on factors including the nature and seriousness of the incident, the potential impact on the organization and whether it is likely that there will be media coverage of the incident.

2.12 It is important to provide enough detail in the report to give the Board of Trustees a clear picture of what happened and when, the extent of any loss or harm, how Caspari Foundation is dealing with it and the planned/possible next steps. The Business Director will liaise with relevant staff to gather the appropriate information required to report the matter to the Board of Trustees.

2.13 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 the organization to make an initial report to the Charity Commission covering those facts that are known to the organization 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. Caspari Foundation notes that the SIR Guidance says that if, having submitted a report to the Charity Commission, the charity becomes aware of any material changes to the facts reported or significant developments, the charity must inform the Charity Commission as soon as it becomes aware of them.

2.14 The following information should be included in the report:

- (a) the individual submitting the report and their connection to Caspari Foundation;
- (b) who within the Trustee body is aware of the incident, e.g. some/all Trustees, or only the Business Director;
- (c) what happened and when the organization first became aware of it – to the extent that information may identify individuals in sensitive circumstances, the level of detail may be tailored accordingly. It is not necessary to provide names of individuals involved in the initial report – the board will request this information if it needs it. However, the account should otherwise be fully candid and should not be expressed in general terms or euphemistically;
- (d) the effect of the incident on the organization or its beneficiaries or both;

(e) action being taken to deal with the incident and prevent consequential risks and future occurrences (this will likely include details of any investigations by the organization (whether complete or underway); whether the organization has any policies or procedures that apply to the incident in question and whether they were followed including any reasons why they were not followed (if applicable); and whether as a result the board have determined that current policies or procedures need to be revised, or new ones put in place if they do not already exist);

(f) whether and when it was reported to the police or another regulator/statutory or other agency (including official reference numbers) and any action taken, whether any guidance was offered and the extent to which it has been followed. In circumstances where, upon careful risk assessment, it has been determined that it would not be appropriate to report to external authorities (such as, but not limited to, the wishes of the victim/survivor/complainant; potential harm to the victim/survivor/complainant; justifiable concerns in relation to the due process with which the matter would be treated), a summary of the reasons for that determination should be included in the report and the decision and reasons should otherwise be carefully documented;

(g) media/donor/patron/public relations handling plans that have been or will be prepared by Caspari Foundation, if any;

(h) insurance coverage, if any, and notification to and/or correspondence with the insurers where relevant;

(i) 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

(j) specifying whether the information is confidential and/or may risk identification of individuals if disclosed externally.

### **Other actions to take**

2.15 Caspari Foundation will prepare a communications plan covering what it will say to staff, beneficiaries, members, supporters, patrons, the public and the media.

2.16 Consideration should be given to whether it is appropriate to obtain external advice, such as legal and/or communications advice.

2.17 Caspari 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.

2.18 In addition to making a serious incident report to the Commission, if the incident occurred in the UK, it may be necessary to inform or make reports to other relevant regulators or agencies. Caspari 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.

2.19 Where there is actual or suspected criminal activity or other serious incident that has occurred in another country, Caspari Foundation will ensure that it is made aware of the requirements of local law and regulation, including in respect of reporting. Caspari Foundation will carefully consider and assess the risks of making of such a report to the police and/or to any other regulators or authorities to which the organization is accountable or which otherwise have jurisdiction in relation to the matter. This will include consideration of the risk of harm to others (such as the victim and alleged offender) if the incident is reported and cultural differences and sensitivities. To the extent that it is determined, after careful consideration, not to report an incident to the national or regional authorities of another country, the decision will be carefully documented, and reasons provided to the Charity Commission when the serious incident report is made. Where an alleged offender is a UK national or resident, consideration will be given to reporting to the NCA.

2.20 Caspari Foundation 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 Charity Commission in the serious incident report made.

### **3. Data protection and confidentiality**

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

3.2 As a public authority and a 'controller', the Charity 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).

3.3 The Charity Commission's SIR Guidance states that the Charity Commission does not routinely guarantee that information provided will be kept confidential, because information sharing is often necessary in order for the Charity Commission to further its statutory functions and objectives and in some cases, it is required by law to share information (e.g. with other relevant public authorities).

3.4 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:

- (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 organization if it receives a request to disclose information to third parties (e.g. the media or individuals).

#### **4. Learning from serious incidents**

4.1 It is important that Caspari Foundation appropriately manages and responds to a serious incident. This includes learning from the incident and taking steps to minimize further harm in consequence of the incident and to prevent similar incidents from occurring in the future.

4.2 Directors and Trustees should consider whether the organization 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 organization and its beneficiaries. This should be documented.

#### **5. Review of this policy**

5.1 This policy will be subject to review by the Board of Trustees every 2 years; upon the Charity Commission issuing updated guidance in relation to serious incident reporting, whichever occurs first, or as otherwise appropriate.