

PROTECTING VULNERABLE PERSONS

Policy for charities working with vulnerable persons because of age, physical or mental ability, ill health or because of affiliation with crime



GOVERNMENT OF BERMUDA
Ministry of Home Affairs

Registry General & Charity Commissioners

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Introduction

Certain types of charity are set up to assist or care for those who are particularly vulnerable, perhaps because of their age, physical or mental ability or ill health. Charity trustees (that is, those persons responsible for oversight of a charity) are responsible for ensuring that those benefiting from, or working with, their charity is not harmed in any way through contact with it. They have a legal duty to act prudently, and this includes taking all reasonable steps within their power to ensure that harm does not happen.

It is particularly important where beneficiaries are vulnerable persons in the community. Trustees are expected to find out what the relevant law is, how it applies to their organization, and to comply with it accordingly. They should also adopt best practice as far as possible - advice on this is available from a number of knowledgeable sources, some of which are listed on the final page below. Children are an especially vulnerable group and therefore the Registry General and Charity Commissioners are concerned to stress the importance of charities having proper safeguards in place for their protection.

If your charity works with vulnerable people, you need to take the necessary steps to safeguard them in order to be regarded as 'fit and proper'.

Charities which are accredited with the Council on Accreditation can provide the Registry General and Charity Commissioners with proof of up-to-date and current accreditation status to discharge their requirements under this policy.

Proof of accreditation should be provided in their annual reports and as part of their applications for registration.

For more information on of accreditation and the Bermuda National Standards Committee which administers the process of accreditation, please visit <http://www.centreonphilanthropy.org/pages/bermuda-national-standards>.

The role of the Registry General and the Charity Commissioners

Although the Registry General and the Charity Commissioners do not administer child protection legislation, we aim to increase public trust and confidence in charities. As part of the registration process, organizations working with vulnerable persons will be asked for (a) information about the policies and procedures which they have in place for keeping vulnerable persons safe, (b) disclosure of criminal background checks in respect of trustees where the charity is required to do so, and (c) disclosure of the fact of a disqualification from caring for seniors pursuant to the Seniors Abuse Register Act 2006.

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Where it is determined that a particular organization works with vulnerable persons, it will be registered as a charity unless it has met the requirements of this policy. An organization failing to make such appropriate safeguards will be regarded as not fit and proper.

An organization will not be registered as charitable where it has trustees, staff or volunteers who possess a conviction which is relevant to any services it might provide to a vulnerable person. For example, persons convicted of a sex offence or committing senior abuse will not be allowed to work with children and seniors respectively.

Safeguarding

Safeguarding is a relatively new term which is broader than 'protection' as it also includes prevention. Safeguarding has been defined as:

- All agencies working with vulnerable person's and their families taking all reasonable measures to ensure that the risks of harm to vulnerable persons' welfare are minimized; and
- Where there are concerns about the vulnerable person's welfare, all agencies taking appropriate actions to address those concerns, working to agreed policies and procedures in full partnership with other local agencies.

Safeguarding vulnerable persons is vital for charities as charity trustees have a duty of care towards those with whom they have contact. Having safeguards in place within an organization not only protects and promotes the welfare of vulnerable persons but also it enhances the confidence of trustees, staff, volunteers, parents/carers and the general public. Safeguarding vulnerable persons is beneficial to a charity in many ways: protecting its reputation, helping to effectively meet its objectives and protecting its finances.

The necessity to safeguard vulnerable persons applies both to charities working in Bermuda and other countries where beneficiaries may face different or additional risks of abuse or exploitation. These safeguards should include protection policies and procedures for dealing with issues of concern or abuse.

Safeguards include internal procedures and policies, for example:

- making trustees, staff and volunteers aware of what abuse is and how to spot it
- having a clear system of reporting concerns as soon as abuse is identified or suspected
- responding to abuse rapidly and carrying out investigations confidentially
- preventing harm and abuse with a rigorous recruitment and interview process

Having proper safeguards in place means your charity can promote a safe place for your beneficiaries, and gives the public confidence in your charity and trustees.

For example, a charity that works with children should:

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- have a child protection policy – a statement explaining how the charity protects children from harm
- put in place child protection processes which give clear, step-by-step guidance if abuse is identified
- carry out the appropriate background checks on staff, volunteers and trustees (depending on their access to children)
- have policies and procedures to help prevent abuse happening in the first place, such as adult workers not having one-to-one access to young people

For the purposes of child protection legislation the term 'child' refers to anyone up to the age of 18 years.

Criminal record checks

Employees, volunteers and trustees who will work directly with vulnerable persons must have a criminal background check. The background check must show that the person has no criminal past that involved vulnerable persons. Persons with a prior criminal record related to vulnerable persons cannot serve at a minimum in a direct contact role with such vulnerable persons, and this may include that they cannot be a trustee, employee or volunteer with the charity.

You can arrange for a check by submitting a form SF39 to the Bermuda Police Service together with a \$100 processing fee. A copy of the form can be found online at <http://www.bps.bm/>.

The vulnerable person protection policy

This is a statement of intent that demonstrates a commitment to safeguard vulnerable persons involved with a charity from harm. The essential inclusions for such a protection policy are outlined below:

- the welfare of the vulnerable person is paramount;
- all vulnerable persons without exception have the right to protection from abuse regardless of gender, ethnicity, disability, sexuality or beliefs;
- the policy is approved and endorsed by the charity trustees;
- who the policy applies to (i.e. all trustees, staff and volunteers);
- vulnerable persons, their family and carers are informed of the policy and procedures as appropriate;
- all concerns, and allegations of abuse will be taken seriously by trustees, staff and volunteers and responded to appropriately - this may require a referral to the appropriate social and human services and in emergencies, the Police;
- a commitment to safe recruitment, selection and vetting;
- reference to principles, legislation and guidance that underpin the policy;
- arrangements for policy and procedures review;

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- reference to all associated policies and procedures which promote vulnerable persons' safety and welfare e.g. with regards to: health and safety, anti-bullying, protection of children online, and photography.

Vulnerable persons protection procedures and systems

Procedures and systems provide clear step-by-step guidance on what to do in different circumstances and they clarify roles and responsibilities. Systems for recording information and dealing with complaints are also needed to ensure implementation and compliance.

The procedures and systems should include:

- A named person (and deputy) with a clearly defined role and responsibilities in relation to vulnerable person protection, appropriate to the level at which s/he operates.
- A description of what abuse is, how to spot it and the procedures for how to respond to it where there are concerns about a vulnerable person's safety or welfare or concerns about the actions of a trustee, staff member or volunteer. Relevant contact details for social and human services, police, and telephone hotlines should be available (for example, those of Centre Against Abuse and Women's Resource Centre – see below).
- A mandated reporting requirement for employees, volunteers and trustees when they have suspicion of abuse of a vulnerable person. This includes inclusion of reports of suspected abuse being part of the charity's internal incident reporting and review process system and external reporting as legally required to appropriate authorities.
- Guidance on confidentiality and information sharing, legislation compliance, and which clearly states that the protection of the vulnerable person is the most important consideration.
- A code of behaviour for trustees, staff and volunteers. The consequences of breaching the code are clear and linked to disciplinary and grievance procedures.
- Safe recruitment, selection and vetting procedures that include checks into the eligibility and the suitability of all trustees, staff and volunteers who have direct or indirect (e.g. helpline, email) contact with vulnerable persons. In addition, charities will be required to conduct in-person interviews for new hires and volunteers, where they will have queried on their response to certain hypothetical scenarios where the interests of vulnerable persons are threatened.
- A complaints procedure which is open and well publicized where adults and children can voice concerns about unacceptable and/or abusive behaviour towards vulnerable persons.
- Systems to ensure that all staff and volunteers working with vulnerable persons are monitored and supervised, in particular, as this relates to one-on-one interactions between adults and children.
- Requirements for trustees, staff and volunteers to learn about vulnerable person protection in accordance with and as appropriate to their roles and responsibilities.
- A transportation policy which spells out precisely the circumstances in which a vulnerable person can travel alone with another.

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- Documented annual training which addresses the above, and in particular: (1) what abuse is and how to spot abuse; (2) mandated reporting requirement and procedures; (3) what “duty of care” means and how the charity fulfills that requirement to protect vulnerable populations being saved from harm; and (4) how client confidentiality of vulnerable persons is addressed.

It is important that each charity's safeguarding policy and procedures are tailored to the type of contact that the charity has with vulnerable persons and it also needs to take into account any particular vulnerabilities of the vulnerable persons with whom the charity has contact; for example disabled children who are at increased risk of abuse; babies and toddlers who are vulnerable due to their age and dependence on adults; chronically ill seniors and disabled adults who depend on the care of others; etc.

Particular vulnerability because of affiliation with crime

In Bermuda, the scourge of crime affects everyone. Gang-related activity is particularly problematic. Oftentimes, charities spring into action to assist those who are affected by crime, either as victims of crime, offenders seeking the rehabilitative assistance of services provided by such organizations or family and friends of such persons.

In addition to the requirements set out in this paper, charities working with such vulnerable persons need to have in place appropriate policies which manage the risk of their involvement. Beneficiaries and staff of a charity need to be protected – against those from outside the organization and from within.

To that end, the Registry General and Charity Commissioners would need to be satisfied that such policies exist in respect of charities that deal with vulnerable persons because of affiliation with crime, and that such policies are appropriate for managing to types of risk faced by such an organization.

Reporting on a charity

Most charities don't encounter any serious incidents or problems. When they do, the trustees have a duty and responsibility to report the incident as soon as they become aware of it. Reports should be forwarded to the appropriate authorities. The charity will send notice to the Registry General and the Charity Commissioners indicating that a report was made and to which reporting authority.

Where volunteers and employees of a charity, and concerned members of the public, are aware of any issues in respect of a particular charity, they should report such concerns to the Registry General and the Charity Commissioners. All concerns will be considered. The action taken as a result of the concerns will of course depend on the nature of these concerns.

Confidences will be respected, with due regard to the individual's rights to privacy under the law. However, a person who is under inquiry is entitled to know the nature of any allegations being made, and any person criticized as a result of an inquiry has a right to be told the nature of the evidence upon which the criticism has been based.

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Every step will be taken to try to ensure that a complainant's identity is not revealed without their consent. In some cases the nature of the allegations or evidence may give an indication as to their source. Also, in limited cases there may be an obligation to reveal information by order of the court in legal proceedings.

Where information touches upon activities and behaviours within the scope of another regulatory authority, this information will be forwarded as appropriate. For example, if a complaint received points strongly to criminal behavior, we will refer the matter to the Bermuda Police Service.

Further resources and contact information

Call 911 if in immediate danger or for the Sexual Assault Response Team (SART)		
Age Concern	238-7525	www.ageconcern.bm/
Bermuda Islands Association of the Deaf	238-8116	
Bermuda National Standards Committee		http://www.centreonphilanthropy.org/pages/bermuda-national-standards
Bermuda Police Service	295-0011 or 247-1678	www.bps.bm
Centre Against Abuse Women's Hotline	297-8278	www.abusefree.org
Centre Against Abuse Men's Hotline	332 1293	www.abusefree.org
Centre on Philanthropy	236-7706	http://www.centreonphilanthropy.org/
Child & Family Services	278-9111 or 294-5882	
The Coalition for the Protection of Children	295-1150	www.coalition.bm
The Family Centre	232-1116	www.tfc.bm
Mid Atlantic Wellness Institute	236-3770	
The National Office for Seniors and The Physically Challenged (NOSPC)	292-7802	
SCARS: Saving Children and Revealing Secrets	297-2277	www.scarsbermuda.com/
Women's Resource Centre	295-3882 (main) or 295-7273 (hotline)	www.wrcbermuda.com

Contacting the Registry General and Charity Commissioners

General Enquiries: 297-7739

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30 Parliament Street, Hamilton HM 12
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