

# BÓTHAR'S PROCESS FOR REPORTING THEFT OR FRAUD TO THE CHARITY REGULATOR



In the unlikely event a fraudulent incident or theft occurs under the banner of Bóthar a prompt, full and frank disclosure to the Charity Regulator will take place.

A serious incident is an adverse event, whether actual or alleged, which results in or risks significant:

- harm to your charity's beneficiaries, staff, volunteers or others who come into contact with your charity through its work (who are collectively referred to throughout this guidance as people who come into contact with your charity through its work)
- loss of your charity's money or assets
- damage to your charity's property
- harm to your charity's work or reputation

For the purposes of this guidance, "significant" means significant in the context of your charity, taking account of its staff, operations, finances and/or reputation.

## Who holds the responsibility to report and when?

The responsibility for reporting serious incidents rests with the charity's trustees. This has been delegated to the CEO. The CEO will carry out an internal enquiry to ensure the incident has in fact taken place and to understand the details of the incident/s. He / she will then take the necessary steps to contact An Garda Síochána and contact personally as well as write to the Charity Regulator to report the incident. The timing of this report will depend on the severity of the situation but must take place as soon as is reasonably possible after it happens, or immediately after the Bóthar board / CEO becomes aware of it.

In the unlikely event the CEO is under suspicion, the Chair of the Board must report the incident to the Charity Regulator in writing within five working days of an internal enquiry completion.

There is a separate whistleblowing policy to support staff, partners and consultants that suspect serious wrongdoing within the organisation.

The auditors operate under their own set of guidelines in terms of separate duties to report certain matters and related protections.

## What must be reported?

An incident if it results in, or risks, significant:

- loss of your charity's money or assets
- damage or theft to/of Bóthar property totalling EUR25,000 or more, or totalling less than EUR25,000 but which is in excess of 20% of our income
- harm to Bóthar's work including our beneficiaries, donors or our reputation as a result of fraudulent activities by staff, partners or consultants
- harm to Bóthar's work including our beneficiaries, donors or our reputation as a result of fraudulent activities in the name of Bóthar

The main categories of reportable incident are:

- 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
- financial crimes – fraud, theft, cyber-crime and money laundering
- large donations from an unknown or unverifiable source, or suspicious financial activity using the charity's funds
- other significant financial loss
- links to terrorism or extremism, including 'proscribed' (or banned) organisations, individuals subject to an asset freeze, or kidnapping of staff
- other significant incidents, such as – insolvency, forced withdrawal of banking services without an alternative, significant data breaches/losses or incidents involving partners that materially affect the charity

## Suspicious financial activity

This might include requests from third parties to:

- cash a cheque for a large sum of money
- convert large quantities of cash into another currency
- pay a fee to release funds to be donated to the charity

### Also

Should the CEO / Trustee discover

- that a trustee or a senior manager of the charity is disqualified in law from holding that position;
- Bóthar has experienced major governance problems, such as mass resignation of staff or trustees, or other events, leaving it unable to operate
- Bóthar trustees or employees are the subject of criminal proceedings, in connection with the charity or their role in it
- an incident has occurred involving one of the charity's partners in Ireland or internationally, which materially affects the charity, its staff, operations, finances and/or reputation, such that it is serious enough to be reported.

### How to report

- prevent or minimise any further harm, loss or damage
- report it to the Commission as a serious incident
- report it to the police (and/or other relevant agencies) if you suspect a crime has been committed, and to any other regulators the charity is accountable to
- plan what to say to your staff, volunteers, members, the public, the media and other stakeholders, such as funders
- review what happened and prevent it from happening again – this may include reviewing internal controls and procedures, internal or external investigation and/or seeking appropriate help from professional advisers

If a report must be made to the Charity Regulator the following details will be included in the written report:

- who is making the report and position /authority to do so
- what trustee, if not all, is also aware of the incident
- what happened and when did the CEO become aware of it
- what action has been taken to minimise or avoid further problems
- whether and when it was reported to the police or any other regulatory or statutory agency
- what media handling , including both traditional and social preparations have been made once the issue becomes public

If, having submitted a report to the Charity Regulator, the CEO or/and Board of Trustees becomes aware of any material changes to the facts that were reported, or any other significant developments, this will be communicated with immediate effect. This includes if individuals who were alleged to be responsible for wrongdoing are exonerated or the allegation was found to be false or groundless following further investigation by the charity, the police or another regulator/agency.

### Cash collections

Whilst Bóthar currently does not carry out cash collections. In the event that it does in the future it is aware of the Street and House to House Collections Act 1962 whereby An Garda Síochána are responsible for ensuring compliance by all persons, including charities, under this act.

Therefore if anybody at below management level believes a person has stolen or misconstrued street or house cash collections, she / he is obliged to report this to her / her manager who will in turn, following an internal investigation to understand better the details of the situations, and on believing the theft to have taken place, will report the matter to An Garda Síochána.

The CEO will also report the same situation in writing to the Charity Regulator understanding that under section 28 of the Charities Act 2009, the Charities Regulator is obliged to provide any information obtained by it in the performance of its functions, that causes it to suspect that an offence has been committed by a charity trustee or a charitable organisation, to An Garda Síochána.

## THE CHARITY REGULATOR CHECK LIST

### *Fraud and Theft Checklist prior to report*

If it's a fraud, do you know what type of fraud it is?  
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If it's a theft, what was stolen?  
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What is the estimated value of the loss?  
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When did the charity first become aware of it?  
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How was it discovered – via the charity's own internal controls, its auditors or professional advisers, or perhaps via the bank?  
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What happened and over what time period? Try to summarise the circumstances of the incident without omitting key detail  
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Were your charity's internal policies and procedures followed?  
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Have you taken appropriate action to deal with the incident – has a report been made to Action Fraud or the Police (if theft) and a crime reference number been obtained?  
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Have you recovered, or are trying to recover, the lost funds?  
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Are you pursuing or considering civil recovery of the funds?  
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Are your charity's losses covered by insurance?  
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Is the suspect involved in the charity as a trustee, employee or volunteer?  
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Is the suspect in a senior position (for example Chair, Chief Executive or Director?)  
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Is the suspect responsible for safeguarding the finances (for example Treasurer or Finance Director)?  
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Is this an isolated incident or have a series of connected incidents occurred over a period of time?  
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Are the funds lost from a public appeal, collection or from grant funding – if so, can the activity still go ahead?  
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Are there signs of public interest or significant media attention – do you have agreed 'lines' or a media plan ready?  
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Will you need to take action against an individual (for example disciplinary procedures or suspension)?  
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Do you know if the accused is involved with any other charities?  
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Have lessons been learned and will you review your internal financial controls and procedures as a result?  
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