

CHARITIES SORP (FRS 102)

Accounting and Reporting by Charities: Statement of Recommended Practice applicable to charities preparing their accounts in accordance with the Financial Reporting Standard applicable in the UK and Republic of Ireland

INFORMATION SHEET 3: The Companies (Miscellaneous Reporting) Regulations 2018 and UK Company Charities

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Secretariat to the SORP-making Body:



CHARITY COMMISSION
FOR ENGLAND AND WALES



Background

The Charity Commission for England and Wales (CCEW), the Charity Commission for Northern Ireland (CCNI), and the Office of the Scottish Charity Regulator (OSCR) comprise the joint SORP-making body for charities and as such are required by the Financial Reporting Council (FRC), in accordance with its Policy on Developing Statements of Recommended Practice (SORPs), to keep the Charities Statement of Recommended Practice (SORP) (FRS 102) under review.

As part of this work, the joint SORP-making body may issue information sheets which seek to clarify the application of the SORP or particular recommendations contained within the SORP. Information sheets may also cover matters not addressed in either FRC standards or the SORP, but are relevant to charity reporting and on which the joint SORP-making body considers additional guidance to be necessary. Information sheets do not amend the SORP, are advisory in nature and are released to assist preparers, auditors and examiners of accounts.

It should be noted that information sheets do not form part of the SORP, nor are they reviewed by the FRC and therefore they do not carry the authority of the SORP. They do not introduce new standards for the preparation of financial statements or impose particular interpretations of statutory prescriptions or recommendations of the SORP.

References to legislation and reporting standards are correct at the date of publication. Where this information sheet predates changes in legislation or accounting standards and a conflict is thereby created, or other developments lead to a conflict, the affected clarifications offered in this information sheet cease to have effect.

Context

In July 2018 the UK Parliament approved The Companies (Miscellaneous Reporting) Regulations 2018. These regulations make changes to the reporting requirements in the Companies Act 2006 and the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008. They require companies to include new content in their annual reports where they meet certain specific qualifying conditions.

The new requirements apply to reporting periods beginning on or after 1 January 2019.

The SORP Committee has considered the new reporting requirements and how they interact with the current trustees' annual report required under the Charities SORP (FRS 102). The SORP Committee concluded that there are no fundamental issues of principle arising as a result of the new requirements which would require revision to the current SORP at this stage. However, it was felt that some additional guidance on the requirements and how they will fit with the requirements of the trustees' annual report would be helpful to users of the SORP. Therefore this document helps practitioners understand how they will be affected by the new reporting requirements introduced by the regulations.

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2018 and UK Company Charities***

1. Introduction

Purpose of Information Sheet

- 1.1 This information sheet assists practitioners in implementing the new reporting requirements in The Companies (Miscellaneous Reporting) Regulations 2018 ('the regulations'). The information sheet provides an overview of the provisions affecting UK charitable companies. It is not intended to be a comprehensive analysis of the regulations.

2. Index of Topics (Hyperlinked index)

- [Who is affected?](#)
- [Overview of the new reporting requirements](#)
- [Further information](#)

3. Who is affected?

- 3.1 The regulations apply to charitable companies registered in England, Scotland, Wales, and Northern Ireland (i.e. UK charitable companies).
- 3.2 The requirements apply for reporting periods beginning on or after 1 January 2019. Early application is permitted.
- 3.3 Companies must include new content in their annual reports where they meet certain specific qualifying conditions under provisions. For more information on the scope of each provision affecting UK charitable companies, see [Section 4](#).

4. Overview of the new reporting requirements

- 4.1 The regulations require companies to include new content in their annual reports where they meet certain specific qualifying conditions. Of the requirements introduced, three affect UK charitable companies.
- 4.2 This section provides an overview of each of these requirements (see reporting requirements A to C set out at the end of this section). In addition to providing a factual explanation of each requirement, a reference to its application in the context of charity reporting and the existing requirements of the Charities SORP (FRS 102) has been included where applicable. This guidance is highlighted in bold text. It is noted that the guidance does not impose particular interpretations of these requirements and is non-mandatory in nature.
- 4.3 This section covers only those provisions affecting UK charitable companies. However, the regulations include other reporting requirements which are either not applicable to UK charitable companies or charitable companies are exempt from applying. [Section 5](#) includes references to guidance where information about these requirements can be found. The guidance may serve as best practice where a charity wishes to go beyond those disclosures required by the SORP and other regulatory and legislative requirements.
- 4.4 References to legislative or other regulatory requirements are given in the footnotes to this guidance.

Reference to the directors of a company

- 4.5 The regulations refer to the directors of a company in the context of the directors' report and their general duties.
- 4.6 Charity trustees are the people who under charity law are responsible for the general control and management and administration of the reporting charity. In the case of a charitable company, the charity trustees will normally be the directors of the company. Therefore, those references to directors in the regulations have been interpreted as applying to the trustees of a charitable company.

Structure of the trustees' annual report

- 4.7 The regulations expand the required content of the directors' report and the strategic report.
- 4.8 Module 15 of the SORP contains guidance for UK charitable companies required to provide certain information under company law in the directors' report and the strategic report. Paragraph 15.6 allows UK charitable companies to prepare a combined directors' report and trustees' annual report. In addition, paragraph 15.7 requires those UK charitable companies required to prepare a strategic report to present this report as a separate distinct section of their trustees' annual report. Therefore, UK charitable companies may comply with the reporting requirements by providing the information

within the existing sections of their trustees' annual report.

- 4.9 There will be linkages and overlaps between information contained in the trustees' annual report and that required to be included in statements introduced by the regulations. Charities are encouraged to avoid repetition, maintain the cohesion of the narrative contained within the trustees' report and incorporate information into these statements by cross-reference where appropriate.

Interpretation of turnover

- 4.10 The Companies Act 2006¹ contains conditions for companies to qualify as medium sized companies with one of those conditions referring to 'turnover'. This information sheet interprets references to 'turnover' to be 'gross income'. The glossary to the Charities SORP (FRS 102) explains the term 'gross income' in the context of charity reporting:

'Gross income is a term defined in charity law and is used to determine the thresholds governing the requirements for accounts' scrutiny, the preparation of accruals accounts by non-company charities, submission of reports and accounts and any annual return to the charity regulator.

'The definition of gross income may vary by jurisdiction. In relation to consolidated accounts, gross income is the gross income of the group after any adjustments arising from consolidation (e.g. intra-group sales).'

- 4.11 Gross income is defined differently in each jurisdiction. The [Appendix](#) to this Information Sheet compares the definition of this term across the three charity law jurisdictions in the UK and how it has been interpreted by the relevant charity regulator. This interpretation of gross income as being considered equivalent to turnover is the interpretation of the SORP-making body. Charitable companies should draw their own conclusions regarding the application of the reporting requirements brought forward by the regulations.

¹ See Section 465 (3) of the Companies Act 2006.
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A. Reporting requirement: Statement of how directors have complied with their duties to have regard to matters in Section 172(1) of the Companies Act 2006

Summary of legal requirements²

4.12 Companies are required to include a statement in their strategic report of how directors have complied with their duty to have regard to the matters in section 172 (1) (a)-(f) of the Companies Act 2006 ('the Act').

4.13 A director's duty under this subsection of the Act is as follows:

A director of a company must act in the way he considers, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole, and in doing so have regard (amongst other matters) to —

- a) the likely consequences of any decision in the long term,*
- b) the interests of the company's employees,*
- c) the need to foster the company's business relationships with suppliers, customers and others,*
- d) the impact of the company's operations on the community and the environment,*
- e) the desirability of the company maintaining a reputation for high standards of business conduct, and*
- f) the need to act fairly as between members of the company.*

Application by UK charitable companies

Section 172 (1) of the Act is consistent with the principle of enlightened shareholder value, recognising the perspective of companies run for the benefit of its members. However, Section 172 (2) of the Act considers a director's duties where the purpose of the company is something other than the benefit of its members. In the case of a charitable company, this will be its charitable purposes. The directors must act in the way they consider, in good faith, would be most likely to achieve these purposes. Therefore the director's duties should be modified to be promoting the success of the charity to achieve its charitable purposes.

Who is affected?

4.14 UK charitable companies which are already required to produce a strategic report, except those qualifying as medium-sized in relation to the financial year. In other words, UK charitable companies qualifying as large companies.

4.15 A UK charitable company qualifies as large in relation to its first financial year if two or more of the following qualifying conditions are met in that year³:

- Gross annual income⁴ of more than £36 million;

² Section 414CZA(1) of the Companies Act 2006, inserted by the Companies (Miscellaneous Reporting) Regulations 2018, regulation 4.

³ Thresholds for a large company are set by the Companies Act 2006, Section 465(3).

⁴ Charities should apply a 'gross income' threshold in place of the 'turnover' threshold applicable to for-profit companies that prepare a profit and loss account.

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- Gross (total) assets⁵ of more than £18 million;
- More than 250 employees.

4.16 Charities will need to follow the existing method described in the Companies Act 2006, Section 465(6), for determining the average number of employees throughout their financial year.

Where does the statement need to be provided?

4.17 The statement must be included in the company's strategic report.

4.18 A charitable company may adapt their trustees' annual report to provide the required contents of the strategic report in accordance with paragraph 15.8 of the SORP.

4.19 Where this approach is chosen, the statement may be included as part of the content contained under the heading '*achievements and performance*' in the report, under the heading 'strategic report'.

4.20 In addition, the company must ensure that the statement is available on a website.⁶ This requirement can be discharged by publishing:

- the statement itself;
- the whole strategic report; or
- the complete annual report.

4.21 The website must be maintained by or on behalf of the company. Therefore, this requirement would not be discharged where the charity's annual report is available on a regulator's or registrar's website.

⁵ Section 465(5) of the Companies Act 2006 defines the balance sheet total as 'the aggregate of the amounts shown as assets in the company's balance sheet'. In the context of a charitable company, this will be equal to the gross (total) assets. In the context of a charitable company, this will be equal to the gross (total) assets.

⁶ Section 426B of the Companies Act 2006, inserted by the Companies (Miscellaneous Reporting) Regulations 2018, regulation 5.

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B. Reporting requirement: *Statement summarising how directors have engaged with employees and taken account of their interests*

Summary of legal requirements⁷

- 4.22 Companies are required to include a statement in the directors' report which summarises:
- how the directors have engaged with employees, and
 - how the directors have had regard to employee interests, and the effect of that regard, including on the principal decisions taken by the company during the financial year.
- 4.23 The statement must describe the action that has been taken during the financial year to introduce, maintain or develop arrangements aimed at:
- providing employees systematically with information on matters of concern to them as employees,
 - consulting employees or their representatives on a regular basis so that the views of employees can be taken into account in making decisions which are likely to affect their interests,
 - encouraging the involvement of employees in the company's performance through an employees' share scheme or by some other means, and
 - achieving a common awareness on the part of all employees of the financial and economic factors affecting the performance of the company.

Application by UK charitable companies

The statement is considered relevant in the context of a charitable company. However, it is recommended that the following is considered by charities when providing this information:

- **The existence of employees' share schemes within a charitable company would not apply. Therefore other employees' reward or incentive schemes should be considered under this statement.**
- **It is acknowledged that factors, other than economic and financial factors, may affect the performance of a charitable company. Therefore other factors should be considered under this statement.**
- **Charities often rely on the contribution of unpaid general volunteers in carrying out their activities. Therefore this statement may describe the action aimed at engagement with volunteers as well as paid staff.**

Who is affected?

- 4.24 UK charitable companies with more than 250 UK employees.
- 4.25 Charities will need to follow the method described in Part 4 of Schedule 7, paragraph 11A, of the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008 for determining the average number of employees throughout their

⁷ Part 4 of Schedule 7 of the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulation 2008, inserted by the Companies (Miscellaneous Reporting) Regulations 2018, regulation 13.
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financial year. This is similar to the method described in the Companies Act 2006, Section 465(6), except the regulations provide for this method to be limited to UK employees which does not include 'a person employed under a contract of service by the company other than a person employed to work wholly or mainly outside of the UK'.

- 4.26 Where the company is a parent company it is the number of employees in the group and not just the company itself that is used. For example, if the parent company has fewer than 250 UK employees but the Group as a whole has more than 250 UK employees, they will be required to report.

Where does the statement need to be provided?

- 4.27 The statement will need to be included in the company's directors' report.
- 4.28 A charitable company may prepare a combined directors' report and trustees' annual report in accordance with paragraph 15.6 of the SORP.
- 4.29 Where this approach is chosen, the statement may be included as part of the content contained under the heading '*structure, governance and management*' in the report.

C. Reporting requirement: *Statement summarising how directors have engaged with suppliers, customers and others in a business relationship with the company*

Summary of legal requirements⁸

- 4.30 Companies are required to include a statement in the directors' report which summarises how the directors have had regard to the need to foster the company's business relationship with suppliers, customers and others, and the effect of that regard, including on the principal decisions taken by the company during the financial year.

Application by UK charitable companies

The statement is considered relevant in the context of a charitable company. However, it is recommended that charities consider expanding the statement to cover the charity's relationship with other stakeholders, for example service users, beneficiaries, funders and the wider community. This may be combined with the charity's reporting on those relationships that have affected the achievement of its objectives under paragraph 1.45 of the SORP.

Who is affected?

- 4.31 UK charitable companies which are already required to produce a strategic report, except those qualifying as medium-sized in relation to the financial year. In other words, UK charitable companies qualifying as large companies.
- 4.32 A UK charitable company qualifies as large in relation to its first financial year if two or more of the following qualifying conditions are met in that year⁹:
- Gross annual income¹⁰ of more than £36 million;
 - Gross (total) assets¹¹ of more than £18 million;
 - More than 250 employees.
- 4.33 Charities will need to follow the method described in Part 4 of Schedule 7, paragraph 11C, of the Large and Medium-Sized sized Companies and Groups (Accounts and Reports) Regulation 2008 (inserted by the Companies (Miscellaneous Reporting) Regulations 2018, regulation 13) for determining the average number of employees throughout their financial year. This is the same as the method described in the Companies Act 2006, Section 465(6).

⁸ Part 4 of Schedule 7 of the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulation 2008, inserted by the Companies (Miscellaneous Reporting) Regulations 2018, regulation 13.

⁹ Thresholds are set by Part 4 of Schedule 7, paragraph 11C, of the Large and Medium-Sized sized Companies and Groups (Accounts and Reports) Regulation 2008.

¹⁰ Charities should apply a 'gross income' threshold in place of the 'turnover' threshold applicable to for-profit companies that prepare a profit and loss account.

¹¹ Part 4 of Schedule 7, paragraph 11C, of the Large and Medium-Sized sized Companies and Groups (Accounts and Reports) Regulation 2008 defines the balance sheet total as '*the aggregate of the amounts shown as assets in the company's balance sheet*'. In the context of a charitable company, this will be equal to the gross (total) assets.

Where does the statement need to be provided?

- 4.34 The statement must be included in the company's directors' report.
- 4.35 A charitable company may prepare a combined directors' report and trustees' annual report in accordance with paragraph 15.6 of the SORP.
- 4.36 Where this approach is chosen, the statement may be included as part of the content contained under the heading '*structure, governance and management*' in the report. Alternatively, the statement may be included as part of the content contained under the heading '*achievements and performance*' where it is combined with the information required by paragraph 1.45 of the SORP.

5. Further information

[Guidance on the Strategic Report, July 2018 – FRC](#)

Guidance prepared by the FRC which provides further non-mandatory guidance on the strategic report and incorporates the reporting requirements introduced by the regulations.

[The Companies \(Miscellaneous Reporting\) Regulations 2018 Q&A - Department for Business, Energy & Industrial Strategy \(BEIS\)](#)

Guidance from BEIS which explains the regulations and covers those provisions affecting UK companies.

Appendix: Definition and interpretation of gross income

ENGLAND & WALES

Extract from legislation
<p><i>“gross income”, in relation to a charity, means its gross recorded income from all sources including special trusts’</i></p> <p>Source: Charities Act 2011, Part 18, Section 353(1).</p>
This broad definition is interpreted for administrative purposes by the Charity Regulator
Extract from guidance
<p><i>The definition of gross income for a charity depends on the form of accounts prepared:</i></p> <p>a) <i>‘For receipts and payments accounts’ - gross income is the total receipts recorded in the statement of accounts from all sources excluding the receipt of any endowment, loans and proceeds from the sale of investments or fixed assets.</i></p> <p>b) <i>‘For accruals accounts’ - gross income is the total income as shown in the SoFA prepared in accordance with the applicable SORP but:</i></p> <ul style="list-style-type: none"><i>• excludes the receipt of any endowment; and</i><i>• includes any amount transferred to income funds during the year from endowment funds in order to be available for spending.</i> <p><i>(The SORP total for income and endowments is struck before any gains on the revaluation of fixed assets or gains on investments. Such gains do not form part of ‘gross income’ for these purposes’.)</i></p> <p>Source: Charity Commission for England and Wales, Independent examination of charity accounts: Directions and guidance for examiners (CC32) – December 2017, Page 6.</p>

SCOTLAND

Extract from legislation
<p><i>“gross income” means the total incoming resources of the charity in all restricted and unrestricted funds but excluding the receipt of any donated asset in a permanent or expendable endowment fund;’</i></p> <p>Source: Charities Accounts (Scotland) Regulations 2006, Regulation 1(2) as amended by the Charities Accounts (Scotland) Amendment Regulations 2010.</p>
This broad definition is interpreted for administrative purposes by the Charity Regulator
Extract from guidance

A charity's gross income is the total incoming resources of the charity in all restricted and unrestricted funds but excluding the receipt of any donated asset in a permanent or expendable endowment fund.

Any income that has been collected specifically for, and passed onto, a third party (e.g. that part of a membership fee that is passed onto a parent body, or a collection held for another charity) should be excluded. However, the transferred amount should be recorded by way of a note to the accounts'.

Source:

OSCR, A Guide to Charity Accounts Part 1: The Overview – 2019, Glossary.

NORTHERN IRELAND

Extract from legislation

“gross income”, in relation to a charity, means its gross recorded income from all sources including special trusts;’

Source: Charities Act (Northern Ireland) 2008, Part 14, Chapter 3, Section 180(1).

This broad definition is interpreted for administrative purposes by the Charity Regulator

Extract from guidance

Gross income: The Charities Act defines gross income to mean the gross recorded income from all sources including special trusts.

*For accounts prepared on a **receipts and payments basis** gross income is simply the total receipts recorded in the statement from all sources excluding the receipt of any endowment, loans and proceeds from the sale of investments or fixed assets.*

*For **accruals accounts** this is the income from all sources in the accounting period, including the conversion of endowment to income, but excluding:*

- *gifts of endowment,*
- *net investment gains/(losses),*
- *all revaluation gains/(losses) on retained assets not due to impairment,*
- *actuarial gains/(losses) and such other gains(losses) that are excluded by accounting standards from the calculation of net income.*

Source:

The Charity Commission for Northern Ireland, Charity reporting and accounting: the essentials (CCNI ARR02) – July 2016, Page 9.