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# Hospice and Care Benchmarking Survey Report

2020/2021





# Foreward

Welcome to the Hospice and Care Benchmarking Survey Report for 2020/2021.

The Hospice and Care Benchmarking Survey Report is the fourth study compiled by Haysmacintyre LLP (haysmacintyre) and Hempsons Solicitors, with the aim of sharing best practice in the sector and enabling management and trustees to assess their own structure, governance and monitoring procedures against other comparable charities.

The survey was constructed to offer a broad range of benchmarks and our thanks goes to those that participated in the study for their insights in producing this report, which we hope you find both useful, and informative.

We expanded the survey this time around to capture additional information on training provided to trustees, how risk registers and reserves policies have been adapted in response to the pandemic, what information is provided in management accounts to trustees, and to explore if there have been any changes experienced in discussions with funders.

There are areas of the survey which show that the sector continues to adopt best practice and common principles. Governance structures remain consistent with the use of subsidiaries for trading or retail operations. There is a commonality in the risks identified within the wider sector and unsurprisingly, income generation remains the highest risk on all respondents' agendas.

COVID-19 continues to have a significant impact upon the sector, as demonstrated with 32% of respondents now including the pandemic as a key risk to the charity on their risk registers. The implications for all charities have seen revised strategy documents produced and a review of reserves policies to ensure they are still appropriate. The care sector in particular has seen very different challenges but continues to operate and provide care in difficult circumstances. Many in this survey are charities that rely heavily on fundraising income to support their charitable activities. The coming months will be a real test of both the resilience of the sector and the loyalty of those who are able to continue to support charities, as we continue to emerge from the various restrictions imposed by the Government in response to the pandemic.

There are, however, key areas where the sector can improve. These include:

1. Governance procedures, and in particular the length of terms of office: the need to constantly review the relevance of the sub-committee structure, terms of reference for sub-committees, conflicts of interest guidance, and to adopt and report on compliance with the underlying principles of the Charity Governance Code.
2. Clinical governance: given the risk surrounding this area and the increase in public interest, we recommend that all organisations have a sub-committee with remit to manage clinical governance wherever possible, with a designated lead taking a proactive day to day management role.
3. Reserves policies: whilst fundraising and income generation remain a key issue for many in the sector, increasingly so as we emerge from the pandemic, there is a need to review your reserves policy at least annually. This will help to ensure it is fit for purpose and aligns with your revised strategy, particularly to link with revised fundraising strategies to ensure the messaging is consistent.
4. IT and data security: With increasing reports of data breaches and release of sensitive data, caution needs to be taken to ensure that care charities are safeguarding their data by ensuring Data Protection Officers understand their role and all staff and trustees receive appropriate training.
5. Self-employed status: this continues to be an area of focus for HM Revenue & Customs (HMRC). Ensure that you have carried out your due diligence and remember that, as an employer, it is your decision to determine self-employed status and not the individual. If in doubt, include the individual on payroll.

If any reader would like further information or advice on any of the areas raised in this report please do contact either Lee Stokes or Ian Hempseed.



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# Structure and governance

## Structure of your organisation

This year, respondents' income ranged from £30k to £196m. The mix of respondents included 15% hospices, 60% charities delivering care and 25% were a mix of endowed, grant making and mental health charities. Total turnover of respondents was over £700m. 72% were multi-site locations in England and Wales or operated UK wide, whilst 28% operated from a single site location.

## Number of trustees

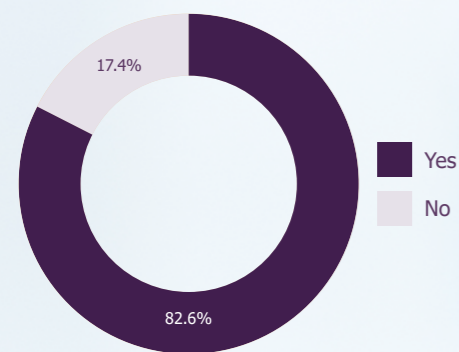
The average number of trustees of charities participating in this survey was ten, with the highest being 17 and the lowest three. Whilst the number of trustees remains an important benchmark for individual charities, the sector has focused more on the diversity and gender mix of trustee boards. As part of this year's survey, we enquired as to the gender mix, and the average results of respondents showed that 54% of trustees were male and 46% female, a favourable comparison to our 2019/20 survey where 58% of trustees were male and 42% female.

## Good governance code

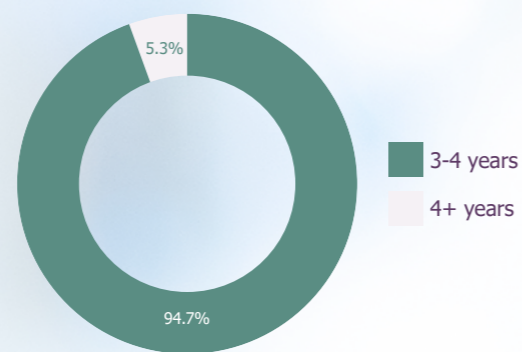
Whilst not a statutory requirement, the Charity Commission continues to recommend that trustees of charities benchmark themselves against the Governance Code (the code), a collaborative document which was refreshed in December 2020. Only 48% of 2020/2021 respondents confirmed that they had referenced the code in their reports, down from 52% in 2019/2020. Whilst this is an unusual position to be in, as it is not compulsory guidance and is not issued by the Charity Commission, we would recommend that all charities review the guidance and their compliance with it, and disclose in their trustees' report on how they are implementing the guidance.

One of the key aspects of governance within the code is the terms of office for trustees, where they recommended that trustees should not serve for longer than nine years without good reason. 83% of respondents have confirmed that they have fixed terms of office for their trustees (2020: 92%) with the most common term being three to four years. The most surprising response to the survey, given the guidance, is that 26% of respondents have no cap on the number of terms a board member can serve.

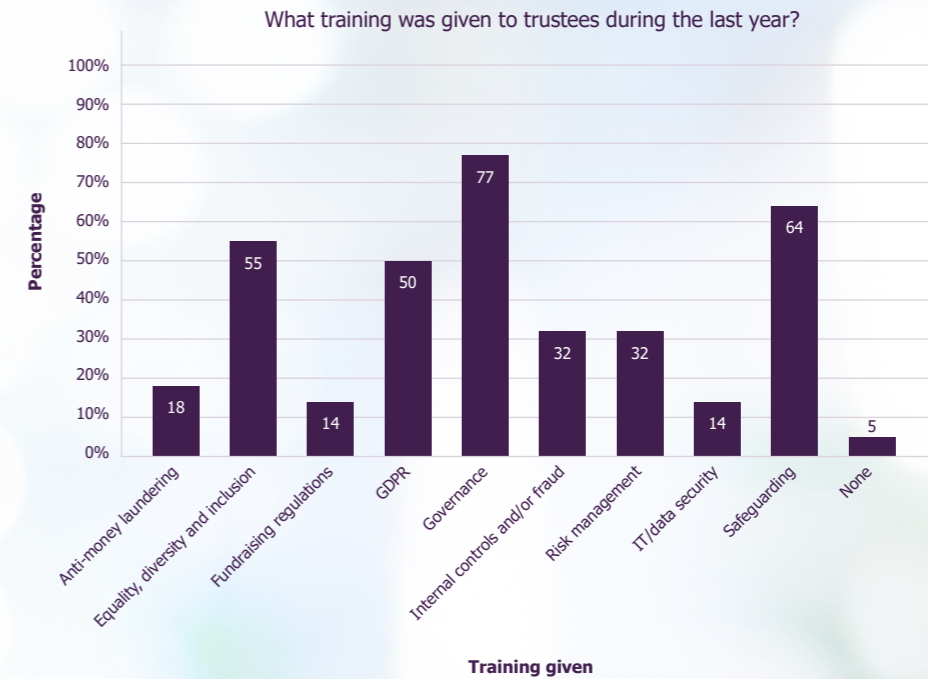
## Do your Trustees have a fixed term of office?



## How long is their fixed term?



89% of respondents confirmed that they carried out a skills audit of trustees to identify the existing skillset within the charity and the skills or knowledge the organisation will need in the future. We also asked respondents what training was given to trustees during the last year with the following results:



What is particularly surprising from these responses, is that only 14% of respondents had attended IT training in the last year, given the increasing reports of data breaches in the sector and fraudulent attempts which continue to be led by IT weaknesses. 5% of respondents provided no training on any of these areas at all.

**Sub-committees**

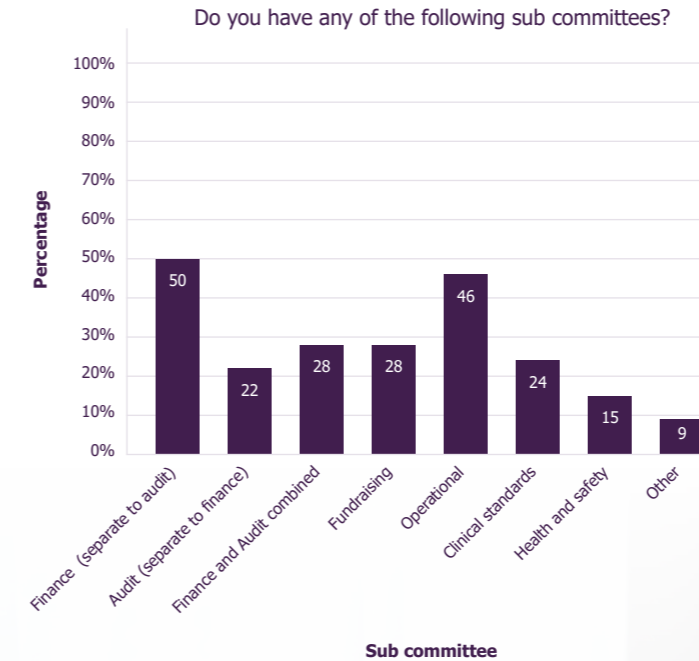
The framework of your governance structure is often dependant on the availability of trustees to dedicate time to sit on additional sub-committees, and in part depends on the number of trustees that you have.

There is no right answer as to whether it is beneficial to split 'finance' and 'audit' into two separate committees or to combine them. A separate audit committee is more common in larger organisations where they may have an internal audit function, although it is also increasingly common for audit and risk to be combined into a single committee. The question is: what is the role of this committee in respect of risk? Is it to ensure that there are policies and procedures in place to manage risk, or does it have delegated authority from the board to manage the risk management of the organisation? Ultimately the board are responsible, but they can delegate certain tasks to a sub-committee, so it is key that this delegation is clear.

If charities have multiple committees, it is important that there are clear terms of reference detailing the responsibilities for each committee, with minimal cross-over. Terms of reference for committees should be subject to regular review to ensure they remain relevant for the changing nature of your business, and any change in terms of reference can only be authorised by the full board.

Very clear and focused agendas will help to ensure that the terms of reference are adhered to. The survey results indicate that 86% of those with sub-committees gave delegated authority to the sub-committee to make decisions or incur expenditure. This often improves the speed of decision making and can be a useful tool to perform the role of the committee. It is also positive that all respondents confirmed they have a 'Scheme of Financial Delegation' or similar scheme in place, which sets out the key financial delegations within the business and that 95% regularly review their financial policies.

Approximately 50% of care providers neither have a Clinical Standards or Health and Safety committee. We would always recommend that clinical and/or health and safety governance and monitoring require a separate sub-committee or working group to give the topic appropriate time and consideration. There should also be a designated lead to proactively manage matters on a day-to-day basis to ensure there are no undue delays in a matter awaiting board or sub-committee input.



**Key points**

- The most common response among those charities that reported upon the number of terms for trustees was two or three terms.
- Approximately 50% of respondents that provide care have neither a Clinical Standards or Health and Safety Committee.
- It is recommended for clinical and/or health and safety governance and monitoring to have a separate sub-committee/working group to give the topic appropriate time and consideration. There should also be a designated lead to proactively manage matters on a day to day day-to-day basis so as to ensure no undue delays in a matter awaiting board or sub-committee input.
- We continue to recommend that the terms of reference of all committees be reviewed by the board of trustees annually to ensure that they remain appropriate to the changing needs and demands of the business.
- We recommend all charities review and refer to compliance with the Charity Governance Code.



# Review of key governance matters

An area which continues to be of increasing focus for the Charity Commission is conflicts of interest. The Charity Commission guidance on identifying and managing conflicts within a charity are set out within CC29. 96% of respondents this year confirmed they maintain such a register for trustees.

A point worth considering is whether you have a conflict of interest policy within your governing document. Many organisations do, and where this is the case, it is the policy in the governing document that must be followed. We have seen policies being updated or amended outside of the governing document and unless the organisation amends their governing document, it is often the case that the updated version is defunct.

The key to the Commission's guidance is that in addition to having a policy, you must then document how you addressed any conflicts that arose within the minutes of the meeting. Often a reference is made to a particular trustee having a conflict with agenda item 'x', but the minutes are then silent on how that conflict was then managed. Did the trustees consult the policy and agree that the trustee could stay in the meeting and vote? Or were they allowed to stay in the meeting for the discussion but prohibited from voting? Whatever the result, this should be clearly noted as evidence of how the conflict was then managed.

The revised guidance draws a particular distinction between conflicts of interest and conflicts of loyalty. Classically the second can, and does, occur in this sector. An appointed trustee who happens to be appointed by an organisation that is also a funder to the charity would be a classic example.

Whilst a conflict of interest register is good practice, auditors often refer to related party transactions with trustees. This is slightly different and more wide ranging. It is there to capture all the relationships that a trustee, or their connected family members, may have with the charity and to identify whether they had any transactions with the charity. It is worth considering extending your internal registers to capture this additional information. Whilst this information is captured to manage conflicts of interest of trustees, we are also finding it common for organisations to require similar disclosures for senior leadership team members. After all, if those procuring services are doing so from an organisation in which they have, or another close family member has, an interest, this would be relevant information in considering whether or not to procure from that organisation.

You will see from the graph below that review of other key documentation is carried out in the sector by the majority of respondents, although we would recommend that, in particular, the governing document is dusted off once a year by the full trustee board. This can help to ensure trustees are being validly appointed and that new activities are within the charity's objectives.

In the current climate, it is also a reminder of what the charity can and cannot do. It is easy to chase funding in these times and whilst you may be able to deliver a contract or grant, or carry out the wishes of a donor, if your governing documents restrict your ability to do so, then you should not accept the money or carry out that activity without first updating and expanding your objects.

Statutory books and records are often overlooked within organisations generally, and it is important that they are kept up-to-date to ensure that records, in particular, members' registers and trustees' appointments and retirements are accurate.

## Key points

- 96% of respondents had a conflict of interest policy, which is reassuring.
- Conflicts of interest continues to be an area of increasing focus for the Charity Commission. Review your policy and ensure it is practical.
- It is key to document how conflicts are addressed in the minutes of meetings.

When did your trustees last review the following?



# List of risks

It has long been a requirement of the Charity SORP that in addition to acknowledging you have a process for identifying risk and have mitigations in place where necessary, you must identify the key risks that your organisation faces and the precise mitigations that you have to manage those risks, in the trustees' annual report.

We have seen an increasing number of charities consider in more detail the risks they face, and it was not a surprise to see income generation, again, as the most common risk identified by respondents. Staffing and compliance with regulations continue to be the other two most common risks, not least given the more robust approach being taken by CQC and local authority safeguarding teams within the sector. Lack of skilled staff and salary costs continue to be areas of concern but burn out of over worked staff is now the most important staffing risk identified by respondents.

It was notable that COVID-19 also now appears as a key risk on 32% of risk registers for those completing the survey which is probably to be expected given the significant impact the pandemic has had on the sector generally. 37% of respondents reported that they operate a separate risk register for COVID-19 or set up a separate committee in response to the pandemic.

We reinforce our earlier comment that we would expect a clinical governance or health and safety sub-committee to be in place, and that there is a lead who is clear on the charity's regulatory responsibilities so as to ensure that day-to-day matters are handled proactively and are addressed in a timely manner. The CQC in particular is keen to ensure that there is a 'top down' culture within an organisation

– meaning the culture and values of the organisation are demonstrated and led from the top – and that all those within the organisation, in whatever capacity, understand and 'buy in' to regulatory requirements and responsibilities.

As we emerge from the pandemic, income generation, now more than ever, is under increased pressure. Most fundraising events have been cancelled over the last couple of years and so the risk register has fast become a key means of managing the business.

It is interesting that the responsibilities for managing risks in the responses to this years' survey show that 78% of respondents confirmed that the senior management team are responsible for reviewing the risk register, which indicates that it is a more live document than just being committee-led. 70% of respondents also confirmed that the register was reviewed at full board meetings, whilst 78% also gave delegated authority to the sub-committees to review risk.

We continue to recommend that risk management is included as an agenda item not only for each board meeting, but also on the sub-committee agenda where the sub-committee is responsible for a particular area of risk, and additionally that senior management who are responsible for individual risks are asked to present to those committees in person, or that they themselves provide reports on how the risks are being managed.

In the current time, it may also be advisable for the board to meet more regularly in order that key decisions and management options are duly considered, and actions taken on a more regular basis than the normal cycle of meetings.

As income risk continues to be one of the highest risks reported, it is only right that we reference the Fundraising Standards Board (FSB). The integrity with which charities in all sectors approach and maintain contact with donors will be a key focus in maintaining the reputation of 'charity'. Many clients have been through a process of cleansing data and ensuring that they have the relevant authority to maintain contact with donors and supporters as part of the GDPR regulations.

Cyber-attacks also continue to be a key risk for many organisations. We continue to see the usual phishing email attempts and requests for quick supplier statement payments, but most organisations are now alert to these attempts and have processes in place to intercept them. More sophisticated attempts continue to focus on supplier payments by pretending to be a supplier changing bank account information. A more recent change of tack has been that scammers have focused on attempts to avoid finance departments who are now savvier, and they are contacting HR to attempt to impersonate a member of staff and have their salary diverted to another account in their name. Again, all organisations should have processes in place to validate any change to information, which should include, as a minimum, contacting the employee directly or supplier on a recognised number from a previous invoice, and approval processes for any changes.

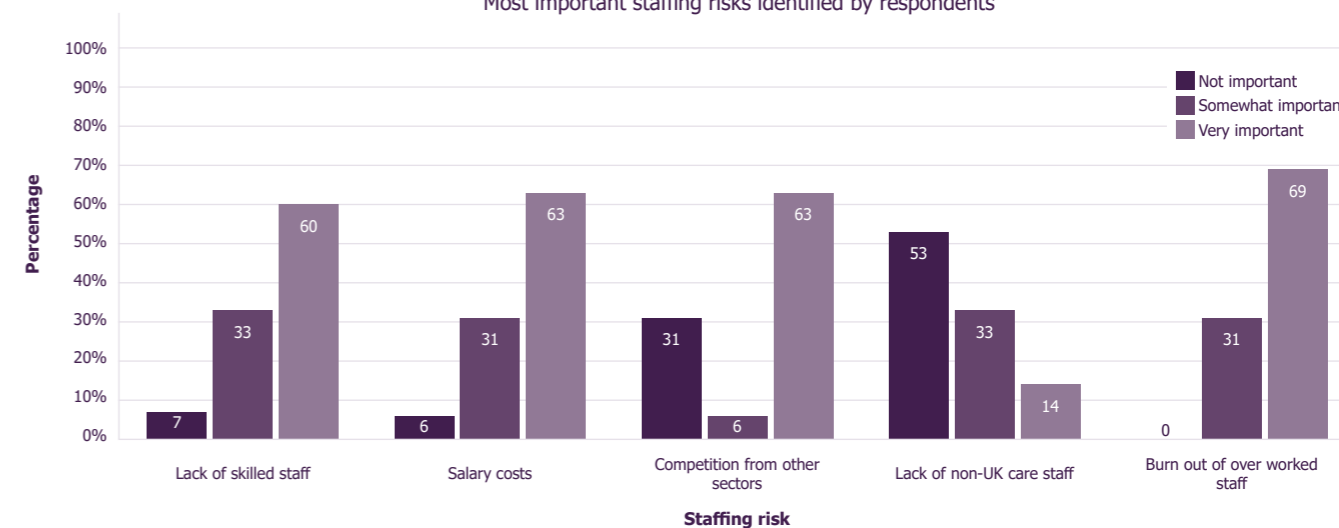
## Key points

- We continue to recommend that risk management is included as an agenda item not only for each board meeting, but also on the sub-committee agenda where the sub-committee is responsible for a particular area of risk, and additionally that senior management who are responsible for individual risks are asked to present to those committees in person, or that they themselves provide reports on how the risks are being managed.
- Cyber risk is now a heightened risk on many registers. Stay alert for renewed cyber-attacks.

## Key risks identified by respondents continue to be:

- Income generation
- Staffing
- Compliance with regulation
- Health and safety
- IT and data security (including cyber-attacks)
- COVID-19
- Reputation

Most important staffing risks identified by respondents



# Reserves management

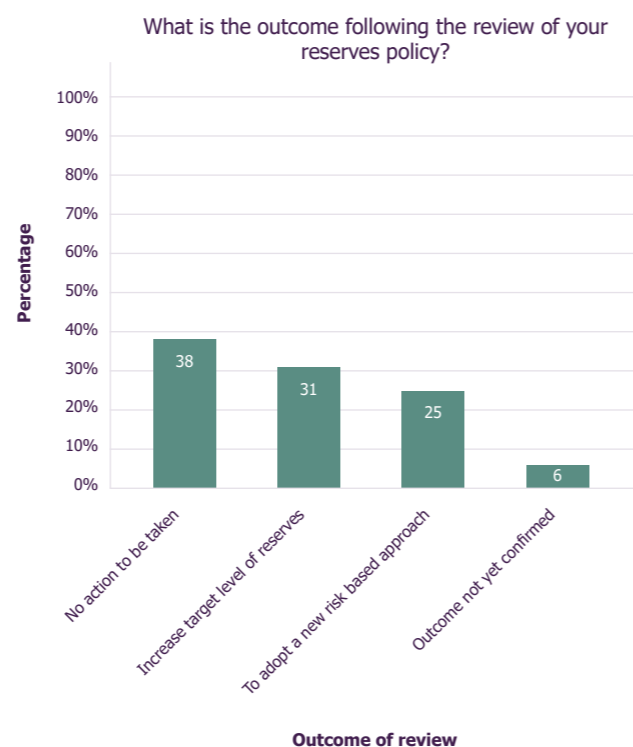
The level of reserves that any organisation needs to have to operate effectively is an area which has continued to be debated in the sector. The SORP requires that you must state your policy on all funds held at the year end. Whilst this may include restricted funds and endowed funds, which are not available to the charity in the normal course of operations, it does provide a full disclosure of the financial capacity of a charity. This must be right in order to give a full appreciation of the charity and how it is funded.

Many organisations in this sector rely on contract income (either individual contract funding or block local authority grants) and/or supported by significant fundraised income. Often such income can be restricted to a particular location or age grouping, particularly with hospices that cater for both adults and children, and there needs to be a very clear link between the individual reserves that you hold and the strategies that you have for operating and running the charity.

Reserves strategies have become more sophisticated, and the charity sector is gradually moving away from the generic 'three months of running costs' that we have seen in the past. 70% of respondents still had a policy linked to expenditure but this has decreased from 91% in 2020.

The COVID-19 risk has driven most organisations to take advantage of government initiatives and to have to rethink their entire income generation strategy going forward. With fundraising events cancelled in the last couple of years, charities have dipped into those reserves, if they had them, or significantly curtailing the activity that they have. However, this is not a viable option in the care sector. Key to financial sustainability will be cashflow management and ensuring that local authorities or others that owe you money are chased more regularly for prompt settlement.

There has been an increase in respondents considering not just months of expenditure, but also income risk, potential closure costs and funding future developments, and so this area was becoming more sophisticated even before the outbreak of COVID-19. 60% of respondents have revised their strategy document and 80% have reviewed their reserves policy since the emergence of the pandemic with the outcome as follows:



In the current climate, fund management must be considered carefully, particularly where you have restricted or endowed funds that can only be spent on a particular activity. The temptation to utilise these funds for short term cashflow should be avoided without professional advice, in particular legal.

In the example overleaf, being able to designate an amount out of unrestricted funds that matches the value of fixed assets, explaining that they are not liquid funds and are required to be held to operate the charity effectively, the remaining 'free reserves' of £100,000 is a much more accurate and helpful statement to the reader of the accounts.

Without designations		
	£	£
Fixed Assets		2,500,000
Debtors	200,000	
Cash	300,000	
	500,000	
Creditors	(250,000)	
		250,000
<b>Total</b>		<b>2,750,000</b>
Unrestricted Funds		2,600,000
Restricted Funds		150,000
<b>Total</b>		<b>2,750,000</b>

Using designations		
	£	£
Fixed Assets		2,500,000
Debtors	200,000	
Cash	300,000	
	500,000	
Creditors	(250,000)	
		250,000
<b>Total</b>		<b>2,750,000</b>
Unrestricted Funds:		
Designated Funds		2,500,000
General Funds		100,000
Restricted Funds		150,000
<b>Total</b>		<b>2,750,000</b>

## Key points

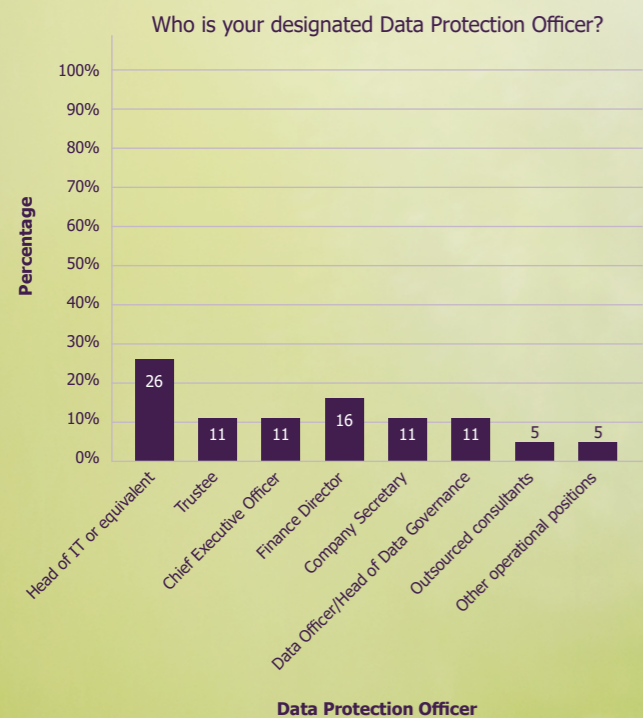
- Reserves strategies have become more sophisticated, and the charity sector is gradually moving away from the generic 'three months of running costs' that we have seen in the past, although 70% of respondents still had a policy linked to expenditure.
- Our recommendation is to utilise your reserves policy in your statutory accounts to tell your story. We continue to encourage charities to consider the use of designations to help you explain your balance sheets, particularly where you have property or investment assets which would not normally be sold or drawn down to cover operational spend.
- We recommend that all charities should review their reserves and link them to the current risks and future plans of the organisation; those who have done this already should continue to review their policy annually to ensure it is still appropriate for the charity.



# IT and data security

Data Protection legislation is well known for being complex and burdensome not only on corporate organisations, but also increasingly on charity and not for profit organisations. Charities in this sector hold very sensitive data both on beneficiaries in their care, parents/relatives of beneficiaries and donor information, not to mention information on staff. The regulator has made very clear statements that whether you are a charity or a corporate body, the rules apply in equal measure.

Charities should have a designated Data Protection Officer and 95% of respondents confirmed this to be the case (2020: 78%). It is a common theme to see that this title is given to a range of job holders within the organisations. The Head of IT or equivalent was the most common amongst respondents at 26% in our survey. Within other responses, Data Protection Officers include Trustees, the Chief Executive Officer, Finance Director, Company Secretary, Data Officer or Head of Data Governance, outsourced consultants, or other operational positions. This is shown in the graph below:



The key here is not that someone has the title or responsibility, but whether they understand the importance of the role and what is required of them. All respondents with a designated Data Protection Officer confirmed that the individual either held an appropriate qualification or had received specific training for the role.

There are certain key IT risks that a Data Protection Officer should have in mind, and it should form part of your risk register as a sector. Consider how you get the comfort that what you are doing is reasonable given the type of information and resource that you have available and ensure that the person with that responsibility has access to appropriate training.

We, again, recommend a review and report to trustees annually to provide comfort over adherence to these regulations, but also that those with the title or role receive appropriate training in order for them to fulfil their duties properly.

## Key points

- Consider how you get the comfort that what you are doing is reasonable, given the type of information and resource that you have available.
- Review and report to trustees annually to provide comfort over adherence to these regulations, but also that those with the title or role receive appropriate training in order for them to fulfil their duties properly.
- Ensure that those with the role and responsibility for Data Protection have access to appropriate training for the role.





# CQC and compliance

We included additional questions in the 2021 survey around serious incident policies and reporting, in addition to those on Care Quality Commission (CQC) and regulation. 84% of respondents reported that they have a serious incident reporting policy down from 90% last year. 21% of respondents had serious incidents to report in the year (2020: 58%), 56% reported data protection breaches (2020: 33%), 33% reported safeguarding issues (2020: 42%) and 11% had other reports (25%), which included attempted fraud against the charity. 67% (2020: 35%) submitted reports to senior management, 44% (2020: 47%) to the board of trustees and 67% (2020: 30%) to a regulator, whether that be the Charity Commission, CQC or other.

Safeguarding has continued to receive increased public attention, and an assigned safeguarding lead is essential. In 2020 most respondents reported that the lead was at trustee level (30%), and this was also true this year where 26% reported that the role was at trustee level, 16% at CEO, 11% Medical Director or equivalent and 4% Head of HR or equivalent.

68% (2020: 56%) of respondents have had a CQC inspection within the last five years and of those 32% (2020: 26%) had received such an inspection in the last twelve months.

Preparing for any regulatory visit does take time and can involve additional professional advice. 23% (2020: 30%) of respondents who had a visit chose to carry out a dry run of the inspection in advance, 31% (2020: 26%) sought professional advice or guidance and 23% prepared internally or attended a training course.

The results of CQC inspections are also interesting to note, with 42% (2020: 43%) of CQC reports and ratings being accepted, 11% (2020: 0%) of respondents successfully challenging the report and grading and 5% still awaiting results of their challenge. There were no reported unsuccessful challenges this year (2020: 4%).

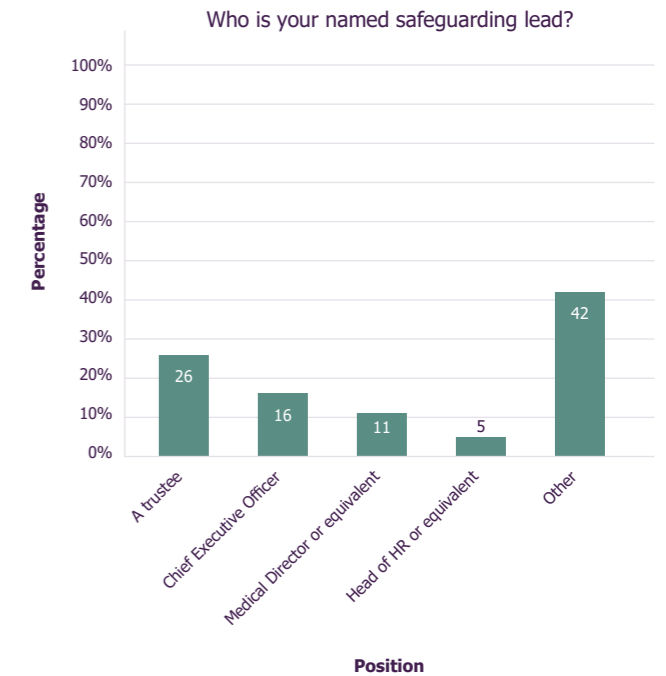
The low response rate to challenges remains consistent and shows a general reluctance to challenge the CQC findings. Providers should be encouraged to seek advice, challenge any dissatisfaction with reports and not be fearful of the regulator.

It is important that respondents take a step back from their CQC report, and take timely action where required. The CQC continue to respond positively to providers who demonstrate insight and address very quickly those issues which have been raised. It is important therefore that compliance with CQC standards and requirements is reviewed on an ongoing basis with input from a senior management lead, as well as staff on the ground.

Whilst a CQC visit reports on a snapshot in time, every provider can benefit from improving systems and processes year-round, ensuring that investment is made in the right areas of the service at the right time, hopefully on a proactive as opposed to reactive basis. 53% of respondents confirmed that they have had contact with the CQC during the pandemic, 70% on a quarterly basis and 30% on a monthly basis.

### Key point

68% of respondents have had a CQC inspection within the last five years and of those, 23% chose to carry out a dry run of the inspection in advance, lower than previously.



# Other areas

## Key management personnel

A disclosure requirement for organisations to include the total costs of all key management personnel within the notes to the accounts was introduced in the last SORP. It was an attempt to provide additional information but was always an area where there was likely to be disparity as to who would be included within the disclosure.

The current survey results emphasise this, with 29% only including the CEO's salary as key management personnel, 14% including the CEO plus one other, but 50% of organisations include the senior management, senior leadership team or equivalent. This later grouping is by far the most used in the wider charity sector.

## Management information

In these challenging times it is important to have a close eye on the financial performance of the charity and for trustees to have up-to-date and informative data. In our last survey we identified the following typical KPI's that the sector commonly tracked as part of the management accounts:

Detailed analysis by cost centre
Summary of highlights
Comparison with budget for month/quarter
Comparison with budget for year to date
Comparison with last year for month/quarter
Comparison with last year for year to date
Forecast results for the year
KPIs for operational areas
Balance sheet
Cash flow statement

There does not appear to have been a significant shift in the types of KPI's being tracked and the four most common KPI's reported in this survey were income, staff turnover, sickness and occupancy/hours of care provided. 29% of respondents continue to track these KPI's as part of their regular management information (2020: 45%). 7% of respondents did not track KPI's as part of their management information, a significant reduction from 55% of respondents in 2020. We would recommend all organisations continue to identify those KPIs, particularly in the current climate, to have better information on the business. Such information is often more informative than just the numbers and can identify trends on which management and trustees can act quickly.

As part of our trustee training programme, we regularly advise trustees on the accuracy and quantity of information provided to trustees and the level to which they should challenge management about the true performance of the business. Trustees should review the information they receive and the frequency of such information to assess if they are receiving the right information, on time and in a format that they understand. This enables them to effectively challenge management if necessary – a key function of being a trustee and evidencing that you have exercised your fiduciary duty.

We extended the survey questions this year to include further details on what information is included within the management accounts presented to trustees. 86% of respondents confirmed that they received monthly management accounts whilst 14% received them quarterly. Respondents also noted that 71% of management accounts produced included cashflow forecasts and 73% separately analyse restricted/endowment funds as part of the data provided. We recommend that cashflow forecasts and an analysis of results by fund is included as part of all management account reports to facilitate the trustees in making appropriate decisions for the charity. It is important to separately analyse the results by fund to see how restricted income has been utilised as this income is not available for general use by the charity.

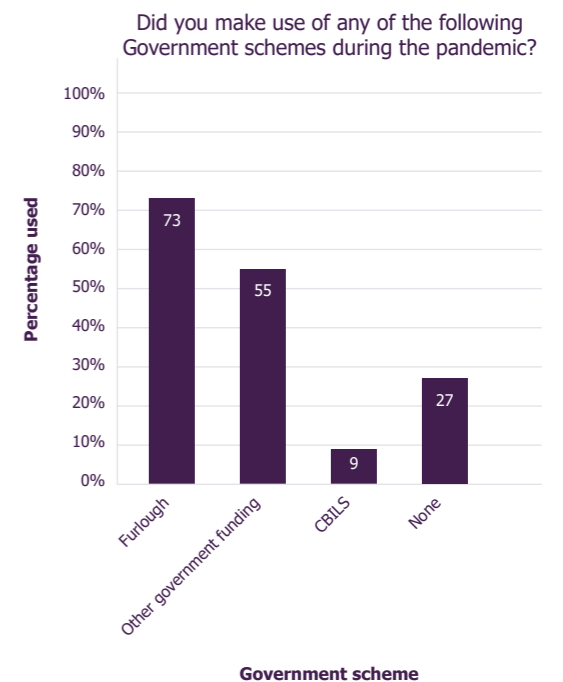
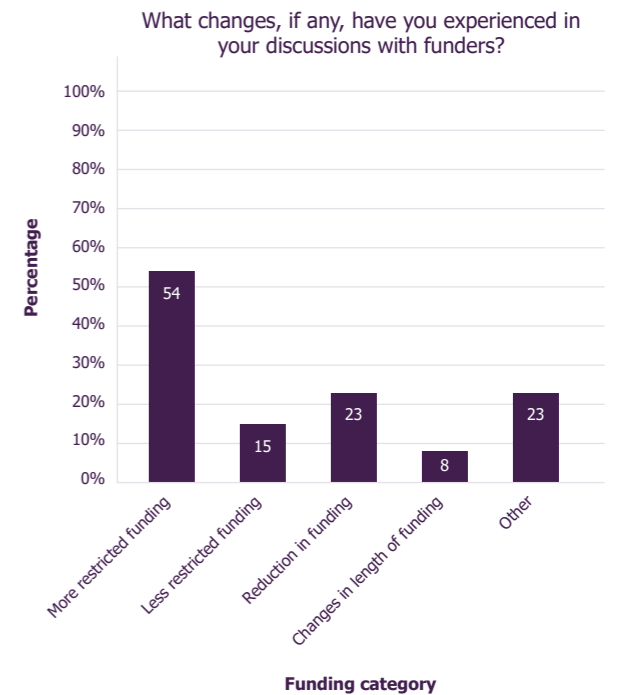
## Fundraising, retail activity and Gift Aid

Retail operations continued to be a lucrative source of additional income for care-based charities, although there is generally a much higher concentration of retail operations in the hospice sector, than the wider care sector. 33% of respondents had shop operations and all have processes in place to claim Gift Aid on the sale of donated goods.

We have consistently advised clients on the ability to receive the charity business rates relief for those that have shops. To protect this position, the optimal solution is to have the shop leases in the name of the charity and not the trading subsidiary. There remain a number of organisations that have not adopted this approach and we would encourage those with leases in the trading subsidiary to review their position.

One of the key challenges of the last Charity SORP was to notion that you should, where practicable, value donated goods at the point of receipt. In our 2016 survey all respondents were consistent in their approach that they would continue to value donated goods at the point of sale, presumably on the basis that the time, effort and benefit in valuing at the point of receipt was disproportionate compared with any benefit that would result. This view has not changed in this year's survey. The exception to this might be where you receive donated space in order to deliver your services and this is a much more of a practical benefit to value at the point it is received and utilised.

We also extended the survey questions this year to see if any changes have been experienced in discussions with funders and to see how many had utilised the Government schemes provided during the pandemic. 54% of respondents confirmed that they have received more restricted funding whilst 23% have seen a reduction in total funding received. 73% of respondents confirmed they had made use of the furlough scheme whilst 55% utilised other Government funding schemes provided.



### Trading subsidiaries

The structure of many charities includes a trading subsidiary for non-charitable activity or to isolate an activity from a risk perspective, or because it makes good tax planning sense.

The Charity Commission and HMRC has issued revised guidance which has considered the arrangements in place between parent charities and their trading subsidiaries.

The focus of those guidance notes has been on ensuring that there are clear arrangements in place for the charging of services and utilisation of other resources (property, accounting support etc.) between the two organisations.

Whilst it is not a strict requirement to have a formal document in place, it is advisable to have a service level agreement between the parent and each trading subsidiary that sets out the basis of any charges and utilisation of resources, and that these services are charged for on a regular basis. They should not only be charged for but also settled as they would be with any other third-party provider of services by the trading subsidiary. The focus of HMRC's attention here is where a charity only charges at the end of the year or that settlement is a netting off of other transactions. This might result in HMRC taking the view that the parent charity is using charitable funds to provide financial support to a trading entity i.e. a misuse of charitable funds and therefore a breach of the exemption from corporation tax.

Respondents to this year's survey have indicated that those with a trading subsidiary in their structure all have a service level agreement or equivalent in place. We always recommend that this is a good discipline and can help to evidence the arm's length nature of the arrangements to protect the charity's position.

### Compliance checks

We asked again in this year's survey to advise on the frequency of compliance visits and the results show a general trend that the number of visits seem to have reduced. 95% of respondents do not remember the last time they had either PAYE visit or Gift Aid review, and the figure was 83% for a VAT visit.

What we have seen is an increasing use in technology by HMRC to identify organisations that may have an issue or where they might seek to ask further questions as a result of submissions. The online submission of returns has resulted in a more strategic approach rather than carrying out ad hoc inspections.

### Staffing

The use of temps or zero hours contracts is common in the care sector, which has been an area of focus for HMRC, particularly self-employed status and IR35.

It is more likely that self-employed status issues will affect this sector and whilst these have not really changed, it is an area that can easily trip organisations up. Responses to the survey confirmed that 25% of respondents have individuals that are deemed to be off-payroll. There was little consistency in whether these individuals are regular providers of service or not, but it is an area that we would advise to consider very carefully.

HMRC have been in legal proceedings in the last year with a number of charities over their stances on self-employed status, and we would recommend that the [HMRC checklist of factors to consider](#) is completed for each individual that you deem to be self-employed, to show that you have carried out your due diligence. Retain this information on file.

It has been common that the individual has provided a letter confirming that they pay their own tax, but unfortunately this is not worth the paper it's written on – it is up to the engaging organisation to ensure that they are happy that the individual meets the test of being self-employed and not the individual themselves. If in doubt, treat individuals as employees.

### NHS and commissioning

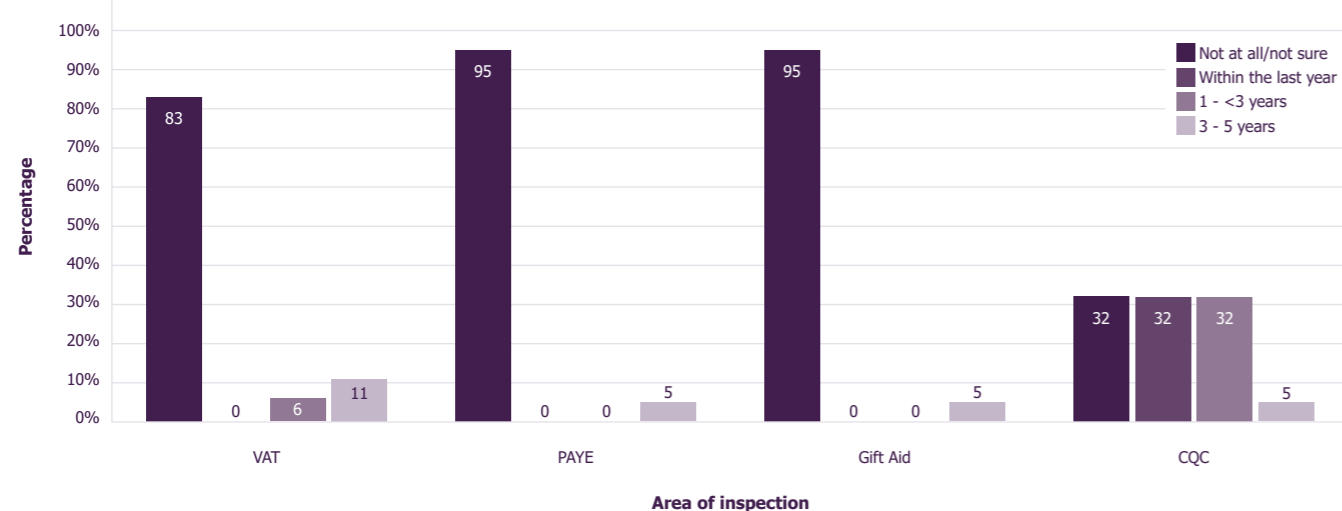
Whilst the Government and sector bodies have battled for some time to try and encourage not only statutory bodies, but also other service contract funding providers to award multi-year grants to provide greater security for the sector, it is still very clear that this has not been the case, with 60% of respondents confirming that their funding in this area was for one year or less (2020: 73%).

This continues to add to the uncertainty and difficulty in forecasting and planning within the sector.

### Key points

- Trustees should review the information they receive and the frequency of such information to judge whether they feel they are getting the right information, on time and in a format that they understand. This enables them to effectively challenge management if necessary – a key function of being a trustee and evidencing your financial duties.
- All respondents who have retail operations have chosen to continue valuing donated goods at the point of sale.
- We continue to recommend that charity shop leases are in the name of the charity to help preserve the business rates relief.
- We recommend that a service level agreement be put in place for any charity that has a trading subsidiary to help protect their use of charity resources on the trading subsidiary's behalf.
- With a significant change in income mix, or complex group structures, always ensure that it is optimal from a tax perspective and that you preserve any VAT recovery position.
- We believe HMRC will ramp up its visits, so we advise charities to be mindful and ensure that their VAT arrangements, and structure are robust and defensible.
- Review and ensure that you have evidence of your due diligence for every person you engage who is being treated as self-employed.

When was the last time you had visits or inspections in the following areas?



# Conclusion

In devising this survey, our aim was to bring to your attention commonalities within the sector for you to gain assurance that you are aligned with best practice and your peer organisations. The survey certainly identifies similarities in your methods of working, your governance structure and reporting practices.

We have, however, highlighted certain areas where additional information and perhaps review of internal processes may be beneficial.

We hope that you have found the results of the survey and our commentary useful and if you have any queries regarding the report, we would be pleased to discuss them with you.

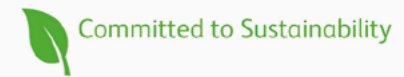
Thank you to all the respondents that contributed to the survey.



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Shortlisted 2019 National Firm of the Year



Shortlisted 2019 Tax Team of the Year



Highly Commended Partner of the Year



Winner: Audit Team of the Year



Winner of the Bronze Award for 2018 and 2017



Top adviser to the top 5,000 charities, Charity Financials' league table 2021



Top ten by audit fees in the 2020 Charity Finance Audit Survey