

All Together! Pro Bono Research Matter

PART I: Overview of Charitable Fraud in the UK and US

Charities play a major role in the societies of the UK and US. In 2018, approximately 168,000 charities were registered with the UK's Charity Commission in England and Wales, and more than 2 billion hours were volunteered across the UK.¹ In the United States, approximately 1.68 million tax-exempt organizations were registered with the US Internal Revenue Service (the "IRS") in 2018, of which approximately 1.3 million were religious, charitable or similar organizations.² The nonprofit sector employed more than 10% of the private workforce in the US, paying an estimated \$826 billion in wages, benefits, and payroll taxes in 2016.³

Charities are active in both countries, and while both the UK and the US allow charities great freedom in the nature of their activities and provide them with a degree of tax-exemption, both countries' governments also have laws and mechanisms in place to regulate charities to prevent fraud and other problems. These regulations include, generally, (1) the requirement for charities to have a charitable purpose, (2) the requirement for most charities to register and file regular information reports, and (3) the registration of charitable fundraising. Both countries also provide for the cooperation between the various government entities that regulate charities, the publication of information regarding registered charities, and the investigation and prosecution of charities that engage in charity fraud. Both countries also feature multiple private organizations that monitor charities and inform the public on their activities. What follows is a more detailed discussion of the measures that each of these countries take to prevent and respond to charity fraud.

Question	UK Response	US Response
<p><i>1. What requirements are there for charities to operate?</i></p>	<p>Registration</p> <p>The general rule in England and Wales is that charities with an annual income of more than £5,000 must by law register with the Charity Commission (the "CC"). In considering an application for registration, the CC will, among other things, decide whether a charity's proposed purposes are in fact charitable.</p>	<p>In the US, charities are subject to registration and periodic filing requirements at both the federal (i.e., national) and state levels.</p> <p>Federal</p> <p>At the federal level, the only general administrative requirements apply to charities that seek or have federal income tax exemption. As discussed more thoroughly below in section 2, charities must apply to the IRS for</p>

¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/835686/Value_of_Charity_-_Oct_19_-_published.pdf

² <https://www.irs.gov/statistics/soi-tax-stats-tax-exempt-organizations-and-nonexempt-charitable-trusts-irs-data-book-table-25>

³ <https://www.nonprofitimpactmatters.org/site/assets/files/1/nonprofit-impact-matters-sept-2019-1.pdf>

Question	UK Response	US Response
	<p>Charitable Purpose</p> <p>In order to be considered a charity, an organization must be established for charitable purposes only, which are for the public benefit. An organization will not be charitable if its purposes are political. Charities can undertake political activity, but only in the context of supporting the delivery of its charitable purpose.⁴</p> <p>Charity Trustees</p> <p>The CC recommends that all charities appoint at least three individuals as charity trustees. Charity trustees are responsible for directing the affairs of a charity, and ensuring that it is solvent, well-run and delivering the charitable outcomes for the benefit of the public for which it has been set up.⁵ In order to be appointed as a charity trustee, an individual must be at least 18 years old and must not have been disqualified by the CC to act as a trustee. Charities working with children or adults at risk must also conduct</p>	<p>federal income tax exemption. Those that receive tax-exempt status generally must file an annual return to maintain that status once it is granted. For most charities of a significant size, these filings include disclosures regarding the organization’s finances. Similar to the UK, such organizations must be established for an appropriate purpose in order to qualify for tax-exempt status.</p> <p>State</p> <p>At the state level, most states require charities (regardless of their federal tax-exempt status) to make regular filings. Thirty-nine states out of 50 states and the District of Columbia generally require charities that solicit contributions within their borders to register with a state agency that monitors charities.⁸ This registration must usually be renewed every one or two years.⁹ Two of the states that do not require such registration generally require charities soliciting contributions within the state to provide a disclosure statement with their solicitation materials.¹⁰ Most states also require some form of regular (often annual) report from charities formed therein, which in some cases includes financial disclosure.¹¹ Of the states that require a regular reporting of financial information, most permit it in the form of the charity’s federal income</p>

⁴ Charity Commission, *Campaigning and political activity guidance for charities*, 7 February 2020, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/610137/CC9.pdf

⁵ Charity Commission, *Trustee board: people and skills*, 7 February 2020, available at: <https://www.gov.uk/guidance/trustee-board-people-and-skills>

⁸ <https://www.harborcompliance.com/information/charitable-registration>; https://ballotpedia.org/Nonprofit_regulation_in_the_states

⁹ <https://www.harborcompliance.com/information/nonprofit-compliance-guide>

¹⁰ <https://www.harborcompliance.com/information/charitable-registration>

¹¹ <https://www.harborcompliance.com/information/nonprofit-compliance-guide>

Question	UK Response	US Response
	<p>background checks on individuals, to ensure that they are eligible and suitable for the trustee role.⁶</p> <p>Filings</p> <p>Registered charities are required to file an annual return and their financial accounts with the CC each year. In an annual return, the charity has to provide information on its income and spending, contracts with the central government or local authorities, income from or work done outside the UK, trading subsidiaries, trustee payments, and staff salary bands and benefits.⁷</p> <p>Certain event-driven filings are also required, such as any amendment to a registered charity’s constitutional documents. In addition, charities must keep proper financial records, ensure that annual accounts are prepared and arrange for accounting books and records to be retained. The exact reporting and accounting obligations vary depending on the size of the charity’s income and asset value in any financial year.</p>	<p>tax return.¹² Some states also require filings to gain and maintain exemption from state taxation, if a charity qualifies for such status under state law.¹³ As noted below in section 2, some states also require charities to give notice to the state charity-monitor when certain entity “life cycle” events occur, such as dissolution or mergers.¹⁴ The state-law administrative requirements for charities depend heavily on where the charity is formed and operates.</p>
<p>2. What government organizations/programs exist to monitor charities and what government organizations</p>	<p>In England and Wales, the CC is in charge of regulating the charity sector. The CC is an independent, non-ministerial government department responsible for a range of activities to regulate the charitable sector, including: registering eligible organizations,</p>	<p>In the United States, the regulation of charitable organizations takes place largely at the federal and state levels. At the federal level, unlike in the UK or the Russian Federation, there is no government agency specifically devoted to regulating or monitoring charities. Thus, the</p>

⁶ Charity Commission, *The essential trustee: what you need to know, what you need to do*, 7 February 2020, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/842041/CC3_may18.pdf

⁷ Charity Commission, *Prepare a charity annual return*, 7 February 2020, available at: <https://www.gov.uk/guidance/prepare-a-charity-annual-return>

¹² <https://www.councilofnonprofits.org/tools-resources/state-filing-requirements-nonprofits>

¹³ <https://www.councilofnonprofits.org/tools-resources/state-filing-requirements-nonprofits>

¹⁴ <https://www.urban.org/sites/default/files/publication/84161/2000925-State-Regulation-and-Enforcement-in-the-Charitable-Sector.pdf>

Question	UK Response	US Response
<p><i>take action against non-compliant charities?</i></p>	<p>ensuring charities meet their legal requirements (as set out in section 1), and taking enforcement action when there is malpractice or misconduct.¹⁵ In practice, the CC’s enforcement function is limited to carrying out formal inquiries (known as section 46 inquiries) and offering regulatory advice and guidance to charity trustees.¹⁶ The CC opens section 46 inquiries in the most serious cases of abuse and regulatory concern (this includes fraud and money laundering).</p> <p>When the CC opens a section 46 inquiry, it has powers to act to protect charities while it conducts the investigation. These powers include:</p> <ul style="list-style-type: none"> • restricting the transactions that a charity may enter into • appointing additional trustees • ‘freezing’ a charity’s bank account • suspending or removing a trustee 	<p>regulation of charities at the federal level is largely accomplished within general law enforcement framework, using laws targeting fraud or illegal commercial practices.²³</p> <p>One area of federal charity regulation that functions differently are the practices of the IRS. Under the US Internal Revenue Code (the “Code”), charities meeting certain requirements can be exempt to some extent from federal income tax on income derived from activities related to their charitable purpose.²⁴ Indeed, the Code generally exempts corporations and certain other organizations “organized and operated exclusively for...charitable...purposes...” from federal income tax.²⁵ To qualify as a tax-exempt charity, a charity must be organized and operated exclusively for charitable purposes, and cannot allow any of its earnings to inure to a private entity.²⁶ Thus, a “charity” whose primary purpose is really to distribute money to its officers should not be granted federal tax-exempt status.</p> <p>In order to ensure that non-charitable organizations (including fake charities) do not receive the benefit of federal income tax exemption, the IRS maintains a system for granting federal tax-exempt status and monitoring organizations that have received such status. Most organizations that apply for federal tax exemption as a charity are</p>

¹⁵ Charity Commission, *About us*, 20 January 2020, available at: <https://www.gov.uk/government/organisations/charity-commission/about>

¹⁶ Practical Law, *Charity Commission inquiries and regulatory powers: overview*, 20 January 2020, available at: https://uk.practicallaw.thomsonreuters.com/3-506-0921?originationContext=knowHow&transitionType=KnowHowItem&contextData=%28sc.Default%29&comp=pluk#co_anchor_a152632

²³ Combating Charitable Fraud: An Overview of State and Federal Law, CRS Report for Congress.

²⁴ IRC Section 501(a)-(c)

²⁵ IRC Section 501(c)(3)

²⁶ <https://www.irs.gov/charities-non-profits/charitable-organizations/exemption-requirements-501c3-organizations>

Question	UK Response	US Response
	<ul style="list-style-type: none"> • appointing an interim manager <p>Recent section 46 inquiries include:</p> <ul style="list-style-type: none"> • <i>Christ Embassy (November 2019)</i>. An inquiry was opened because the charity failed to properly manage transactions with connected parties and because of poor financial management. The charity also used buildings in contravention of planning notice. In addition, the CC disallowed tax relief that had been claimed due to inadequate evidence of expenditure. The CC also appointed an interim manager. • <i>Bristol Sheltered Accommodation and Support (September 2019)</i>. An inquiry was opened because charity trustees failed to deal appropriately with, and report to the CC, serious incidents (including death of a beneficiary). The CC also found that unauthorised benefits had been given to charity trustees, while the charity also failed to appropriately manage conflicts of interest and to ensure that adequate financial controls were in place. 	<p>required to apply for federal income tax exemption with the IRS before they are actually granted such status (but note that registration is not required for churches and related organizations, or for organizations with annual gross receipts of less than \$5,000).²⁷ To receive tax-exempt status, a charity must file either Form 1023 or Form 1023 EZ with the IRS.²⁸ Form 1023 requires the disclosure of financial information regarding the charity, including the use of its funds, as well as descriptions of the organization’s activities, which the IRS reviews.²⁹ Form 1023 EZ is much shorter and involves few disclosures, but is only available to charities that meet with a lengthy list of requirements, which most notably includes having gross receipts below \$50,000 and gross assets below \$250,000.³⁰</p> <p>Most charities that receive tax-exempt status are also required to file annual forms with the IRS that, unless the organization generally has gross receipts of less than \$50,000, include disclosures about the organization’s contributions and expenses.³¹ Organizations required to file such annual returns automatically lose their tax-exempt status if they fail to file such returns for three consecutive years.³² The IRS also investigates (in numerous ways, including full audits) tax-exempt organizations for compliance based on the following criteria, among</p>

²⁷ <https://www.irs.gov/charities-non-profits/charitable-organizations/organizations-not-required-to-file-form-1023>

²⁸ <https://www.irs.gov/charities-non-profits/charitable-organizations/exemption-requirements-501c3-organizations>

²⁹ <https://www.irs.gov/pub/irs-pdf/f1023.pdf>

³⁰ <https://www.irs.gov/pub/irs-pdf/i1023ez.pdf>

³¹ <https://www.irs.gov/charities-non-profits/annual-filing-and-forms>; <https://www.irs.gov/pub/irs-pdf/f990pf.pdf>; <https://www.irs.gov/pub/irs-pdf/f990ez.pdf>; <https://www.irs.gov/pub/irs-pdf/f990.pdf>; <https://www.irs.gov/charities-non-profits/annual-electronic-filing-requirement-for-small-exempt-organizations-form-990-n-e-postcard>

³² <https://www.irs.gov/charities-non-profits/annual-filing-and-forms>

Question	UK Response	US Response
	<ul style="list-style-type: none"> <i>Oxfam GB (June 2019)</i>. An inquiry was opened because the CC believed an executive mishandled the charity’s response to allegations of sexual misconduct by staff in Haiti in 2011; there was a culture of poor behaviour and accountability and a lack of full and frank disclosure to donors and the CC. <p>Following a section 46 inquiry, the CC has powers to make an order to direct that a charity be wound up and dissolved, and any remaining property transferred to a charity with the same purposes.¹⁷ The CC cannot investigate or prosecute criminal activity, but can pass on information and report to the police and other agencies when they identify information which may suggest a crime has taken place.¹⁸</p> <p>Separately, the Fundraising Regulator (the “FR”) monitors charitable fundraising.¹⁹ This independent, non-statutory body sets and promotes standards for charity fundraising practice (contained in the Code of Fundraising Practice), investigates fundraising practices that have caused public concern, and publishes a public directory of all organizations that register with the FR to demonstrate their commitment to best practice fundraising. Any</p>	<p>others: (1) information filed on an annual return is incomplete or inconsistent with other provided information, (2) the IRS receives a complaint from a state or federal regulatory agency about potential non-compliance, (3) the IRS chooses to conduct an examination initiative of returns, (4) the organization conducted transactions with other taxpayers, (5) the IRS identifies a discrepancy between information reported to it by the tax-exempt organization and an entity with which the organization engaged in business and (6) the organization requests a refund or abatement.³³ Individuals can also submit a complaint to the IRS regarding a tax-exempt organization via mail or email using Form 13909.³⁴ The IRS thus performs several measures to ensure that charities that have federal tax-exempt status comply with the requirements of that status.</p> <p>The IRS makes both the applications for tax-exempt status and the annual filings of tax-exempt organizations publicly available through its website.³⁵ This permits prospective donors to determine whether the organization in fact has federal tax-exempt status.</p> <p>Outside of the IRS’s efforts to ensure that tax-exempt organizations operate exclusively for their exempt purposes, the federal government</p>

¹⁷ Practical Law, *Charity Commission inquiries and regulatory powers: overview*, 20 January 2020, available at: https://uk.practicallaw.thomsonreuters.com/3-506-0921?originationContext=knowHow&transitionType=KnowHowItem&contextData=%28sc.Default%29&comp=pluk#co_anchor_a152632

¹⁸ Charity Commission, *Compliance Toolkit, Chapter 3: Fraud and financial crime*, 20 January 2020, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/654821/Chapter3.pdf

¹⁹ Fundraising Regulator, *About us*, 20 January 2020, available at: <https://www.fundraisingregulator.org.uk/>

³³ <https://www.irs.gov/charities-non-profits/exempt-organizations-audits-selecting-organizations-for-review>

³⁴ <https://www.irs.gov/newsroom/irs-cautions-taxpayers-on-scams-involving-disasters-charitable-causes-2019-dirty-dozen-list-continues>

³⁵ <https://apps.irs.gov/app/eos/>

Question	UK Response	US Response
	<p>organization based in England, Wales and Northern Ireland that undertakes charitable fundraising can register with the FR - but it is voluntary to do so. By registering, organizations agree to abide by the commitments made to donors and the public set out in the FR's 'Fundraising Promise'. This includes commitments to:</p> <ul style="list-style-type: none"> • Ensure that fundraising is legal, open, honest and respectful. • Adhere to the standards set out in the Code of Fundraising Practice. 	<p>regulates charities in a similar manner to how it regulates other entities. Federal entities including the FBI and the Federal Trade Commission (“FTC”) can investigate charities for violations of federal law, including mail/wire fraud, tax fraud, deceptive trade practices, and other federal crimes.³⁶ The FBI often provides advice to the public to avoid charity fraud in times when the FBI believes the risk of charity fraud is elevated,³⁷ and provides a way for people who believe they have been victims of online fraud (including charity fraud) to report it.³⁸ The FTC periodically performs concentrated enforcement efforts against particular kinds of charity fraud in conjunction with state governments.³⁹ The FTC also provides a way for victims of charity fraud to report it online.⁴⁰ Additionally, the United States Department of Justice maintains a dedicated Fraud Section that investigates fraud claims generally and seeks enforcement measures.⁴¹ The Department of Justice also operates the National Center for Disaster Fraud. Originally created in 2005 as the Hurricane Katrina Fraud Task Force, this agency coordinates enforcement efforts between various federal and state agencies against fraud (not just charity fraud) committed in the wake of</p>

³⁶ <https://www.fbi.gov/news/stories/bogus-charity-operator-sentenced-101918>; Combating Charitable Fraud: An Overview of State and Federal Law, CRS Report for Congress.

³⁷ <https://www.fbi.gov/news/stories/avoid-hurricane-harvey-charity-schemes>

³⁸ <https://www.ic3.gov/default.aspx>

³⁹ <https://www.ftc.gov/news-events/press-releases/2015/05/ftc-all-50-states-dc-charge-four-cancer-charities-bilking-over>; <https://www.nasconet.org/wp-content/uploads/2019/05/State-AG-Update-2019.pdf>; <https://www.ftc.gov/news-events/press-releases/2009/05/ftc-announces-operation-false-charity-law-enforcement-sweep>

⁴⁰ <https://www.ftccomplaintassistant.gov/#crnt&panel1-1>

⁴¹ <https://www.justice.gov/criminal-fraud>

Question	UK Response	US Response
	<ul style="list-style-type: none"> Monitor compliance with the Code of Fundraising Practice by volunteers, fundraisers and third parties that raise funds for the registered organization.²⁰ <p>The CC and the FR have signed a Memorandum of Understanding providing a framework for working together. While the FR is responsible for setting and enforcing fundraising standards, the CC can also intervene in cases where there are fundraising concerns. In this regard, the CC's focus is on compliance by charity trustees with their legal duties.²¹</p> <p>Numerous other bodies have investigatory powers into charities or their trustees, including the police, the Health and Safety Executive (for breaches of health and safety legislation) and the Information Commissioner (for breaches of data protection legislation).²²</p>	<p>natural and man-made disasters.⁴² While the US federal government has no specific agency dedicated to regulating charities, several federal agencies can investigate and prosecute illegal activity associated with charity fraud.</p> <p>In the United States, charities are also monitored at the state level. Among the 50 states and the District of Columbia, the methods used to regulate charities vary significantly. However, there are some common practices. A plurality of states give their Attorney Generals the primary role of monitoring and regulating charities. In such states, the Attorney General's role is generally to ensure that assets given to charities are in fact used for charitable purposes. Many states give the role of monitoring charities to the Secretary of State either instead of or in conjunction with the state Attorney General. Of the states that use the Attorney General to monitor charities, some states have a separate office within the Attorney General's office that monitors charities, while others allocate</p>

²⁰ Practical Law, *Charity fundraising: Fundraising Regulator*, 7 February 2020, available at: https://uk.practicallaw.thomsonreuters.com/Document/I4feffda391ac11e8a5b3e3d9e23d7429/View/FullText.html?navigationPath=Search%2Fv1%2Fresults%2Fnavigation%2Fid0ad604ab0000017020dca12f465edaac%3FNav%3DKNOWHOW_UK%26fragmentIdentifier%3DI4feffda391ac11e8a5b3e3d9e23d7429%26parentRank%3D0%26startIndex%3D1%26contextData%3D%2528sc.Search%2529%26transitionType%3DSearchItem&listSource=Search&listPageSource=0a4eb4e38bb21031aa100ff1c993cb0a&list=KNOWHOW_UK&rank=1&sessionScopeId=4e9396b4ffbc96250da6f4b986cd4f21fcb998dfb3af9126d0c685dfea541571&originationContext=Search+Result&transitionType=SearchItem&contextData=%28sc.Search%29&navId=792883DFF49B5113AA3131A8871FB18E&comp=pluk#co_anchor_a299027

²¹ Charity Commission, Fundraising Regulator, *Memorandum of Understanding*, 7 February 2020, available at: <https://www.fundraisingregulator.org.uk/sites/default/files/2018-07/Charity-Commimission-MOU.pdf>

²² Practical Law, *Charitable organizations in the UK: overview*, 20 January 2020, available at: [https://uk.practicallaw.thomsonreuters.com/8-633-4989?transitionType=Default&contextData=\(sc.Default\)#co_anchor_a204625](https://uk.practicallaw.thomsonreuters.com/8-633-4989?transitionType=Default&contextData=(sc.Default)#co_anchor_a204625)

⁴² <https://www.justice.gov/disaster-fraud>

Question	UK Response	US Response
		<p>that responsibility to a consumer protection division of the Attorney General’s office.⁴³</p> <p>At the state level, much of the work of monitoring charities and enforcing violations of laws regarding charities is done by state employees who do not monitor charities as their primary duty. In total, most states have the equivalent of fewer than three full-time employees monitoring charities.⁴⁴</p> <p>State-level charity-monitoring entities generally receive information on the operations of “charities” via required filings. Most states require purported charities located therein to register with the state’s charity-monitoring entity, and a greater majority of states require entities to register with the charity-monitoring agency before soliciting donations within the state.⁴⁵ Some form of annual filing is also often required.⁴⁶ The disclosures in both the initial and the annual state filings are somewhat minimal, and may involve filing documents that had been filed with the IRS (such as the organization’s annual tax return).⁴⁷ A large minority of states require charities meeting certain revenue thresholds to provide audited financial statements periodically.⁴⁸ At least some states also require charities to give notice to the state charity-monitoring entity when the charity goes through certain “life cycle”</p>

⁴³ <https://www.urban.org/sites/default/files/publication/84161/2000925-State-Regulation-and-Enforcement-in-the-Charitable-Sector.pdf>

⁴⁴ <https://www.urban.org/sites/default/files/publication/84161/2000925-State-Regulation-and-Enforcement-in-the-Charitable-Sector.pdf>

⁴⁵ <https://www.urban.org/sites/default/files/publication/84161/2000925-State-Regulation-and-Enforcement-in-the-Charitable-Sector.pdf>

⁴⁶ <https://www.councilofnonprofits.org/tools-resources/state-filing-requirements-nonprofits>; <https://www.hurwitassociates.com/resources>

⁴⁷ <https://www.councilofnonprofits.org/tools-resources/state-filing-requirements-nonprofits>

⁴⁸ <https://www.urban.org/sites/default/files/publication/84161/2000925-State-Regulation-and-Enforcement-in-the-Charitable-Sector.pdf>

Question	UK Response	US Response
		events, such as dissolutions, mergers, or certain assets sales. ⁴⁹ Most state charity-monitoring entities collaborate with each other and federal entities in investigating and bringing enforcement actions against charities. ⁵⁰
<p>3. What types of charity-related fraud issues are present in the US and UK?</p>	<p>In the UK, the CC has identified a number of fraudulent activities to which charities are potentially vulnerable.⁵¹ These include:</p> <ul style="list-style-type: none"> i. Income-related fraud (when people within or connected to a charity divert funds for other non-charity purposes) ii. Expenditure fraud (when charity funds are stolen or misused) iii. Property and investment fraud (this can occur when charity assets are stolen, charity databases are used for a profit or when a charity’s name is used with the intention of intercepting funds for personal use) iv. Procurement fraud (fraud relating to purchases of goods and services, as opposed to simple theft of cash) v. Fraudulent fundraising in the charity’s name (this is misrepresenting to the public or donors the destination of funds, or the amount going to a named charity) 	<p>Despite its considerable size, the nonprofit sector and charities operating in it are susceptible to many types of fraudulent activities. Because the US has no central charity regulating authority, there is no comprehensive list of the types of charity fraud perpetrated in the US. However, the following are common charity-related fraud issues that arise in connection with fundraising:</p> <ul style="list-style-type: none"> i. Misuse of charitable funds ii. Raising funds for a non-existent charity (unauthorized fundraising) iii. Collecting cash donations in the name of legitimate charity which are never contributed to the charity iv. Credit card scams and/or funneling donations to personal accounts

⁴⁹ <https://www.urban.org/sites/default/files/publication/84161/2000925-State-Regulation-and-Enforcement-in-the-Charitable-Sector.pdf>

⁵⁰ <https://www.urban.org/sites/default/files/publication/84161/2000925-State-Regulation-and-Enforcement-in-the-Charitable-Sector.pdf>

⁵¹ Charity Commission, *Compliance Toolkit, Chapter 3: Fraud and financial crime*, 7 February 2020, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/654821/Chapter3.pdf

Question	UK Response	US Response
	<ul style="list-style-type: none"> <li data-bbox="571 263 1279 352">vi. Fraudulent invoicing and grant applications (making false or inflated applications to a charity to win service contracts, or setting up false charities) <li data-bbox="571 387 1279 477">vii. Identity fraud/theft (when a bogus company is set up, or a genuine company's details are used without authorization to facilitate unlawful activity) <li data-bbox="571 512 1279 601">viii. Banking fraud (involves fraudulently setting up direct debits and standing orders to transfer funds to the fraudster's own bank) <li data-bbox="571 636 1279 726">ix. e-Crime (using stolen credit cards to make small online donations to check whether the card has been blocked or cancelled) <li data-bbox="571 761 1279 850">x. Gift fraud (this involves making tax claims in respect of donations that were never made - in the UK, charities can reclaim income tax on the amount they donate) <li data-bbox="571 885 1279 1007">xi. Share purchase investment fraud (when a bogus stockbroking company cold-calls investors and pressures them into buying worthless shares; charity trustees are often targets of these schemes) <li data-bbox="571 1042 1279 1189">xii. Mass market fraud (involves fraudsters posing as legitimate businesses and sending communications to charities instructing them to amend their existing records and send their normal payments to a different bank account controlled by the fraudster) <li data-bbox="571 1224 1279 1375">xiii. '419 frauds' (this is the term used to describe instances where a charity is contacted by email with an invitation to assist the sender in recovering a large amount of money from a bank account - usually in Africa. The aim of the scam is to obtain the charity's bank account details or 	

Question	UK Response	US Response
	letterheads that can then be used for other fraudulent activities)	
4. What is the extent to which charity fraud is actually prosecuted?	In a study conducted in 2019, the CC found that 89% of charity fraud cases were reported to the charity’s Board, 42% reported the fraud to the police and 29% to the CC. A third of charities did not report the fraud to any organization. ⁵²	There is little data on the level of federal actions that are brought specifically against charity fraud in the US, but federal entities have prosecuted charity fraudsters in the past. As discussed above in section 2, the FTC periodically performs concentrated efforts to combat specific categories of charity fraud. These include a 2009 effort that led to 76 enforcement actions against “charities” that claimed to be helping veterans, police, and firefighters, ⁵³ a 2018 effort that led to more than 100 enforcement actions against “charities” claiming to help veterans, ⁵⁴ and a 2015 effort which led to the prosecution of four cancer-related charities. ⁵⁵ Each of these FTC efforts involved cooperation with state-level charity regulatory entities. The FBI, among other federal entities, investigates charity fraud as well, investigating 493 claimed internet-related charity crimes in 2018. ⁵⁶ In 2019, the IRS labeled certain types of charity fraud as one its “Dirty Dozen” tax scams that it cautions

⁵² Charity Commission, *Charity Fraud: Insights + Action*, 20 January 2020, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/841403/Web_CC_Fraud.pdf

⁵³ The enforcement included actions based on deceptive claims made as part of soliciting donations, with criminal penalties in at least three cases exceeding \$1 million. <https://www.ftc.gov/news-events/press-releases/2009/05/ftc-announces-operation-false-charity-law-enforcement-sweep>

⁵⁴ The enforcement included actions based on deceptive claims made as part of soliciting donations, violating telemarketing laws, and various state law claims, with a proposed settlement against one individual including a \$20 million fine. <https://www.nasconet.org/wp-content/uploads/2019/05/State-AG-Update-2019.pdf>; <https://www.ftc.gov/news-events/blogs/business-blog/2018/07/operation-donate-honor-law-enforcers-unite-challenge>

⁵⁵ The enforcement included state claims of filing false and misleading financial statements, claims of providing deceptive fundraising materials, and claims of violating telemarketing laws. Together, the four fraudulent “charities” had collected an estimated \$187 million in donations. <https://www.ftc.gov/news-events/press-releases/2015/05/ftc-all-50-states-dc-charge-four-cancer-charities-bilking-over>

⁵⁶ https://pdf.ic3.gov/2018_IC3Report.pdf

Question	UK Response	US Response
		<p>taxpayers to avoid.⁵⁷ In 2018, the IRS launched approximately 2,900 criminal investigations in total (not specifically related to charity fraud),⁵⁸ and audits approximately 0.5% of all returns filed.⁵⁹</p> <p>At the state level, most enforcement measures are informal. As of 2016, approximately 85% of all state enforcement actions against charities were resolved informally. This informality conserves the states' resources and avoids negative publicity for charities who may not be entirely fraudulent, and may be in accidental non-compliance. As indicated previously in section 2, states generally work with other states and federal entities to investigate charity fraud, to the extent that the suspected fraud falls within the purview of other enforcement entities. According to a study done by the Urban Institute and Columbia Law School, by far the most state enforcement activities against charities are with respect to illegality in fundraising. Issues dealing with trusts and charity governance issues are the second and third most common areas of state enforcement. Charity fraud is the fifth most common area of enforcement by state charity-monitoring entities.⁶⁰</p> <p>However, there are unique difficulties in prosecuting charity fraud in the US. Although most of the enforcement efforts against charity fraud occur at the state level, 31% of states have fewer than the equivalent of one full-time employee specifically regulating charities, and only seven states had the equivalent of ten or more full-time employees specifically regulating charities.⁶¹ Additionally, because of the variety of</p>

⁵⁷ <https://www.irs.gov/newsroom/irs-cautions-taxpayers-on-scams-involving-disasters-charitable-causes-2019-dirty-dozen-list-continues>

⁵⁸ <https://www.irs.gov/statistics/enforcement-collections-penalties-criminal-investigation>

⁵⁹ <https://www.irs.gov/statistics/enforcement-examinations>

⁶⁰ <https://www.urban.org/sites/default/files/publication/84161/2000925-State-Regulation-and-Enforcement-in-the-Charitable-Sector.pdf>

⁶¹ <https://www.urban.org/sites/default/files/publication/84161/2000925-State-Regulation-and-Enforcement-in-the-Charitable-Sector.pdf>

Question	UK Response	US Response
		<p>government entities that regulate charities or can bring enforcement actions against them, formal enforcement actions can be complex to carry out and require coordination among many government entities.⁶² Charity fraud cases are also difficult to prosecute because of the relatively minimal returns that they generate.⁶³ Even in cases in which dramatically high monetary damages are assessed against the perpetrators, very little is often received by government entities to offset the cost of taking enforcement measures.⁶⁴ In cases of more minor charity fraud, state agencies may also refrain from mounting formal prosecutions due to concern of diminishing the public’s trust in charity that is not entirely fraudulent.⁶⁵ Although charity fraud is prosecuted in the US, unique challenges make prosecuting it exceptionally difficult.</p>
<p>5. What private organizations exist to monitor charities?</p>	<p>The following private organizations are listed by the UK government as resources to help charities protect themselves against fraud:</p> <p>Fraud Advisory Panel⁶⁶</p>	<p>While there is no comprehensive list of the private organizations that regulate charities in the US, the following private organizations are among the many in the US that seek to monitor charitable fraud:</p> <p>Better Business Bureau⁷⁴ The Better Business Bureau’s Wise Giving Alliance collects information on charitable organizations and has developed standards to</p>

⁶² <https://www.philanthropy.com/article/Opinion-Why-Taking-Legal/231853>

⁶³ <https://www.philanthropy.com/article/Opinion-Why-Taking-Legal/231853>

⁶⁴ Damages against individuals in cases involving fraudulent cancer-related “charities” were mostly if not entirely suspended based on the individuals’ inability to pay. <https://www.ftc.gov/news-events/press-releases/2015/05/ftc-all-50-states-dc-charge-four-cancer-charities-bilking-over>; Damages of over \$20 million against individuals in cases involving fraudulent veteran-related “charities” were suspended based on the individuals’ inability to pay. <https://www.ftc.gov/news-events/press-releases/2009/05/ftc-announces-operation-false-charity-law-enforcement-sweep>

⁶⁵ <https://www.urban.org/sites/default/files/publication/84161/2000925-State-Regulation-and-Enforcement-in-the-Charitable-Sector.pdf>

⁶⁶ <https://www.fraudadvisorypanel.org/>

⁷⁴ <http://www.give.org/for-donors/the-care-we-put-into-our-reports/>

Question	UK Response	US Response
	<p>The Fraud Advisory Panel is an independent voice of the counter-fraud community. It champions best practice and works to improve fraud awareness, and build sector resilience.</p> <p>Get Safe Online⁶⁷ Get Safe Online is a public/private sector partnership supported by HM Government and comprising leading organizations across banking, retail, internet security and other sectors. It provides factual and easy-to-understand information about online safety.</p> <p>Credit Industry Fraud Avoidance Service (CIFAS)⁶⁸ CIFAS is a not-for-profit organization working to protect businesses, charities, public bodies and individuals from financial crime.</p> <p>Small Charities Coalition⁶⁹ A national umbrella and capacity-building organization with over 7,000 members UK-wide. It helps trustees, staff and volunteers of small charities access the skills, tools, and information they need.</p> <p>Foundation for Social Improvement⁷⁰</p>	<p>promote ethical practices by philanthropic organizations. For example, in July 2018, the BBB Wise Giving Alliance joined with the FTC, state attorneys general, and state charity regulators to help the donating public avoid misleading charity appeals distributed by veterans’ organizations and find trustworthy veterans’ groups to support.⁷⁵</p> <p>Charity Navigator⁷⁶ Charity Navigator provides financial ratings for over 9,000 charities in the US, as well as basic data on the rest of the 1.8 million US nonprofits.</p> <p>CharityWatch⁷⁷ The mission of CharityWatch, a nonprofit charity watchdog and information service, is to maximize the effectiveness of every dollar contributed to charity by providing donors with the information they need to make more informed giving decisions.</p>

⁶⁷ <https://www.getsafeonline.org/>

⁶⁸ <https://www.cifas.org.uk/>

⁶⁹ <https://www.smallcharities.org.uk/>

⁷⁰ <https://www.thefsi.org/>

⁷⁵ <http://www.give.org/docs/default-source/default-document-library/bbb-wga-annual-report-2018.pdf>

⁷⁶ <https://www.charitynavigator.org/index.cfm?bay=content.view&cpid=1653>

⁷⁷ <https://www.charitywatch.org/about-charitywatch/mission-goals>

Question	UK Response	US Response
	<p>Builds and shares knowledge across the sector, representing small charities with policy makers and the public. FSI provides vital leadership and supports small charities to raise funds to serve their beneficiaries.</p> <p>Charity Finance Group⁷¹ CFG champions best practice in financial management within the charity and voluntary sector. It provides guidance to its charity members and the wider sector at large on the best practice for countering fraud.</p> <p>UCL⁷² The Information Security Research Group at UCL works to understand how people become victims of cybercrime, and to identify realistic measures they can take to protect themselves.⁷³</p>	
<p>6. How can individual citizens determine whether a charity is legitimate and/or report fraud?</p>	<p>To check if a charity is registered it is possible to search the charity register: https://www.gov.uk/find-charity-information</p> <p>However, charities do not appear in the register if they:</p> <ul style="list-style-type: none"> • are not registered as they have an income below £5,000 or 	<p>Despite the absence of a central body regulating charities in the US, there are a number of resources in the United States to determine whether a charity is legitimate. As discussed in section 2 above, the IRS maintains a public database with information on tax-exempt charities, including their Form 990, so individuals and/or potential donors can verify the charity's current status. In addition, private organizations such as the Better Business Bureau's Wise Giving Alliance, Charity Navigator and CharityWatch, among others, review certain charities and provide a database with information on such charity's compliance with the organization's standards.</p> <p>An individual that suspects that a charity is engaged in fraudulent activity or that a solicitation is fraudulent can report such suspicions to</p>

⁷¹ <https://www.cfg.org.uk/>

⁷² <http://sec.cs.ucl.ac.uk/home/>

⁷³ <https://www.gov.uk/guidance/protect-your-charity-from-fraud>

	<ul style="list-style-type: none"> are exempt from regulation by the CC (these are known as “exempt charities”).⁷⁸ <p>Reporting charity fraud:</p> <ul style="list-style-type: none"> The CC requires charities to report serious incidents (to the CC). If a serious incident takes place within a charity, it is important that there is prompt, full and frank disclosure to the CC. Charities must report what happened and, importantly, let the CC know how they are dealing with it, even if they have also reported it to the police, donors or another regulator. <ul style="list-style-type: none"> The responsibility for reporting serious incidents rests with the charity’s trustees. In practice, this may be delegated to someone else within the charity, such as an employee or the charity’s professional advisers. However, all trustees bear ultimate responsibility for ensuring their charity makes a report, and does so in a timely manner. If it is decided not to make a report about something serious that has happened in a charity and the CC later becomes involved, it will be necessary to explain why the decision was taken not to report it at the time. <p>If a reportable incident involves actual or alleged criminal activity then it must also be reported to the relevant agencies, in particular:</p> <ul style="list-style-type: none"> safeguarding incidents: allegations or incidents of abuse or mistreatment of people who come into contact with your charity through its work should be reported to (i) the police and (ii) the local authority and other relevant agencies. 	<p>the applicable state attorney general or secretary of state, the FBI’s complaint center or to private watchdog organizations.</p> <p>Although these avenues exist, many Americans do not know where to turn to verify the legitimacy of a charity and do not thoroughly perform due diligence on charitable organizations prior to making donations. For example, a 2015 study conducted by the AARP in seven states found that one third of the surveyed shoppers did not know that in most states, professional fundraisers must be registered with the government and report how much they raise and how much goes to the charitable purpose, and that more than two-thirds of respondents who had donated to a charity or fundraiser in the past 12 months did so without asking what percentage of their donation went to the fundraiser versus to the charity itself.⁸¹</p>
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Question	UK Response	US Response
	<ul style="list-style-type: none"> • fraud and cyber-crime: allegations or incidents of fraud and cyber-crime should be reported to Action Fraud via its online reporting tool.⁷⁹ • theft: allegations or incidents of theft should be reported to the police. • links to terrorism and extremism: links or alleged links to terrorism and extremism should be reported to the police. Failure to report links or alleged links to terrorism or extremism immediately, may be a criminal offence under Section 19 of the Terrorism Act 2000. This type of incident can be reported to the police via the National Crime Agency website or by contacting the police. • criminal activity overseas: any actual or alleged criminal activity that takes place overseas should usually be reported to local law enforcement authorities and/or safeguarding organizations in the location where this occurred. There may also be circumstances where it is necessary to report this to UK authorities.⁸⁰ 	

⁷⁸ Exempt charities are institutions that have charitable status and must comply with general charity law, but are exempt from the requirement to register with the CC and are not directly regulated by the CC. Exempt charities include museums and institutions of national importance, some educational charities such as universities and college corporations, and non-profit registered providers of social housing. These organizations have a principal regulator that monitors their compliance with charity law (for example, museums are regulated by the Department for Culture, Media and Sport).

⁸¹ https://www.aarp.org/content/dam/aarp/research/surveys_statistics/econ/2015/beware-the-grinch-natl-holiday-fraud.doi.10.26419%252Fres.00115.001.pdf

⁷⁹ Action Fraud is the UK’s national reporting centre for fraud and cybercrime. It is a service run by the City of London Police working alongside the National Fraud Intelligence Bureau (NFIB) who are responsible for assessment of the reports and to ensure that fraud reports are dealt with. Further information can be found at: <https://www.actionfraud.police.uk/what-is-action-fraud>

⁸⁰ <https://www.gov.uk/guidance/how-to-report-a-serious-incident-in-your-charity>

Question	UK Response	US Response
<p>7. What are the penalties for charity fraud?</p>	<p>If the incident involves actual or alleged criminal activity, then the relevant penalty will be that provided for in relation to the applicable criminal law - this may include a fine, custodial sentence or community order.</p> <p>When the CC has opened an investigation, it may use its temporary and/or permanent powers of protection mentioned in section 2.</p> <p>If the CC has any concerns that criminal offences may have been committed, it will refer the matter to the police and any other relevant agencies. Where it detects or is made aware of a potential fraud, it will refer this to Action Fraud and the National Fraud Intelligence Bureau.⁸² These organizations then assess, analyze and send any referrals to the police forces for investigation (the police can then impose criminal sanctions). Action Fraud’s figures reveal that charities submitted 1,057 reports about fraud in 2018-19, with average losses (i.e., fraud) per case totaling £7,428.⁸³</p>	<p>The penalties for charity fraud in the US vary based on numerous factors, including the nature of the fraud and the exact claim against the “charity” or the charity leadership. At the federal level, the claims against fake charities often involve mail or wire fraud. These crimes involve using either mail or wire communications in “foreseeable furtherance” of a “scheme and intent” to defraud someone of property or “honest services” “involving a material deception.”⁸⁴ The penalties for each instance of mail or wire fraud can include fines as high as \$250,000, and a prison sentence as high as 20 years. If the victim of such fraud is a financial institution, or the fraud is committed in relation to a natural disaster (charity fraud is more common in the wake of natural disasters⁸⁵), the maximum penalties increase to \$1 million and 30 years in prison in each instance.⁸⁶ As an example, in 2019, the chief fundraiser of a medical-oriented foundation was sentenced to 33 months in prison after pleading guilty to wire fraud and money laundering charges related to the embezzling of approximately \$800,000 from the foundation.⁸⁷ It is also a federal felony punishable with up to 5 years in prison to falsely represent oneself as a member or agent of the American Red Cross to solicit or collect money.⁸⁸</p>

⁸² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/422600/Fraud_strategy.pdf

⁸³ UK Fundraising, *Charity fraud losses reported to Action Fraud reach almost £8m a year*, 7 February 2020, available at: <https://fundraising.co.uk/2019/07/30/charity-fraud-losses-reported-to-action-fraud-reach-almost-8m-a-year/>

⁸⁴ <https://fas.org/sgp/crs/misc/R41930.pdf>

⁸⁵ <https://www.fbi.gov/news/stories/avoid-hurricane-harvey-charity-schemes>

⁸⁶ <https://fas.org/sgp/crs/misc/R41930.pdf>

⁸⁷ https://www.theadvocate.com/baton_rouge/news/courts/article_e76afb14-ef77-11e9-ab46-03f124670f93.html

⁸⁸ Combating Charitable Fraud: An Overview of State and Federal Law, CRS Report for Congress.

Question	UK Response	US Response
		<p>Certain types of charity fraud can also be subject to punishment by the IRS, such as when a fake charity wrongly receives tax-exempt status. Under the Code, the IRS can impose a penalty of up to 75% of the amount of tax due, the underpayment of which is attributable to fraud,⁸⁹ in addition to interest for the delay in payment.⁹⁰ Fraud with respect to tax matters can also be punishable criminally by up to three years in prison and \$100,000 in fines.⁹¹ Of course, if a tax-exempt organization is not operating in accordance with the requirements for tax-exemption, the IRS can also revoke the tax-exempt status.</p> <p>At the state level, there is great variation in the penalties states choose to impose on charities for violations of the law. As most state enforcement actions against charities are resolved informally, the penalties are often tailored to the situation and may not be publicly disclosed. However, states may impose either civil or criminal penalties on charities, or in some cases, both, for violations of the state law regarding charities. Civil penalties that states impose for charity fraud include suspension of the right to solicit charitable donations in the state, injunctions against specific activities, fines and other remedial actions. For example, the state of Maryland imposes up to a \$5,000 fine for each instance a charity solicits donations within the state without registering.⁹² New Jersey imposes a civil penalty of up to \$15,000 for violations of its state charitable fraud statute.⁹³ Some states impose criminal penalties on failure to comply with state charity laws, which can include jail time for individuals. For example, Missouri can impose</p>

⁸⁹ IRC Section 6663(a)

⁹⁰ IRC Section 6601(a)

⁹¹ IRC Section 7206

⁹² Maryland Solicitation Act Business Regulation Article, Title 6.

⁹³ Combating Charitable Fraud: An Overview of State and Federal Law, CRS Report for Congress.

Question	UK Response	US Response
		<p>a \$5,000 fine and up to four years in prison on those engaged in “unlawful merchandising practices,” which can include fraudulent solicitations for charitable donations.⁹⁴ California imposes up to a \$5,000 fine and one year in prison for fraudulent solicitation.⁹⁵ States thus impose a variety of penalties, based on laws targeted at fraud generally, on those engaged in charity fraud.</p> <p>The variety of penalties imposed by states for charity fraud can be illustrated by a few examples. In 2019, a Colorado man was sentenced to 18 months in prison and 5 years of probation for stealing approximately \$65,000 in total from two charities of which he was the treasurer, in addition to repaying the stolen amount with interest.⁹⁶ Also in 2019, an Oregon man was sentenced to 2 years of probation and 180 hours of community service after being convicted of stealing \$13,000 from a non-profit entity he helped lead, in addition to repaying the stolen amount.⁹⁷ In 2018, a New Hampshire woman was sentenced to three-and-a-half to seven years in prison after pleading guilty to four out of eight charges of theft relating to her embezzlement of approximately \$100,000 from a charity she helped operate.⁹⁸</p>

⁹⁴ https://www.naag.org/publications/naagazette/volume_2_number_1/enforcement_of_charitable_organizations.php

⁹⁵ Combating Charitable Fraud: An Overview of State and Federal Law, CRS Report for Congress.

⁹⁶ <https://www.denverpost.com/2019/12/16/aurora-police-theft-orphan-fund-sentencing/>

⁹⁷ <https://www.oregonlive.com/crime/2019/11/oregon-sheriffs-association-director-convicted-of-theft.html>

⁹⁸ <https://www.vnews.com/Project-VetCare-Co-Founder-Sentenced-19752238>

PART II: Recommendations for Best Practices in Preventing and Monitoring Charity Fraud

In October 2019, several leading charity regulators and governmental bodies from across the world (including the CC in the UK and the IRS and FTC in the US) published a short document entitled “*Guiding Principles for Tackling Fraud*” (the “**Principles**”). The Principles summarize the key aspects to consider when combating fraud:

- *Fraud will always happen - simply being a charity is no defense.* Even the best-prepared organizations cannot prevent all fraud.
- *Fraud threats change constantly.* Fraud evolves continually, and faster, thanks to digital technology.
- *Prevention is far better than cure.* Financial loss and reputational damage can be reduced by effective prevention.
- *Trust is exploited by fraudsters.* Charities rely on trust and goodwill, which fraudsters try to exploit.
- *Discovering fraud is a good thing.* The first step in fighting fraud is to find it.
- *Report every individual fraud.* The timely reporting of fraud to police, regulators and other agencies is fundamental to strengthening the resilience of individual charities and the sector as a whole
- *Anti-fraud responses should be proportionate to the charity’s size, activities and fraud risks.* The vital first step in fighting fraud is to implement robust financial controls and get everyone in the charity to sign up to them.
- *Fighting fraud is a job for everyone.* Everybody involved – trustees, managers, employees, volunteers, beneficiaries – has a part to play in fighting fraud.

A copy of the guide is available [here](#).⁹⁹

Separately, the CC has also published a ‘four-strand’ approach for charities to protect themselves against fraud which lists the following points as most important when trying to combat fraud: (i) awareness and prevention; (ii) oversight and supervision; (iii) co-operation; and (iv) intervention. The full document is available [here](#).¹⁰⁰

Common to both the Principles and the four-strand approach is (a) **the need to be aware** of how fraud can arise and (b) **the need to have systems and procedures in place** that can help prevent fraud.

⁹⁹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/841056/8_Guiding_Principles_for_Tackling_Fraud_Final_Oct19.pdf

¹⁰⁰ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/422600/Fraud_strategy.pdf

Awareness

In relation to awareness, resources published by the CC explain that awareness should be raised both internally and externally:

- **Internal:** staff must be shown what is and is not acceptable behavior, why they should care about fraud, what they can and should do to prevent, detect and report it, as well as the ways in which anyone raising a concern will be protected.
- **External:** donors, grant-givers, members, suppliers and anyone else the charity works with need to be left in no doubt that fraud is always taken very seriously.

In particular, training should be provided to staff so that they are aware of the risks and can spot possible fraudulent activities if and when they occur. The main types of fraud to be aware of are noted in Part I of this report.

Further information can also be found at the following guide produced by the CC entitled '*Tackling Charity Fraud*' (available [here](#)).¹⁰¹

Systems and procedures

As regards systems and procedures that can be put in place, the CC has also published a checklist that can be used to help establish internal financial controls. Whilst the checklist is focused on compliance with relevant UK legislation, the checklist also aims to help charities comply with good practice recommendations and it is a useful tool to use when considering what controls and procedures should be established.

In particular, the checklist covers aspects such as the monitoring of income, purchases and payments, as well as the types of information that should be discussed and communicated internally to assist those responsible for the operation of the charity in recognizing and preventing fraud.

The full checklist is available [here](#).¹⁰²

External Actions to Monitor and Prevent Charity Fraud

Regarding actions that non-charity actors can take to prevent charity fraud, the UK and US government efforts to monitor and prevent charity fraud offer helpful suggestions for governmental bodies. One of these practices is the creation of a publicly accessible database that provides information on monitored charities. Both the UK and the US have publicly available databases that display information about charities that are registered with the CC or Fundraising Regulator, or the IRS, respectively, enabling anyone to quickly and easily determine with a limited degree of certainty whether a particular organization is a legitimate charity.

¹⁰¹ <https://www.fraudadvisorypanel.org/wp-content/uploads/2018/03/Tackling-Charity-Fraud-Summary-Report-March2018.pdf>

¹⁰² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/585893/CC8_Checklist.pdf

Another helpful practice is the publishing of information gleaned from the monitoring of charities and investigating charity fraud, for the purpose of making people aware of some of the prevalent charity fraud risks and how to avoid them. In the UK, the CC publishes documents (as described above) advising on how to avoid charity fraud, while in the US, the FBI publishes advice online regarding charity fraud at times when there is an increased risk of charity fraud.

A third helpful practice is providing the resources to the government agencies charged with monitoring charities to conduct enforcement actions and to cooperate with other governmental entities. In the UK, the CC has the power to investigate charities and has certain powers to impose changes on them. The CC and the FR share a Memorandum of Understanding to facilitate collaboration between them, and collaborate with other law enforcement agencies to ensure that charity fraud truly is prosecuted. Similarly, in the US, state regulators generally have the authority to investigate charities and to prosecute (or refer for prosecution) charity fraud, and often work in collaboration with agencies within a state, in other states, and within the federal government to investigate and bring enforcement actions. Federal entities in the United States are also able to conduct a variety of investigations, including the IRS's ability to conduct audits of charities, and bring enforcement actions against perpetrators of charity fraud. Such regulatory bodies would likely be more effective in prosecuting charity fraud if additional resources and funding is made available.

To allow their limited resources to be used most efficiently and avoid needless damaging publicity to the charities, both the UK and the US allow for relatively a relatively low-cost form of investigation. The CC conducts Section 46 inquiries that are relatively low cost, while in the US, state charity regulators conduct most of their enforcement through informal discussions with the parties involved.

Outside of government action, both the UK and the US benefit from several non-governmental organizations that help to prevent charity fraud. These organizations make publicly available assessments of charities, promote charity best practices, and can help draw attention to potential instances of charity fraud.