



Economy



JERSEY CHARITY
COMMISSIONER

Gouvernement d'Jèrri

Non-profit organisations and charities

*Are you ready for the changes
coming to the law?*

7 November 2022

Speakers



- Alex Rowse - Associate Director, Financial Crime Strategy
- Sam Davison - Jersey Financial Services Commission
- Richard Pedley - Associate Director, Financial Crime Strategy
- Richard Jouault - Executive Officer, Office of the Charity Commissioner
- Kate Rogers - Supervisor Non-Profit Organisation



Why are the changes taking place?



- Protecting you and protecting Jersey
- International standards require it, based on the risk of the charitable and NPO sectors being compromised by criminals or terrorists
- Fortunate in Jersey that we do not have domestic terrorism, but any thriving charitable sector is potentially at risk of exploitation
- The new requirements will not have any impact on the vast majority of NPOs and charities operating in and from Jersey



FATF's global efforts on combating terrorist financing



- Terrorists need money and other assets, for weapons but also training, travel and accommodation to plan and execute their attacks and develop as an organisation. Disrupting and preventing these terrorism-related financial flows and transactions is one of the most effective ways to fight terrorism.
- Not only can it prevent future attacks by disrupting their material support, the footprints of their purchases, withdrawals and other financial transactions can provide valuable information for ongoing investigations.
- Countering terrorism financing is therefore an essential part of the global fight against terror threat. As terrorists and terrorist groups continue to raise money with use of various means, countries must make it a priority to understand the risks they face from terrorist financing and develop policy responses to all aspects of it.



How vulnerable is the sector?



Ukraine war: Investigation finds hundreds of fake charity websites

5 May

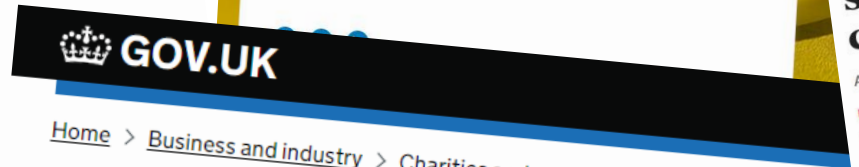


Beware charity scams exploiting Ukraine war



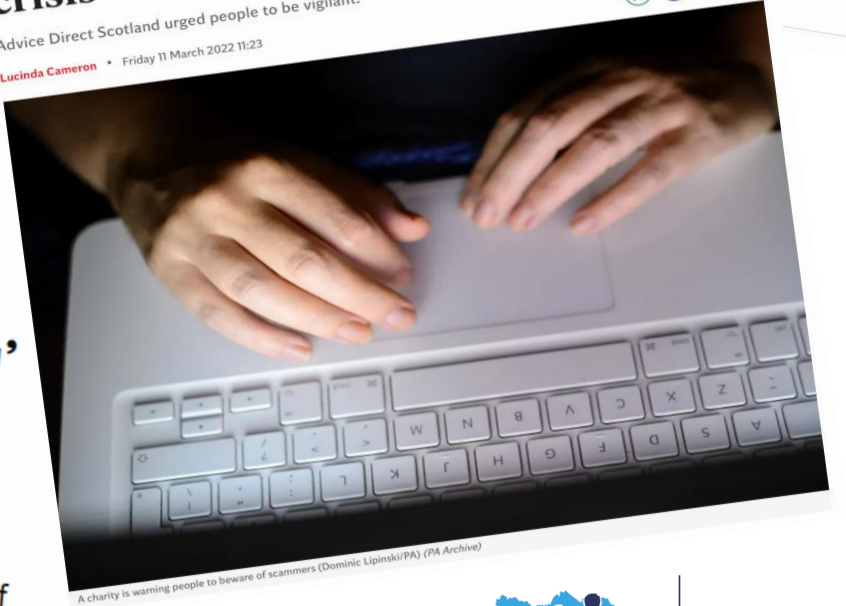
Charity warns people to beware of scammers trying to exploit Ukraine crisis

Advice Direct Scotland urged people to be vigilant.
Lucinda Cameron • Friday 11 March 2022 11:23



Charities at risk of 'underestimating' online fraud as one in eight experienced cybercrime last year

The Charity Commission warns of cybercrime risk ahead of Charity Fraud Awareness Week.



A charity is warning people to beware of scammers (Dominic Lipinski/PA) (PA Archive)

Why is this sector attractive to criminals and terrorists?



- Enjoy public trust
- Have access to considerable funds and sources of funds
- Have access to other resources from which terrorists may seek to benefit
- Some have a cross-border or global presence; this may provide a framework for national and international operations and financial transactions
- Some NPOs work within, or in close proximity to, areas where terrorists operate such as conflict zones.





What can abuse of the NPO sector look like?

- Pose as legitimate persons or agencies to benefit from NPO programmes and resources, or supplying the NPO with goods and services (e.g. security or supplies) to obtain funds
- Infiltrate a legitimate NPO, for example appearing to work as a legitimate NPO representative, providing support for recruitment efforts
- An NPO, or an individual acting on behalf of an NPO, diverts funds to a known or suspected terrorist entity affiliation with a terrorist entity.
- Diversion of NPO funds by terrorist entities was a dominant method of abuse





FATF definition of a non-profit organisation

- A legal person or arrangement or organisation that **primarily engages in raising or disbursing funds** for purposes such as:
 - charitable
 - religious
 - cultural
 - educational
 - social or fraternal purposes
 - other types of good works
- “Organisation” includes the trustees of a trust



First change – all NPOs have to be registered with the JFSC



- Over 1,200 NPOs already registered with JFSC, meaning that they have provided some basic details to the JFSC (name, contact, objectives, activities, funds raised)
- Previously there were two exceptions which did not require registration:
 - Those NPOs administered by trust companies
 - Those NPOs raising less than £1,000 per year
- These exceptions have now been removed, as every jurisdiction is expected to have a record of all NPOs, irrespective of the amounts raised or how they are administered



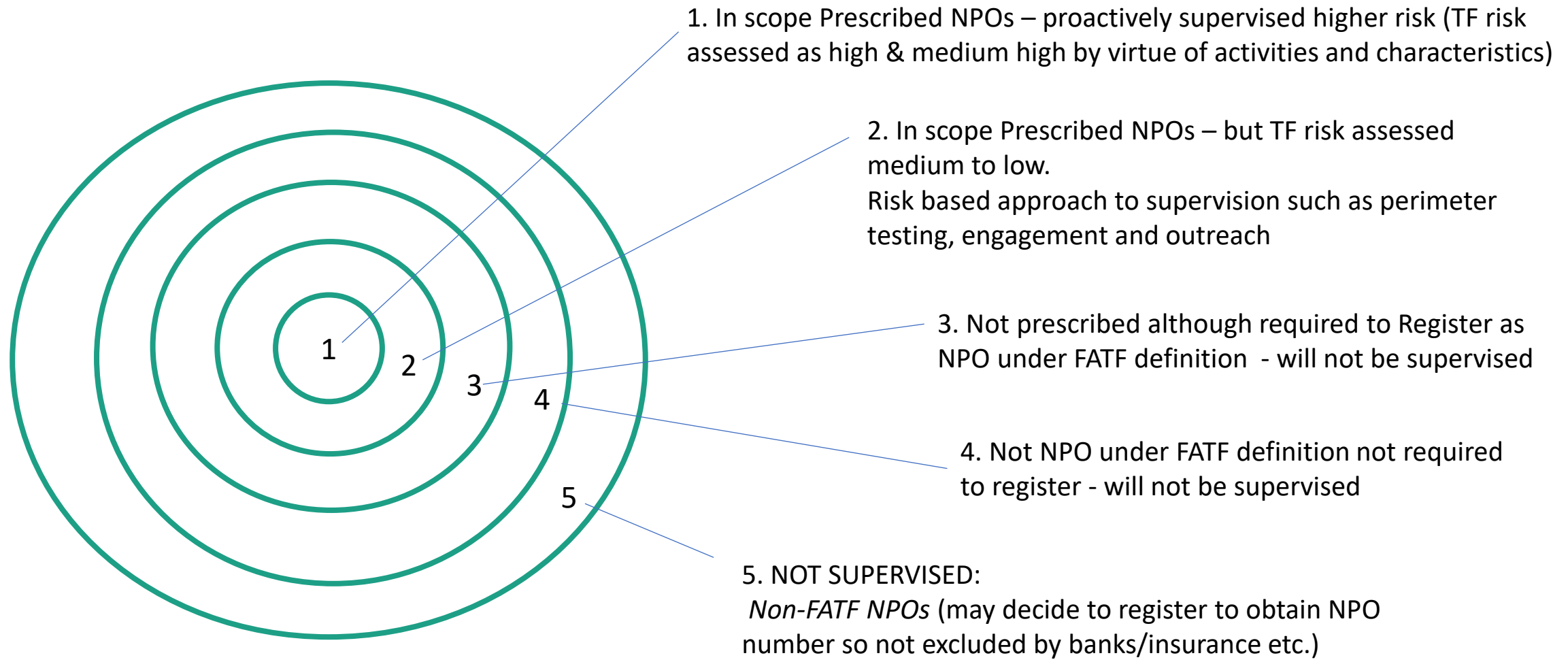
Second change – Prescribed NPOs will be subject to further obligations



- You will be a Prescribed NPO if:
 - You are raising more than £1,000 per annum outside
 - Jersey,
 - Guernsey,
 - the Isle of Man,
 - Scotland,
 - England and Wales; or
 - You are disbursing more than £1,000 outside those jurisdictions



Who will be Supervised by the JFSC?





What does “raised” and “disbursed” mean?

- **Raised**

- “Raised”, in respect of the funds of an NPO, includes funds given to the NPO but does not include
 - (a) income earned on the funds of the NPO; or
 - (b) amounts paid to the NPO by persons to become or remain members of the NPO

- **Disbursed**

- “Disbursed”, in respect of the funds of an NPO, does not include the disbursement of funds paid to:
 - the NPO by persons to become or remain members of the NPO if those funds are applied in a way that only benefits members of the NPO

Factors considered when assessing vulnerability



- Abuse of environmental and jurisdictional aspects
- Higher risk rating based on specific activities
- Bank accounts: There is less risk when using the regulated banking system and with trust company business (TCSP) oversight
- Funds managed outside bank accounts include: Cash, PayPal, MoneyGram, Western Union, money remitters, preloaded cards, mobile money, virtual currencies/assets
- Foreign currency
- Transfer risk: Majority of highest risk NPOs work with foreign partners
- Important: Ceding control of funds does not mean ceding responsibility for their destination. Partner selection, due diligence and oversight are key
- Partners may be sympathetic to / controlled by / infiltrated by terrorists or simply not adhere to adequately high standards



What further information is required of prescribed NPOs?



- The new order formalizes measures that may already be in place as part of the NPO's good governance. The draft order sets out these obligations as follows:
 - Article 2 To prepare and provide annual financial statement to the JFSC
 - Article 3 To have appropriate accounting systems and controls in place
 - Article 4 To keep records of owners, controllers etc. sufficient to identify them
 - Article 5 To keep record of significant donors (over £10,000, or over 50% of total donations during a year)
 - Article 6 To identify other NPOs with whom they may be working, the beneficiaries, activities, and the nature of the relationship



Supervision by the JFSC



- Focus will be NPOs at higher risk of Terrorist Financing (TF) abuse by virtue of their activities and characteristics
- A dedicated supervisor to work closely with the sector and alongside the office of the Charities Commissioner
- Need to establish how well NPOs understand their vulnerabilities and comply with the measures to protect themselves from the threat of terrorist abuse?
- While Jersey is under an obligation to comply with international standards, this should not impact the good work being done by the NPO and charity sector
- Sustained outreach, engagement and education to continue in 2023
- Targeted risk-based supervision or monitoring to understand individual





What work has been done locally so far?

- Global standards require jurisdictions to prepare Risk Assessments for various sectors
- In April 2022 Jersey published its first [National Risk Assessment of Non-Profit Organisations](#), and the overall risk was assessed as **medium to low**
 - Working group included Government, JFSC, Law Officers, Jersey Police, Jersey Customs and Immigration Service, Jersey Charity Commissioner, Overseas Aid Commission, assisted by Counter-terrorism financing experts, Jersey Sport, the Association of Jersey Charities and a number of local NPOs
- The National Risk Assessment (NRA) was undertaken in order to:
 - Review the non-profit sector and risks associated with it
 - Identify any vulnerable sub-sectors



Work since the NRA



- June 2022 webinar to industry on NPOs and terrorist risks
(involving Government, JFSC and Office of the Charity Commissioner)
- Consultation paper on proposed changes and draft NPO Handbook August 2022
- Drop-in sessions at Jersey library August – September 2022
- Draft Ministerial Order on new NPO obligations published 2 November 2022
- Second consultation period 2 – 18 November 2022
- Lunch and learn session 7 November 2022 with Association of Jersey Charities
- Ongoing outreach from JFSC dedicated officer and Office of the Charity Commissioner

Any questions?



Thank you for your time,
and feel free to get in touch
after this event if you
need more information.



Jersey Financial
Services Commission



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