



Registrar of Non-Profit Organisation

Supervisor of Non-Profit Organisations Complaints, Investigation and Enforcement Policy

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Supervisor of NPOs Complaints, Investigation and Enforcement Policy

Serious incident:

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

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

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

Complaints

All complaints will be handled as a matter of priority taking into consideration the nature of the complaint, associated time factors and seriousness of the allegations. The Registrar will employ a risk base approach when initiating investigation taking into consideration resource issues and nature of the investigation.

Complaints can be made in person at General Registry, via email (grcompliance@gov.ky), telephone or confidentially. There is a complaints form that should be completed and submitted to the Registrar. For those persons choosing to remain anonymous there is no need to attach a name or signature to the form. The form can be downloaded from General Registry's website and submitted.

Investigation

All complaints made to the Registrar will be investigated. Investigations will be conducted either for or on behalf of the Registrar or for and on behalf of the Attorney General as per sections 8 and 10 of the NPO Law 2017 Revision. For matters being conducted on behalf of the Attorney General, there are strict compliance requirements which if not met can potentially lead to personal liability on the part of the Controller(s) of NPOs under the NPO Law.



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Under section 10 of the law, the Attorney General (“AG”) may either independently or pursuant to a referral from the Registrar inquire into the operations of a NPO; to include its purposes, administration and management. It value and source or application of money or other property received or distributed.

The AG may appoint an independent officer or any other person to conduct this inquiry. The NPO empowers the AG to request the following from the NPO:

- (a) financial statements in writing with respect to any matter in question at the inquiry;
- (b) return answers in writing to questions;
- (c) verify statements or answers by statutory declaration;
- (d) provide copies of documents in the controller’s custody or under the controller’s control which relate to a matter in question at the inquiry and verify them by statutory declaration;
- (e) attend at a specified time and place in order to give evidence or produce documents;
- (f) provide all books, papers, writings and documents in relation to the non-profit organisation or to the administration, management, value, condition and application of the property and income of the non-profit organisation; and
- (g) Answer all questions and give all assistance in connection with the inquiry that the controller is reasonably able to answer or give.

A controller or person who fails to comply with a request from the AG commits an offence and is liable on summary conviction to a fine of three thousand (\$3000) dollars or to imprisonment for a term of one year or to both.

Where, at any time after the Attorney General has instituted an inquiry under this section, the Attorney General is satisfied -

1. that there has been wrongdoing on the part of the non-profit organisation;
2. that there is or has been any misconduct or mismanagement in the administration of the non-profit organisation;
3. that a non-profit organisation may have committed a breach of this Law or any other law;
or
4. that it is necessary or desirable to act for the purpose of –
 - 1.1 Protecting the property of the non-profit organisation;
 - 1.2 Securing the proper application of the property for the purposes of the non-profit organisation; or
 - 1.3 property that may be given to the non-profit organisation,

The Attorney General may refer the matter to the Director of Public Prosecutions for a determination or take such action as set out in subsection 11.



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Criminal Investigations

For matters involving allegations of criminal conduct, the Registrar has the option of conducting an initial investigation, after which all relevant documentation and information will be handed over to the Royal Cayman Islands Police Service (RCIPS) or Anti-Corruption Unit if applicable for continuance of the criminal investigation. The Registrar can also refer matters immediately to any Law Enforcement Agency (“LEA”) when deemed necessary.

Financing of Terrorism/ Targeted Financial Sanctions and Proliferation Financing

Allegation involving the suspicion of terrorist financing, targeted financial sanction breached and matters related to suspicion of proliferation financing, will be escalated for the immediate attention of the Attorney General, the Financial Reporting Authority and the RCIPS simultaneously.

Civil matters

Matters related to breaches of the NPO Law and allegations of wrongful conduct on the part of the NPO, Controller and volunteers will be investigated by the Registrar in keeping with section 4 of the NPO Law. As per section 8 of the NPO Law the Registrar has the option of suspending, or canceling the registration of the NPO whose:

1. Found to have engaged in wrong doing (in this case wrong doing can be interpreted to mean any breaches of any laws in the Cayman Islands)
2. Failed, without reasonable cause to maintain proper financial statements reflecting all monies received and expended
3. Failed without reasonable excuse to submit annual returns
4. Failed without reasonable cause to pay any prescribe fees required for registration

During the course of any investigation into the operations of an NPO the Registrar may suspend the registration of the NPO during the period of that enquiry. Where an NPO is suspended or it is intended by the Registrar to suspend the NPO, written notification will be provided to the NPO. There may be no cancellation or suspension of the NPO if it can show in writing to the satisfaction of the Registrar why the NPO’s registration should not be cancelled or suspended.

Penalties

1. A NPO who engages in wrong doing, failed to maintain proper financial statements reflecting all monies received and expended, fail to submit annual returns or fail to pay the prescribed fees may be subjected to registration being cancelled or suspension.



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2. A controller or senior officer who fails to comply with a request under subsection 10 subsection (4) commits an offence and is liable on **summary conviction, to a fine of three thousand dollars or to imprisonment for a term of one year or to both.**