

Section 106 Charities

Briefing: Numbers of charities and sets of accounts in 2021/22



 **AUDIT SCOTLAND**

Prepared by Professional Support for auditors in local government sector
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Introduction

Purpose of briefing

1. This briefing from Professional Support provides auditors with information on the numbers of charities falling within [section 106](#) of the Local Government (Scotland) Act 1973 (the 1973 Act) that were administered by councils in 2021/22. These are referred to as section 106 charities.
2. It also provides information on the number of related sets of accounts; these are lower than the number of charities as connected charities are permitted to prepare a single set of accounts.
3. The purpose of this briefing is to encourage a reduction in the number of sets of accounts that require to be audited.

Context

4. The appointments of auditors made by the Accounts Commission to councils include the audit of any trust funds or Common Good funds that both:
 - fall within section 106; and
 - are registered as charities with the Office of the Scottish Charity Regulator.
5. The charities are generally small and, if they did not fall within section 106, they would require an independent examination rather than a full ISA-compliant audit. The consequent audit is therefore relatively costly and disproportionate. While there has been progress in reducing the number of section 106 charities over the last ten years, a significant number remain.

Consultation with Professional Support

6. Auditors should consult with Professional Support by sending an email to TechnicalQueries@audit-scotland.gov.uk.

1: Application of section 106 to charities

7. A registered charity falls within the scope of section 106 where all the trustees are elected council members. The audit provisions of [section 96](#) of the 1973 Act that apply to councils are extended to charities that fall within section 106 as a result of the operation of that section.

8. The audit of the statement of accounts prepared by registered charities is regulated by The Charities Accounts (Scotland) Regulations 2006 (the charity regulations).

9. [Regulation 10](#) of the charity regulations requires an auditor's report to accompany a charity's statement of accounts where, among other reasons, any legislation requires an audit. As the joint application of sections 96 and 106 of the 1973 Act requires an audit of section 106 charities, appointed auditors are required to prepare an Independent Auditor's Report (IAR) for each section 106 charity's statement of accounts.

10. The preparation of an IAR necessitates the performance of audit procedures that fully comply with ISAs (UK) for the accounts of every section 106 charity. This is the case even when the amounts involved are below the de minimis level set out in [Regulation 10](#) that would apply in the absence of a legislative requirement. This may involve a disproportionate amount of work being performed and hence increased audit fee for the administering council.

11. Audit Scotland has therefore encouraged councils to rationalise the number of section 106 charities they administer. While some councils have made good progress, for others the numbers remain high.

2: Number of charities

Number of section 106 charities in 2021/22

12. The guidance on planning 2022/23 audits advised that Professional Support would provide information on the numbers of charities that councils administered in 2021/22. This information is provided in the Appendix to this briefing.

13. In summary:

- Five councils do not administer any section 106 charities.
- Four councils have rationalised to a single charity (see table 1 in the appendix).
- Councils continued to administer a total of 170 charities in 2021/22 (a net reduction of only 2 from 2020/21).
- Thirteen councils administered more than five section 106 charities each.

Auditor actions for 2022/23

14. In order to reduce the number of section 106 charities in 2022/23, auditors should strongly encourage councils with multiple charities to:

- reorganise their charities through merging or winding them up, particularly when they appear to be failing to meet their charitable aims (e.g. by not disbursing funds)
- consider appointing an external trustee as this would remove the charity from the scope of section 106 (and hence remove the audit requirement for charities below the de minimis).

3: Connected charities

Connected charities provisions

15. [Regulation 7](#) of the charity regulations (as [amended](#) in 2010) permits a single set of accounts for charities that meet the definition of being connected. Connected charities are defined at [Regulation 1](#) as charities that have ‘common or related purposes, or charities which have common control or unity of administration’.

16. In Professional Support’s view, the definition of connected charities is met for any section 106 charity administered by the same council. This ‘unity of administration’ requirement is met even where the trustees differ.

17. Where a council administers multiple section 106 charities, the overall number of separate sets of statements of accounts can therefore be reduced by the effective application of the connected charities provisions.

Use of connected charities provisions in 2021/22

18. Table 2 in the appendix lists the ten councils that made full use of the connected charities provisions in 2021/22. However, there are:

- five councils that made only partial use and therefore produced 19 sets of accounts between them (table 3)
- eight councils that made no use of the provisions and produced 32 sets of accounts (table 4).

Auditor actions in 2022/23

19. Auditors should strongly encourage councils in tables 3 and 4 to make full use of the connected charities provisions in 2022/23.

Appendix

Number of section 106 charities in 2021/22

Table 1: Single charity

| 4 Councils |
|--------------|
| East Lothian |
| Falkirk* |
| Shetland |
| Orkney |

Table 2: Multiple charities in single set of accounts (full use of connected charities provisions)

| 10 Councils | Number of charities |
|---------------------|---------------------|
| Fife | 43 |
| Moray | 8 |
| North Ayrshire | 8* |
| Aberdeen | 7* |
| East Renfrewshire | 7 |
| Dumfries & Galloway | 6* |
| Perth & Kinross | 6 |
| South Ayrshire | 3 |
| East Dunbartonshire | 2 |
| West Dunbartonshire | 2 |
| Total | 92 |

Table 3: Multiple charities and multiple sets of accounts (partial use of connected charities provisions)

| 5 Councils | No of sets of accounts | No of charities |
|-------------------|-------------------------------|------------------------|
| West Lothian | 9 | 14 |
| Stirling | 3 | 12 |
| Dundee | 3 | 6 |
| City of Edinburgh | 2 | 6 |
| Renfrewshire | 2 | 4 |
| Total | 19 | 42 |

Table 4: Multiple charities and multiple sets of accounts (no use of connected charities provisions)

| 8 Councils | No of sets of accounts and charities |
|-------------------|---|
| Argyle and Bute | 8 |
| Scottish Borders | 6 |
| South Lanarkshire | 5 |
| Aberdeenshire | 4 |
| East Ayrshire | 3 |
| North Lanarkshire | 2 |
| Highland | 2* |
| Angus | 2 |
| Total | 32 |

*Expected numbers as audited accounts not received by Audit Scotland at date of preparing briefing

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