



GENERAL

Legacy Fraud in the Charitable Sector

08.22.24 | Linda J. Rosenthal, JD



For the past eight years, each November there's been [an important global gathering](#) of charitable-sector representatives and leaders, government regulators, law enforcement officials, and anti-fraud experts.

The 2023 Charity Fraud Awareness Week conference was held in London to "[raise awareness and share good practice](#) in tackling fraud and cybercrime." See our coverage including: [Charity Fraud Awareness Week Begins November 27th](#) (November 21, 2023) and [New Charity Fraud Awareness Survey 2023 is Out](#) (November 30, 2023).

Charity fraud has "[long been a serious problem](#), threatening the existence of even some of the most well-established organizations. The buzz on Day 2 of the conference was about the just-released [2023 Charity Fraud Report](#) from conference sponsors BDO UK and the United Kingdom's Fraud Advisory Panel. It included results from a late-summer Fraud Awareness Survey, revealing troubling data "... about the [broad scope and all-too-common incidents](#) of deception, misappropriation, and other wrongdoing by bad actors – both insiders and strangers."

"A [complicating factor is volatility](#): Creative con artists continually [devise new ways](#) to commit fraud. The explosive growth of technology has, of course, greatly expanded the avenues and opportunities for wrongdoing. In order to confront and combat this threat, everyone in an organization – leadership, staff, board members, and volunteers – must understand its many variations and nuances."

Year-Round Vigilance Needed



Among the key takeaways of these latest findings is the need for heightened vigilance against this critical danger to the charitable community and the general public it serves.

That's why Charity Fraud Awareness Week is the annual kickoff for a year-round push for education and action including the [#StopCharityFraud](#) campaign. See [Prevent Charity Fraud](#), a resource-rich online hub from the Fraud Advisory Panel and the Charity Commission of England and Wales. (Charity Fraud Awareness Week began as a U.K. effort but quickly attracted attention and participation from around the world.)

For our part, we've written five posts so far in 2024 on specific major threat categories identified in the [2023 Charity Fraud Report](#):

- [Procurement Fraud in the Charitable Sector](#) (February 11, 2024)
- [Expenses Fraud in the Charitable Sector](#) (February 19, 2024)
- [Payment Diversion Fraud in the Charitable Sector](#) (February 26, 2024)
- [Grant Fraud in the Charitable Sector](#) (May 9, 2024)
- [Donation Fraud in the Charitable Sector](#) (May 14, 2024)

We now move on to a different category: the increasingly common problem of a fraudster improperly messing around with the proper delivery of a charitable bequest to the designated organization.

There's some variation in the name used for this type of wrongful conduct. In the U.K., it's generally referred to as "legacy fraud" or – better still – "charity (or 'charitable') legacy fraud." In the United States, it's most commonly called "probate fraud" or sometimes "estate fraud": both, however, are problematic because they are so broad.

Our choice, geography notwithstanding: "charitable legacy fraud."

What is Charitable Legacy Fraud?

"The world of charitable giving is, for the most part, one of compassion, generosity, and altruism. However, unfortunately, a darker underbelly exists within this noble sphere, as some unscrupulous individuals exploit the goodwill of donors through charity legacy fraud." [The menace of charity legacy fraud and how to protect your organisation](#) (updated January 17, 2024) Elle McDonald, Solicitor, [stoneking.co.uk](#).

Ms. McDonald continues: "This deceptive practice involves but is not limited to:

- Fraudulent individuals or organisations misrepresenting themselves as legitimate charities, deceiving well-intentioned individuals who aim to leave a lasting impact through their estate;
- Individuals working within reputable charitable organisations purposely embezzling, diverting or misusing charitable funds for their own personal gain;
- Family members deliberately concealing valuable assets belonging to the estate so that they are not accounted for in the estate accounts, therefore reducing the value of the estate."



According to the invaluable [Help Sheet: Legacy Fraud](#) on the [Prevent Charity Fraud](#) website, “[t]he perpetrator might be: an executor (a solicitor or lay executor); the deceased person’s relative or carer; or one of your own staff members or volunteers.”

Sometimes, this fraud category is further defined as “external” or “internal.” External fraud is where the “executor of the donor’s estate, a relative or carer, or someone outside the charity, may be involved. For example, the executor may not tell a beneficiary they are entitled to something, underpay them, or sell assets to a friend or associate.” Internal fraud is when the wrongdoing involves a “charity staff member or volunteer.”

See also [Dealing with Legacy Fraud Guide](#) (August 19, 2024, 10 pp PDF) Flint Bishop Limited, [flintbishop.co.uk](#): “Legacy fraud can occur in a number of situations ... [internal or external]Being aware of the risks will place you and your team in a good position to prevent fraud affecting your charity.”

See also, for instance, [Legacy fraud – a charity CEO’s cautionary tale](#) (April 25, 2023) Kristina Kopic, Head of Charity and Voluntary Sector, Institute of Chartered Accountants in England and Wales (ICAEW), [icaew.com](#).

Scope of Problem

In the United Kingdom at least, this category of charity fraud is serious and growing.

“Legacies – money left in wills – are a vital source of charitable income,” according to Prevent Charity Fraud’s self-help guide on legacy fraud. “Some charities receive half or more of their total voluntary income in this way.”

A source called “The Legacy Trends 2024 report” indicates that “legacy income has reached a new milestone, now worth over £3.9b. However, charities in the UK are believed to lose more than £40m in legacy fraud each year.” See Flint Bishop’s [Dealing with Legacy Fraud Guide](#).

Referring to that same industry report, [Stone King solicitor Elle McDonald adds](#): “Whilst charitable donations do not appear to be slowing, fraud remains a hot topic that charities and their staff need to be aware of. The reason for this is that trends demonstrate that fraud increases in times of political and economic uncertainty and unrest....”

She adds: “...[C]harities can be seen as easy to deceive in comparison to other organisations or persons....” It’s “not uncommon for charities to hold little or no information in respect of a donor’s estate..., and “aggrieved family members, for example, may rate “the risk of being caught [as] considerably less in comparison to other crimes.”

Controls & Prevention Tips

“[C]harity legacy fraud not only compromises the intended impact of the donor’s legacy, but can also damage the internal and external reputation of genuine charitable organisations if they fail to have relevant safety measures in place to reduce the likelihood of becoming a repeated target or victim of fraud.



And, although charities may be perceived as soft targets, nevertheless, they have a legal duty to manage legacy gifts to make sure that the donor's bequest is safeguarded.

Each of the three main sources linked here – (a) the Help Guide: Legacy Fraud; (b) the article by Elle McDonald of the UK's Stone King; and (c) the Flint Bishop downloadable guide, available through the firm's website – include valuable information and advice about controls to put in place and other measures to observe to safeguard against charitable legacy fraud.

See also:

- *Legacy Fraud: Where there's a Will there's a way!* (December 1, 2023) Zoe Unankah, Cancer Research UK, preventcharityfraud.org.uk.
- *Bequest Scam Warning* (February 5, 2024) Leslie Petersen, Foundant Technologies, community.foundant.com.

Conclusion

The 2024 Charity Fraud Awareness Week events are already in place for November 25-29. See Prevent Charity Fraud website.

Undoubtedly, the 2024 Fraud Awareness Survey – which will be highlighted at the 2024 conference – is about to begin or already underway. It will provide updated data and information about the continuing and serious threat of charity fraud, generally, as well as new insight on the prevalence of the various categories of wrongdoing.

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