



Northern Ireland
Assembly

Committee for Communities

OFFICIAL REPORT (Hansard)

Charities Bill: Office of the Scottish Charity
Regulator

16 September 2021

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Ms Paula Bradley (Chairperson)
Ms Kellie Armstrong (Deputy Chairperson)
Mr Andy Allen
Mr Mark Durkan
Mr Alex Easton
Ms Áine Murphy

Witnesses:

Mr Martin Tyson

Office of the Scottish Charity Regulator

The Chairperson (Ms P Bradley): I welcome Martin Tyson. Martin, you are very welcome. If you would like to go ahead and brief the Committee.

Mr Martin Tyson (Office of the Scottish Charity Regulator): Thanks very much. Good morning. I am the head of regulation and improvement for the Scottish Charity Regulator (OSCR). I look after our casework and our engagement with the sector and other stakeholders.

I will give you a bit of background about OSCR and the scale of things in Scotland. We started operations in 2006. Our legislation, the Charities and Trustee Investment (Scotland) Act 2005, kicked in then. We are based in Dundee. We have around 50 staff, and a board of six, who are appointed through the public appointments process in Scotland. We regulate 25,000 charities. It is a universal system of regulation, so you cannot be a charity in Scotland unless you are registered with us.

The sector in Scotland is predominantly made up of small charities. A total of 51% of charities on the register have incomes of less than £25,000 per year, 66% have no paid staff, and 43% are incorporated.

In my written submission, I tried to cover the equivalent points in our legislation and regulatory setup that may speak to the key parts in your Bill. I am happy to answer any questions you might have.

The Chairperson (Ms P Bradley): Thank you, Martin. You spoke about the number of smaller charities in Scotland. What are your views on our proposals for exempting charities from registering altogether, and how that would operate? The model in Scotland seems like a more sensible approach. What are your views on how we are going forward?

Mr Tyson: I probably do not know enough about the charities sector in Northern Ireland to be able to comment directly on that. In Scotland, there has been a consensus since before the passing of the 2005 Act that there should be universal registration; there should not be any exceptions or

exemptions. That is the view across the sector. It is certainly the view among the public, and it has not been particularly challenged in Parliament.

That is from the point of view of clarity. You cannot be a charity in Scotland unless you are registered. It is clear to people what is a charity and what is not. For instance, if an organisation holds itself out to be a charity but is not, we have the power to stop them doing that, to direct them not to do that. We do receive a number of concerns about that, so there is that clarity.

People value the transparency. The public, funders, stakeholders, government and local government that are asked to transact with charities can look at our register and get a set of basic information, including, in a lot of cases, a look at a charity's accounts. That gives a sense of transparency and encourages trust in the sector. The Scottish Government, at the beginning of this year, consulted on proposals to increase the level of transparency, to give us powers to make it easier for us to publish accounts, including for smaller charities, and to get more details of charity trustees. There was broad support for the publication of accounts. People attach real value to transparency, and that goes for the charities themselves. The ability to display a charity number and show that you are regulated helps to build trust.

The Chairperson (Ms P Bradley): I tend to agree with you on that. I was interested in the point that you made about the discussions that you have had with some organisations that have come forward to register as a charity, and you dissuaded them or pushed them in a different direction. We have had issues in the past with some people regarding decision-making with our Charity Commission. Will you give an example of that? Will you expand on what that means?

Mr Tyson: Are you talking about our role with regard to registering or not registering charities?

The Chairperson (Ms P Bradley): Yes. You said that when someone goes to register as a charity, that might not be the way forward for that organisation. Is that what you meant by that, or did I pick that up wrong?

Mr Tyson: What I was talking about earlier was the situation where an organisation says that it is a charity without being registered with us. In that case, we can direct them not to call themselves a charity, because they are not until they are registered with us. That is more of a disciplinary power.

With regard to contact with organisations that want to become charities, we have a lot of guidance on our website and a lot of interaction with bodies that want to apply for charitable status, and we will advise them about the process. In a lot of cases, we signpost them to the third-sector interfaces, which are bodies that are funded by the Scottish Government to advise the voluntary sector. In a lot of cases, there will be advice provided there about whether becoming a charity and getting registered is the most appropriate thing for that organisation. That is not necessarily something that we can do because we have a regulatory decision to make there, and, sometimes, that can conflict with the guidance and advisory role.

The Chairperson (Ms P Bradley): Thank you for that. Kellie, do you want to ask a question?

Ms Armstrong: Yes. Thank you very much, Martin. I just want to pick your brains. You mentioned that a significant number of charities have a turnover of under £25,000 per year in Scotland. As far as OSCR is concerned, do you make a difference in the reporting mechanism that those smaller charities have to have compared to larger charities?

Mr Tyson: We do. It comes in two ways; there are two forms of contact that every charity has with us every year, and that is completing an annual return, and along with that, they send us their annual trustee report and accounts. With both aspects of that, there is some sort of graduation there. So, depending on the way that the charity is set up and depending on its income, there will be a lesser or greater degree of financial reporting. The big cut-off there is between doing receipts-and-payment accounts and fully accrued accounts, which are much more complex. So, there is a threshold there.

The annual report that they complete for us is almost always done online now. If you begin the process and tell us that you have quite a small income, there are questions that you just will not be asked, so the annual return will be a lot more lightweight for a smaller charity.

Ms Armstrong: I was just wondering about that because we might consider a threshold for a charity to be registered. At this stage, through our investigations, we have found that it is very important to charities that they all have a charity number and can be recognised as such. If they are volunteer-led or they do not have any paid staff and have very little money coming in, their purposes are still charitable, but it is important that they have that umbrella of protection. However, quite often, we hear complaints from those organisations that the amount of red tape and paperwork that they have to go through equates to that of a much larger charity. Therefore, a threshold may well just apply to the paperwork and reporting mechanisms as opposed to who becomes registered.

Mr Tyson: Yes. We definitely take that approach with the reporting and, as you said, the paperwork. The other side of it is that our Act requires us to act as a proportionate regulator and adopt an approach that targets our attention to where it is required. That is the other side of our operation; it is about making sure that, where there are issues with a smaller charity, the interventions that we make are proportionate and appropriate to the context that it operates in. That does not mean that we do not take it seriously when, for instance, an issue arises or we get a complaint about a smaller charity. However, sometimes the action that we take will need to take account of the fact that the trustees will be operating on their own and will not have the level of advice and support that a larger charity would.

Ms Armstrong: This is my final question, Martin. We have had situations in which charitable bodies are registered as charities but decisions that are made by, for instance, a charity regulator, could impact on individuals. Do you do that in Scotland? How does that work there, or is that outwith your remit?

Mr Tyson: Most of our decisions on individuals relate to charity trustees.

Ms Armstrong: Yes.

Mr Tyson: Our key powers there are to suspend a charity trustee for up to six months. If we want to take further action, for instance, disqualification, whether permanent or for a period of time, we have to go to the Court of Session in Edinburgh. That court makes the decision on disqualification that would have that particular impact on someone. When a person is disqualified, they can ask for a waiver from that disqualification. We make that decision. The decision on disqualification is made by the court, and the person can challenge that in court. The other decisions — the suspension and the waiver — are subject to an internal review procedure. If a person does not like our decision, they can ask us to review it internally. If they do not like our decision after that review, they can go to the independent tribunal and, eventually, to the courts.

Ms Armstrong: OK. That is brilliant. Thank you so much, Martin. Keep up the good work in Scotland. Thank you.

Mr Tyson: Thank you very much.

Mr Allen: I do not have a question, Chair. It is more of a request. Martin, on Kellie's point about the reporting requirements for larger and smaller charities, for visualisation, could you send us a copy of the questions that would be asked of each?

Mr Tyson: Yes. I will take that up with my collages and get you a copy of those.

Mr Allen: Thanks very much.

The Chairperson (Ms P Bradley): OK. Thank you. No other member wants to ask anything further.

Martin, thank you for your briefing paper and for joining us and answering our questions.

Mr Tyson: Thank you.

The Chairperson (Ms P Bradley): Thank you very much. Bye-bye.