



Northern Ireland
Assembly

Committee for Communities

OFFICIAL REPORT (Hansard)

Charities Bill:
Northern Ireland Council for Voluntary Action

23 September 2021

On clause 2, it is important that Charity Commission staff are able to make certain decisions on their own, in order to ensure that charities are able to receive decisions in a timely manner. However, certain decisions that could negatively impact on the reputation of a trustee or a charity should not be taken by staff as identified. NICVA believes that the Bill provides clarity on the future delegation of decision-making powers to commission staff, including those that cannot be delegated but questions whether it is necessary to put the detail of the scheme in primary legislation. It would, perhaps, make more sense to require a scheme but leave the detail of the scheme in the hands of the commissioners.

On clause 3, NICVA welcomes the inclusion in the Bill of a power to introduce a de minimis threshold for charity registration through regulations at some future point. We also welcome it that a charity that falls below any set threshold would be able to remove itself from the charity register. We agree that any charity that is not required to register should be permitted to do so if it wants to be a registered charity, without there being any prejudice against that charity. Without a de minimis threshold, there is a real danger that existing small organisations will wind up, rather than having to register and/or report annually to the Charity Commission. Trustees of smaller organisations have told us that they find the regulations overwhelming. Small organisations do not have the benefit of staff to help them. Many of the small charities that have been in default on the register have older trustees who sometimes find the process of reporting online daunting and difficult. It is also discouraging new organisations from forming, as the charity registration and reporting regime is not always welcomed by small organisations that simply do not identify as a charity.

Can a voluntary organisation choose not to be a charity in Northern Ireland? It is not easy for voluntary organisations in Northern Ireland not to be a charity, as our definition of a charity is not dependent on charity registration as it is in Scotland. If a constituted voluntary organisation meets the definition of a charity — that is, if it is set up for a purpose that falls under the 12 charitable purposes listed in the Charities Act (Northern Ireland) 2008 and it is for the public benefit — it is a charity and, therefore, must register with the commission. In contrast, a voluntary organisation with charitable purposes in Scotland is not required to register with the regulator unless it wishes to present itself as a charity. For example, a small environmental group with a constitution that outlines its purpose to be the advancement of environmental protection for the benefit of the community in which it is situated is required to register with the commission, even if it does not believe that it is a charity and does not want any of the benefits of being a charity. There are many such small groups that never intended to be a charity but, under our definition of charity, are.

Is there any benefit to society of making small organisations register with the Charity Commission? There is an illusion that charity registration equals compliance with charity regulation and that the Charity Commission ensures that all registered charities are fully compliant. The Charity Commission does not, however, review all the accounts and reports that are submitted. It simply does not have the resources and is unlikely ever to do so. In the most recent business year that the commission was permitted to check accounts and reports, it was able to check only 19% of all sets of accounts and reports submitted to it. In the year before that, the figure was 12%, and, in the previous year, it was 53%. While those figures demonstrate a resourcing issue in the commission, they could also tell us that the commission is unlikely to assign its limited resources to checking the accounts and reports of charities with very small income — those charities are low-risk, given their income — unless they are chosen at random.

Many of the charities that were in default on the register were small charities with a low income that did not understand why they had to be charities in the first place. We worked on a project specifically to help those charities to file their accounts and reports. We encountered trustees who were frustrated, stressed and, sometimes, distressed by the requirements placed on them. We noticed that some charities that we got right on the register were in default again before long. We saw that there was no benefit in small organisations such as those being forced to register. If a de minimis threshold is not introduced, we need to change the definition of "charity" to that used in Scotland.

NICVA welcomes plans to introduce proportionate regulation for small exempt charities if the de minimis threshold is implemented, so that they do not have to file accounts and reports. We believe that that provision should be extended to small registered charities to ease the burden on them too.

The Chairperson (Ms P Bradley): Thank you very much for that, Denise. I will go back to the beginning of your briefing. I was reading as you were going along. You said, under your concerns, that the definition of "charity" in Northern Ireland is not fully understood. Will you expand on that?

Ms Copeland: An organisation that meets the definition of "charity" in the Charities Act (Northern Ireland) 2008 is a charity. The registration process here simply confirms that an organisation is a

charity; it does not make it a charity. There is a misunderstanding about that. People think that you are a charity once you are registered with the Charity Commission, but you are a charity if you meet the definition in the Charities Act and you have a constitution that includes a charitable purpose and states, for example, that your organisation is for the benefit of the community.

The Chairperson (Ms P Bradley): We know from some of the submissions to us that being registered with the Charity Commission has benefits; I am looking at smaller charities here. Last week, we heard from witnesses about the laws in Scotland. Are you saying that we should go down the same route as Scotland by allowing smaller charities to register but applying less onerous reporting procedures to them?

Ms Copeland: If we were starting from scratch with charity legislation, the Scottish legislation would probably be the ideal version to adopt. However, I understand that, with the Charities Act, it may be difficult to change the definition of "charity" to include the Scottish definition. To get us out of a hole here, the easiest thing to do is probably to introduce a de minimis threshold.

The Chairperson (Ms P Bradley): OK. I have another question about the appeals period. Something that arose from the submissions that we received was that the 42-day period for appeals is not long enough. You spoke about a three-month period for appeals. For clarification, in case we need to propose any amendments to the Bill, were you talking about three calendar months or 90 days?

Ms Copeland: We think that it should be three calendar months or longer. We are thinking about the time that trustees would need to get together and meet if they receive a letter from the commission. They may also need to seek legal advice. All of that takes time.

The Chairperson (Ms P Bradley): OK. I get that. Absolutely.

Mr Allen: Denise, what, do you think, would be an appropriate registration threshold?

Ms Copeland: In our submission to the independent review panel, we suggested a de minimis threshold of £20,000. We agreed that figure because, for example, organisations with income of under £20,000 are unlikely to have staff. We also recognise that there would be many organisations with income of under £20,000 that want to be charities and get the benefits of that. It is simply not the case that every organisation with an income of under £20,000 that is registered as a charity would opt to go off the register, because there are so many that enjoy the benefits of charity registration.

Mr Allen: No worries. Thanks very much.

The Chairperson (Ms P Bradley): OK. No other members want to ask a question. Denise, thank you for your submission. There is plenty of detail in it, and it will certainly go some way to informing our final report and any amendments that we might wish to put down. Thanks, Denise.

Ms Copeland: Thank you, Chair.

The Chairperson (Ms P Bradley): OK. Bye-bye.