



Northern Ireland
Assembly

Committee for Communities

OFFICIAL REPORT (Hansard)

Charities Bill: Social Enterprise NI

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also welcome. However, we have concerns around the timetable noted in the Bill, and I am happy to take questions on that.

In respect of clause 2, Social Enterprise Northern Ireland members support the mechanism and believe that it will be imperative for commission staff to have delegated power in order to carry out their duties and make decisions in a timely manner, legally supported by the Bill. We would welcome a process through which staff could refer difficult or borderline decisions to committee or board members where they felt that further input or support was required. We do not wish to see those staff put in a position, nor having the ability or power, to make decisions that would impact upon the reputation or future of a trustee or a charity without the ability to seek clarification from seniors. Also, while the Department has responsibility for the sector, we believe that the publication of the scheme of delegation should be co-designed alongside the commission, thus ensuring that the commission's processes are considered at an early stage.

On clause 3 and the question of thresholds, the responses generally from the sector were in favour of thresholds being introduced. The feedback received was that they believe that many small charities find it difficult to meet the current reporting requirements and, indeed, that they are a deterrent for many to register. Having said that, I refer to my written document regarding the law in Scotland, which needs further explanation on my part, and, following some additional enquiries, it is now my understanding that an organisation can have charitable aims yet, as long as it does not declare itself as a charity, not have to register. From a personal perspective, though, and whilst there are advantages for those smaller organisations not to have to register, there are advantages from a governance perspective to having organisations on the list. Again, I am happy to discuss that further.

Chair, I am happy to take any questions the Committee may have. Thank you.

The Chairperson (Ms P Bradley): Thanks, Colin. I will go first to your last comments, because that issue has exercised us greatly. There has been for and against when it comes to registration of smaller charities. I do not want to put you on the spot in any way, but I will ask you, if you had to fall somewhere there, would it be either for or against? You may just want to go into a bit more detail. We always have to be mindful of unintended consequences in every Bill that we scrutinise. Will you respond on those issues?

Mr Jess: If I was asked about the thresholds from the perspective of a representative body, I would probably say that members would be looking for £10,000 as a threshold. A lot of the smaller organisations are run and managed by volunteers, and the feedback is that some find it daunting to make those commitments and responses. The other side of the fence, going back to my personal and previous role, is that grants and funding organisations will generally want a charity to be registered. There could be an issue that, if we allow some charities not to be registered, would the grants that they currently receive, and previously availed themselves of, need to be retrospectively returned, or would they still be considered valid?

It is not only funds and grants. Outside organisations looking in, such as banks, take a certain comfort from the fact that an organisation is listed as registered. It shows that a governing body has carried out due diligence on that organisation. When we were providing banking facilities and accounts for organisations, we differentiated between organisations: if they were registered, they were acceptable; if they were unregistered, they were not able to avail themselves of the schemes. Looking in, the fact that an organisation is on a list as registered provides comfort to outside organisations. They can see that a governing body has done its due diligence and can take comfort from that.

Perhaps, really, all charities need to be registered, but there can be a lighter touch for smaller ones. We cannot expect organisations turning over £2,000 or £3,000 to have the same requirements and demands as those turning over £250,000. At the end of the day, outside organisations take comfort from the fact that an organisation has gone through due diligence by being registered on the list.

The Chairperson (Ms P Bradley): Thank you, Colin. That is certainly what we have been hearing. When it comes to the smaller charities, there is the issue that being registered may give them greater leverage when applying for funding. Finally, I want to ask you about clause 2. Your submission notes general agreement, but have you any specific issues that you want to highlight?

Mr Jess: No. As I said, we support the terms of clause 2. I reiterate the point that there needs to be some sort of mechanism for staff within the commission. The delegation of power is fine, but there needs to be a support mechanism for them so that, if there is a borderline case, they are able to refer

that to someone on the commission or the board for support and backup, because making a decision could have such a negative impact on a trustee or the reputation of a charity. Reputations should not be down to individual staff members, but they should have a support mechanism within the commission. We believe that they should be able to make decisions in a timely manner. With the number of organisations that come forward, to prevent any backlog, it is important that staff are suitably delegated with the powers to proceed.

The Chairperson (Ms P Bradley): I just have one more. It is around the 42-day time frame; you are saying that it is too short. The Committee has heard from others who have proposed a three-calendar-month time frame. Is that what you would be looking for as well?

Mr Jess: It is currently 42 days. From my understanding, the two processes of appealing to the commission and tribunal run concurrently. That is very difficult for the many organisations that are small and run by volunteers and only get together once a month. To give them time to arrange meetings and gather supporting evidence — even legal support, in some cases — 42 days is far too short. I propose an overall period of three months, and the clock should start ticking when the appeal is made to the commission. That could be for 42 days, after which the commission has to come back with a response, but there should be an additional period of up to three months from the date of the first enquiry to the commission where they can go to the tribunal. So, overall, a period of three months, whether that turns out to be 12 weeks or 90 days, is our preference, and I think that that would be workable. It would give organisations that do not have staff or are run by volunteers more of a chance and more of an acceptable time to respond. I think that splitting the two appeals, rather than running them concurrently, would be important as well.

The Chairperson (Ms P Bradley): Grand, Colin, thank you. Do members want to ask anything? I will bring in Kellie first. Ciara, you had your hand up, but it has gone down again. If you want to come in, will you put it up again?

Ms Armstrong: Thank you very much, Colin. It is good to see you again. I declare an interest as a member of the all-party group on social enterprise.

Colin, I want to tease out the idea that you mentioned about the thresholds for registration. Having looked at information, we know that, in England, for instance, there is a threshold, but a number of charities have sought to be registered anyway because they see the need to be a charity. Do you think that we should include the ability for charities with an income of, say, under £10,000 to apply for charitable status if they wish?

Mr Jess: Yes. If you decide to draw a line at £10,000, below which organisations do not need to register, it is imperative, I believe, that organisations that do wish to register should be allowed to. It should not be a cut-off that, if you are below a certain threshold, you do not and cannot register. The option needs to be there. As I said earlier, there is a comfort all around in charities being on a registered list. There is no doubt about that. I think that some charities may seek the protection, the governance and the due diligence of being registered, and I think that it is important that they should be offered the opportunity to go on the list should they so desire, even though their income is below any threshold that might be brought in.

Ms Armstrong: You said during your presentation that 50% of your huge number of members consider themselves to be charities. The other 50%, I assume, are not registered charities. How would that sit with them? They are likely to be above that £10,000 — or would those members fit underneath the £10,000 income, if that were the threshold?

Mr Jess: Our members vary in size from start-ups, which are one-person and two-person organisations, right up to the large social enterprises that will be well known to everybody, creating millions of pounds in turnover. There are social enterprises that do not take charitable status. For example, we have organisations that have just chosen not to avail themselves of charitable status and have just set up as organisations. In the social enterprise business model, there is no company status, for example. There is no definition. Social enterprises are organisations where what they do with their profits is different to what an SME does in that they redistribute their profits for their social mission. They do not need to be a charity to do that, but some of them deem themselves and want themselves to be considered as charities. I do not think that it would cause any issues for organisations that are outside that level or above that threshold.

Ms Armstrong: This Bill seems to be silent on charitable incorporated organisations. Have you any thoughts on that being added into the Bill?

Mr Jess: I do not really have any specific thoughts on that, Kellie. I was more concerned about what the thoughts of our members were. I know that certain other parts of the UK will have considered that as part of the legislation, but I have not really done any research on that, and I do not want to comment on that, to be honest.

Ms Armstrong: So that is not something that the social enterprise sector sees as an opportunity for you guys, or maybe not an opportunity for you guys?

Mr Jess: No.

Ms Armstrong: Thank you very much. That is really helpful.

The Chairperson (Ms P Bradley): Does any other member want to ask any questions of Colin? Nobody else has indicated that they want to. Colin, thank you for your time today, and thank you for your submission. It has been most helpful.

Mr Jess: Before I leave, I want to congratulate Paul Frew on his football team's result last night.

The Chairperson (Ms P Bradley): Is that being sarcastic or not?

Mr Jess: No, absolutely not. As a Glentoran director, I am very supportive of the work that Ballymena are doing. Congratulations, Paul.

Mr Frew: That is an indirect compliment, I think, Colin. Well done to yourselves.

The Chairperson (Ms P Bradley): Thank you, Colin.