



Northern Ireland
Assembly

Committee for Social Development

OFFICIAL REPORT (Hansard)

Charities Bill: NICVA Briefing

20 September 2012

NORTHERN IRELAND ASSEMBLY

Committee for Social Development

Charities Bill: NICVA Briefing

20 September 2012

Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)
Mr Mickey Brady (Deputy Chairperson)
Ms Paula Bradley
Ms Pam Brown
Mr Michael Copeland
Mr Mark Durkan
Mr Fra McCann
Mr David McClarty
Mr Alastair Ross

Witnesses:

Ms Denise Copeland	Northern Ireland Council for Voluntary Action
Ms Una McKernan	Northern Ireland Council for Voluntary Action

The Chairperson: I welcome to the Committee Una McKernan, deputy CEO of NICVA — Northern Ireland Council for Voluntary Action — and Denise Copeland, governance and charity advice manager. Members have the relevant papers in their folders.

Before you start, I want to ask a particular question. The focus of your submission has been on the public benefit issue and the new proposed wording for section 3 of the Charities Act 2008 to rectify what is regarded as an ambiguous and unworkable public benefit test. Can you clarify whether you think that the new section is clear and workable?

Ms Una McKernan (Northern Ireland Council for Voluntary Action): Thanks for asking us to submit evidence. Hopefully, we will be able to clarify some of that. Denise will outline some of it, and we will take any questions you may have. It is a very complex area.

Ms Denise Copeland (Northern Ireland Council for Voluntary Action): First, the Northern Ireland Council for Voluntary Action welcomes the publication of the Charities Bill and commends the Assembly's commitment to taking forward the necessary amendments to ensure that the issue with the wording on public benefit in section 3 of the Charities Act (Northern Ireland) 2008 is rectified. At the time of the consultation on the provisions of the 2008 Act, NICVA supported the inclusion of the public benefit test but had not appreciated that there would be legal problems with this application as it is not obvious to the layperson. NICVA appreciates that the determination of public benefit is a highly complex area of charity law and, as such, respects the legal opinion that has identified the technical issue with the section on public benefit in the 2008 Act. Therefore, we welcome the proposed new wording on the public benefit requirement as opposed to the inclusion of the public benefit test.

The important thing for NICVA is that the requirement that all the charities must provide public benefit has not changed, as public benefit has always been central to the nature of charity. The introduction of the presumption of public benefit for certain types of charity was something that was being considered at one stage during this process last year. NICVA would not have supported the presumption of public benefit for any type of charity and believes that that view would be largely shared across the sector. During the consultations carried out at various stages of charity law reform, culminating in the introduction of the 2008 Act, it was widely agreed that any organisation wishing to establish as a charity in Northern Ireland should have to demonstrate that it is for the public benefit. NICVA strongly believes that all charities should be treated equally and that no one type of charity should be presumed to be for the public benefit, so it welcomes the retention of the public benefit requirement for all charities.

In the absence of a prescribed public benefit test written in legislation, it will be up to the Charity Commission to promote awareness and understanding of the public benefit requirement, as that is one of its objectives. Charity trustees will look to the Charity Commission's public benefit guidance for direction. Once published, that guidance should be able to explain to trustees what is meant by public benefit, explaining benefits and highlighting potential problem areas. NICVA looks forward to the Charity Commission's consultation on its public benefit guidance. Hopefully, that will take place early next year.

Finally, NICVA looks forward to the enactment of the Bill so that the Charity Commission may proceed with establishing the register of charities for Northern Ireland.

The Chairperson: Thank you for that, Denise. Do members have any questions? We are very conscious that this came forward in 2008. One would have thought that all the work would have been done and that all the t's would have been crossed and the i's dotted. Obviously, that is not the case. I am anxious to be sure that this meets the benefit test. You are satisfied that it does.

No other member wishes to ask a question, but do not take that as disinterest.

Mr F McCann: I was on the Committee in 2008, and there was a long drawn-out process in trying to get to where we were going. I think that the public benefit requirement was one of the issues that we looked at seriously. I was surprised to see the whole thing coming back again because I thought that we had gone through everything. Like Alex, I thought that we had dotted the i's and crossed the t's.

The Chairperson: I knew that I would embarrass you into asking a question.

No other member wishes to ask a question. Obviously, we have to go into clause-by-clause scrutiny. Your presentation has been very helpful. I appreciate that you have made time available to present to us orally and by way of a written submission. Denise and Una, thank you.