

Consultation – Charities (Amendment) Bill – Northern Ireland

Response to the consultation

1. About OSCR

The Office of the Scottish Charity Regulator (OSCR) is the independent registrar and regulator of Scotland's 25,000 charities. It is a Non-Ministerial Office of the Scottish Administration, established in its present form in 2006 under the Charities and Trustee Investment (Scotland) Act 2005 (the 2005 Act). It reports directly to the Scottish Parliament. OSCR's general functions are:

- to determine whether bodies are charities
- to keep a public register of charities
- to encourage, facilitate and monitor compliance by charities with charity law
- to identify and investigate apparent misconduct in the administration of charities and to take remedial or protective action in relation to such misconduct
- to give information or advice, or to make proposals, to the Scottish Ministers on matters relating to OSCR's functions.

2. General response

2.1 OSCR welcomes the opportunity to comment on the Charities (Amendment) Bill. Overall, we support the purpose of the Bill and consider that it gives effect to several important recommendations arising from the Independent Review of Charity Regulation in Northern Ireland. The Bill contains a range of measures intended to strengthen charity regulation, improve proportionality and provide greater flexibility within the regulatory framework.

2.2 From our experience as a charity regulator, maintaining public trust and confidence requires effective and proportionate regulatory powers. These powers should allow regulatory intervention to be tailored to the seriousness of the issues identified.

2.3 We are therefore broadly supportive of the measures contained within the Bill and offer the following observations on a small number of proposals.

3. Information sharing powers

3.1 OSCR notes the proposed expansion of information-sharing powers between the Charity Commission for Northern Ireland (CCNI) and ‘anybody discharging functions of a public nature and/or regulatory functions as to charities and fundraising’.

3.2 Appropriate information sharing can play an important role in protecting charitable assets, identifying misconduct and supporting cooperation between regulators and other public authorities. The proposed provisions appear capable of reducing barriers to information exchange where this supports regulatory oversight and public protection.

3.3 It will be important to ensure that appropriate safeguards are in place so that information sharing remains proportionate and consistent with data protection requirements.

4. Official warnings

4.1 OSCR considers the introduction of official warnings to be a proportionate regulatory tool.

4.2 Regulators benefit from having access to a graduated range of interventions. Official warnings can provide a formal means of recording and addressing misconduct without the need for more significant regulatory action in every case.

5. Removal powers

5.1 OSCR supports the proposal to strengthen removal powers so that individuals cannot avoid regulatory consequences by resigning from office. This will help to protect charities by ensuring that effective action can still be taken against individuals considered unfit to be involved in the management and control of a charity.

6. Direction powers

6.1 OSCR supports the proposed power to allow CCNI to direct a charity not to take certain actions. This power will help to ensure that charitable assets can be appropriately protected. We note that it would give the three UK charity regulators broadly similar powers in this area, and we welcome the greater consistency this would provide.

7. Disqualification powers

7.1 OSCR broadly supports the intention to extend the automatic disqualification criteria to ensure it captures all those individuals involved in the management and administration of the charity. However, we note that the disqualification criteria would

extend to all charity employees, going beyond the position for charities registered in England and Wales and Scotland. We have reservations about the practical implications of this approach. It may result in a significant number of waiver applications for CCNI and should be considered carefully in the context of employment law and employees' rights.

8. Accounting and reporting requirements

8.1 OSCR supports the proposal to provide flexibility for accounting and reporting requirements to be updated through regulations.

8.2 The use of secondary legislation can allow technical accounting and reporting requirements to be reviewed and amended more readily in response to changing circumstances and developments in accounting standards.

8.3 We recognise that the proposed removal of mandatory independent examination for charities with gross income below £20,000 is intended to reduce administrative burdens on smaller charities. Consideration should be given to the impact of this change on transparency, public confidence and the quality of financial information available to the public, particularly in relation to smaller charities.

9. Registration threshold

9.1 OSCR notes the proposal to introduce a minimum threshold of £20,000 for registration as a charity. Whilst we acknowledge that this is intended to reduce the burden of regulation, we would comment that this would create a further difference between the registration regimes operated by UK charity regulators and may cause confusion for charities registered across jurisdictions.

10. Conclusion

10.1 OSCR supports the overall objectives of the Bill and considers that it contains several proportionate measures designed to strengthen and modernise charity regulation in Northern Ireland. Some proposed changes may affect charities registered in both Northern Ireland and Scotland. We will update our working arrangements with CCNI where necessary to reflect the final legislative changes.