



Charity Law Association Working Party Response to the invitation to respond to the Department for Communities public consultation on a Bill to amend the Charities Act (Northern Ireland) 2008.

The Charity Law Association (CLA) has approximately 1,050 members, mostly lawyers but also accountants and other charity professionals. It is concerned with all aspects of the law relating to charities and has established a working party to consider the consultation by the Northern Ireland Department for Communities on a Bill to amend the Charities Act (Northern Ireland) 2008.

The members of the working party are:

- Sarah Burrows (Chair) Edwards Solicitors
- Hannah Sloane, Edwards Solicitors
- Jenny Ebbage, Retired Solicitor and Charity Trustee
- Professor Gareth Morgan, Emeritus Professor of Charity Studies, Sheffield Hallam University (now based in Scotland)
- Patrick Gleave, National Trust
- Sheena Parikh, The Salvation Army United Kingdom & Ireland Territory

The members of the Working Party serve in a personal capacity and the views expressed in this submission should not be taken to be the formal opinion of any organisation that they represent. Similarly, the views in this paper should not be seen as constituting the opinion of CLA members as a whole.

The CLA Working Party is pleased to submit the following comments – we are following the questions as set out in the consultation document. We would wish to express appreciation for the care that has been taken in the consultation document to explore the detailed implications of the choices available.

Q1. Are you completing this consultation as an individual/member of the public, a charity/ charity trustee or other organisation?

We are responding as an organisation – the Charity Law Association Working Party (WP) with membership as above. The CLA is not a charity but our members provide extensive legal advice to charities across various jurisdictions.

Q2. Do you agree with the Department’s proposed amendments?

We have concerns in respect of the Department’s proposed amendments to section 24. The proposed definition is broadening who the Commission can share information with which will include a “*person discharging functions of a public nature (including a person discharging regulatory functions in relation to any description of activities.*”

The CLA Working Party noted that the consultation question did not line up with the draft Bill provided.

The CLA Working Party is happy with the amendments to allow information to be shared with public bodies, however, concerns were raised about sharing information with individuals and members of legislature, in particular, the circumstances in which such information would be shared and the confidentiality thereof.

We feel that the disclosure provisions set out in the Charities Act 2011 are much clearer than the proposed amendments to section 24. The Charities Act 2011 sets out two distinct provisions in respect of “Disclosure to the Commission¹” and “Disclosure by the Commission”². We feel that this distinction would ensure that the legislation is much clearer. In addition, the disclosure pursuant to these sections specifically states that information must be made to a **relevant** public body. We would propose similar wording in the draft Bill to ensure that only relevant bodies are entitled to receive information.

The CLA Working Party agreed that the proposed amendment in its current form is too vague and would welcome an amendment to ensure that only relevant information is shared with relevant bodies discharging relevant public or regulatory functions.

Q3a. Do you agree with the introduction of an official warning power for the Commission?

The CLA Working Party welcomes the introduction of an official warning and believes it will be a useful sanction in proportionate regulation. There was agreement that the introduction of this power will ensure accountability and independent scrutiny. In addition, there is a benefit in having this power and the safeguards in place to ensure transparency with the public.

However, we have a serious concern that this power will not apply to designated religious charities. This was not included in the Independent Review of Charities Regulation Northern Ireland recommendations and it is unclear why the Department is seeking to exempt these organisations from this power.

Q3b. Do you agree with the Department’s proposed amendments?

The CLA Working Party is in agreement with the Department’s proposals subject to comment at 3a above in relation to designated religious charities.

Q3c. If such a power was introduced, should this power be reserved to Commissioners?

The CLA Working Party was of the view that this power should be delegated to staff.

Q4. Do you agree with the Department’s proposal to expand the scope of the power so that the Commission may continue with removal action, even if the person ceases to hold office or discontinues acting as an officer, agent or employee to include those persons who have resigned from office?

The CLA Working Party agrees with the proposal to expand the scope of this power.

¹ Charities Act 2011, section 54

² Charities Act 2011, section 56

Q5. Do you agree with the Department's proposed approach?

The CLA Working Party would look at this favourably however, there is an exemption for designated religious charities which we do not agree with.

We also noted that the Commission cannot direct action to be taken to assist the Charity.

Q6. Do you agree with the Department's proposed approach?

The CLA Working Party agrees with the principle of this proposed approach however, the consultation question did not line up with the draft Bill provided.

There was a discussion on the wide reaching nature of this power with a distinction raised in respect of the position to include employees in Northern Ireland with the rest of the UK.

The CLA Working Party questioned whether the Department had considered the employment law and equality law implications of including this power.

We ask the Department to give consideration to extending the disqualification further by incorporating a provision similar to the provision in England and Wales whereby when a person is disqualified from being a charity trustee or trustee for a charity under s.178(3) Charities Act 2011 it adds "While a person is disqualified under this section in relation to a charity, the person is also disqualified from holding an office or employment in the charity with senior management functions."

Q7a. Do you agree with the Department's proposed amendments?

Yes. The CLA Working Party agrees that a Northern Irish charity which has exceeded £250K income due to a one-off exceptional situation should be able to apply to CCNI for an exemption to prepare accruals accounts (for one year only).

However, we suggest that consideration is given to increasing the maximum threshold for receipts and payments (R&P) accounts from £250K income to £500K, as will take effect in England and Wales from 30 Sept 2026.³ If an increase in the R&P threshold is combined with specific regulations on R&P accounting in Northern Ireland (as raised in the next question) that would be a very robust regime, and would allow non-company charities in NI to avoid all the complexities of accounting under the Charities SORP until their income exceeded £500K.

If the R&P threshold itself is increased to £500K, we do not feel there is such a strong case for charities to be able to seek exemption from preparing accruals accounts due to a case of one off income of over £500K as this would be double the current threshold.

But we also repeat the points made in previous CLA submissions, that prompt implementation of CIOs in Northern Ireland is also essential, as supported by the Independent Review. This primary legislation is also provided in the 2008 Act and just needs secondary legislation to implement. The CIO and SCIO structures have proven extraordinarily successful in England and Wales and in Scotland, now accounting for two thirds of new charities. Because CIOs are not companies, they are eligible to

³ The Charities Acts 1992 and 2011 (Substitution of Sums) Order 2026, article 3(3).

prepare R&P accounts up to the limit specified, so this would be very beneficial in terms of removing unnecessary regulation for many medium-sized charities.

Q7b. Do you agree with the Department's proposed amendments?

Yes. The CLA Working Party considers that a clear regulatory framework for R&P accounts is essential if they are to provide meaningful information for users of charity account and to allow appropriate regulatory oversight. This has long been an omission from charity law in England and Wales (which was used as a basis for the 2008 Act) and hence also in Northern Ireland. (By contrast, Scotland has had specific regulations for R&P accounts since 2006.)

However, detailed consultation on such R&P accounting regulations will be needed prior to implementation.

But we have some concerns about the suggestion of disapplying these requirements for charities using 'template reporting' – see our comments on the next question.

Q7c. Do you agree with the Department's proposed amendments?

No. We have concerns at what is meant by this proposal. We note that CCNI *already* provides a template that charities can use to prepare R&P accounts. This will need some updating to address the new R&P accounting regulations, but we do not consider that there is a need for some further template for the very smallest charities.

The introduction of a new £20,000 income threshold into the requirements regarding the *presentation* of accounts would, we believe, leave to a great deal of confusion. We believe many charities with incomes between £20,000 and the upper limit for R&P accounts would wrongly think they could use this simplified template rather than the normal R&P template.

But in any case, not all charities wish to use templates – it is helpful for CCNI to provide templates for *optional* use by charities preparing R&P accounts, but charities will often wish to set out R&P accounts in different presentations in order to communicate clearly with their members and funders. This includes some charities below £20,000.

We also feel it would be extraordinarily confusing to add an assets threshold as well. Currently the 2008 Act is simpler than other jurisdictions in that all the accounting thresholds are based purely on the income of the charity, and we would strongly argue for the continuation of this approach.

So we feel that, as at present, there should be just two forms of accounting for charities in Northern Ireland – but with new R&P regulations as proposed:

- R&P accounts – allowed as an option for all non-company charities up to the appropriate threshold (currently £250K, but we suggest this could be increased to £500K) subject to complying with the new R&P accounting regulations. All charities eligible to prepare R&P accounts would have the option of using CCNI templates, but the templates would not need to be mentioned in the regulations.
- Accruals accounts complying with the Charities SORP 2026 – for all charities ineligible for R&P accounts.

Q8. Do you agree with the Department's proposed amendments?

The CLA Working Party strongly supports the principle of exempting the smallest charities from the requirement to have an independent examination of their accounts. It is often the case that independent examinations of the very smallest charities are not properly carried out in accordance with the Commission's Directions to Independent Examiners (ARR07) and therefore of limited value to users of charity accounts.

Moreover, we consider that an exemption from the independent examination requirement will enable many small charities to remain registered with CCNI, rather than seeking to take advantage of the exemption from registration created by s.3 of the Charities Act (Northern Ireland) 2022. As we argued in our submissions on that proposal, it is highly desirable for small charities to remain registered if at all possible as many would lose funding if they can no longer give a registered charity number.

However, we feel this proposal could possibly go further than just removing the independent examination requirements for charities up to £20,000 income. In England and Wales, the threshold below which an independent examination is not required has been £25,000 for more than a decade, and is being increased to £40,000 from 30 September 2026.⁴ We feel a similar limit could well make sense for Northern Ireland. Nevertheless, charities in Northern Ireland below this threshold should still have the *option* of having their accounts independently examined.

But we do *not* support the idea of *also* having a £100,000 asset threshold for this. As we comment above, one of the great attractions of the 2008 Act is that all the accounting thresholds are based purely on the income of the charity, and this makes for clarity and simplicity in terms of training those involved with charity finance in smaller charities and hence with regulatory compliance and oversight. In any case, most charities of this level will be preparing R&P accounts, where there is no requirement for formal valuation of assets, so an asset threshold could well have little meaning in practice.

So we support the removal of the mandatory independent examination requirement for all charities up to the relevant income threshold, which we feel could be safely set at £40,000 for the reasons mentioned.

Q9. Do you agree with the Department's proposed amendments?

Yes, we agree with the approach proposed.

Q10. Do you agree with the Department's proposed amendments?

We agree with the suggested amendments to sections 68 and 70 of the Act as it is clearly sensible that regulations should be able to make different provisions from different sizes of charities. However, as explained in our answer to Q7c, we do not believe that a separate statutory regime for 'template reporting' is needed – simply a continuation of the existing regime under which CCNI provides optional templates for smaller charities to prepare their annual reports and accounts. (Note: The consultation document refers to 'section 69' but we believe the draft Bill is correct in referring to section 68.)

Q11. Do you agree with the repeal of section 167?

⁴ The Charities Acts 1992 and 2011 (Substitution of Sums) Order 2026, article 3(5)(a).

The CLA Working Party has previously responded to the consultation in relation to section 167 and has no further comments to make.

Q12. Do you have any other comments that you would wish us to consider in relation to the proposed amendments in the Bill?

The CLA Working Party has no further comments in relation to the proposed amendments to the Bill.