

# Independent Review of Charity Regulation NI

## 1. Registration

Should there continue to be a statutory requirement that all charities register?

No

On what figure should the minimum threshold for registration be based?

(Required)

The annual income of the charity

What should the minimum threshold figure be?

£ 5,000

## 1. Registration process

Have you had any experience of the charity registration process?

No

Do you think the existing charity registration process is the best means for the Charity Commission to fulfil its statutory duty to create an accurate register of charities in Northern Ireland?

No

Please explain your answer. (If you have no view please type 'no view' in the text box).:

We question the fundamental principles behind what organisations are considered 'charitable' and therefore eligible for registration with the Charity Commission. Specifically, we believe many charities registered for the purpose of "the advancement of religion" are not fulfilling a demonstrable public benefit and in some cases may cause harm. There should therefore be a broad review of the nature of what should be considered a charity in 21<sup>st</sup> century Northern Ireland.

Do you think the registration process could be improved?

Yes

## Suggestions on improving the registration process

In what ways could the registration process be improved?

Please see our explanation in our answer to the previous question, "Do you think the existing charity registration process is the best means for the Charity Commission to fulfil its statutory duty to create an accurate register of charities in Northern Ireland?"

## 2. Reporting

On a scale of 1 to 5 (where 1 is poor and 5 is excellent), how would you rate the existing annual charity reporting system?

3

What, if anything, could be done to further improve the reporting system? (If you have no view please type 'no view' in the text box).

There should be a greater onus on charities to demonstrate that their activities are tangibly and demonstrably serving a public benefit in their reports.

Can you think of any disadvantages of introducing a threshold? (If you have no view please type 'no view' in the text box).

We have proposed that charities with an annual income under £5,000 should not have to register with the Charity Commission, in line with regulations for England and Wales. However, all charities with an annual income of £5,000 or over should be registered and should therefore be subject to independent examination. A disadvantage of introducing a threshold for registered charities below which independent examination is not required could make it easier for trustees to enable misconduct/mismanagement of the charity's finances.

We think some organisations currently eligible for charitable status simply because they advance religion should no longer be eligible for charitable status. We explain in further detail in our answers to 8. The Role of the Department for Communities in Charity Regulation.

## 3. Day to day engagement by the Charity Commission

Have you ever had any experience of engaging with the Charity Commission?

Yes

In what contexts do you engage with the Charity Commission?

We have raised concerns about a specific charity where there is good reason to believe it is causing harm to the public.

On a scale of 1 to 5 (where 1 is poor and 5 is excellent) how would you rate your experience of engagement with the Charity Commission?

4

Please explain your answer:

We have found our engagement with the Charity Commission to be positive overall. We have found it to be committed, helpful, receptive and open to dialogue.

What changes, if any, to Commission engagement procedures would lead you to give a higher rating above?

Our only concern is that the Commission appears to lack the powers to respond to the issues we have raised.

Have you met any challenges when engaging with the Charity Commission?

Yes

Please explain any challenges you have faced.

Our only concern is that the Commission appears to lack the powers to respond to the issues we have raised.

### 3. Day to day engagement by the Charity Commission - compliance resources

Do you avail of any of the following charity compliance resources? (Please select all that apply).

Charity Commission website guidance

If so, how do you rate their usefulness?

Quite useful

### 4. Compliance procedures

Have you had any experience with the Charity Commission exercising its compliance role?

Yes

In what capacity have you experienced the Charity Commission exercise its compliance role? (Please select all that apply).

As a representative of a non-charitable organisation

On a scale of 1 to 5 (where 1 is poor and 5 is excellent) how would you rate your experience of dealing with the Charity Commission in its role to improve compliance?

4

Please elaborate on your rating below.:

We have found our engagement with the Charity Commission to be positive overall. We have found it to be committed, helpful, receptive and open to dialogue. Our only concern is that the Commission appears to lack the powers to respond to the issues we have raised.

On balance, were the Charity Commission's compliance procedures easy to follow?

Yes

Did your experience of engagement have a positive outcome for your charity?

No

Are there any specific elements of the Charity Commission's compliance procedures that could be improved?

Yes

#### 4. Compliance procedures - improvements to procedures

Please explain what elements of the Charity Commission's compliance procedures could be improved.

We are concerned that the Charity Commission lacks the power to sufficiently challenge charities that are not complying with the public benefit requirement or are causing harm.

An example is Core Issues Trust, charity no. 105095, registered under the classifications of “the advancement of education” and “the advancement of religion”. This Christian charity advocates what it calls “change orientated therapy” for people who “want to move away from homosexual feelings, behaviours and attractions”. More details can be found on its website, <https://www.core-issues.org/>.

Such activity falls under the definition of ‘conversion therapy’ as set out by the UK Council for Psychotherapy (UKCP). UKCP’s consensus statement on conversion therapy says: “There is no good evidence this works and we believe it has the potential to cause harm. Often these approaches are based on religious interpretations about sexuality rather than on a researched and informed understanding of sexual orientation.” (see: [https://www.secularism.org.uk/uploads/memorandum-of-understanding-on-conversion-therapy-\(2017\).pdf](https://www.secularism.org.uk/uploads/memorandum-of-understanding-on-conversion-therapy-(2017).pdf))

Furthermore, all major counselling and psychotherapy bodies have condemned conversion therapy by signing a Memorandum of Understanding with a commitment to ending the practice: [https://www.secularism.org.uk/uploads/memorandum-of-understanding-on-conversion-therapy-\(2017\).pdf](https://www.secularism.org.uk/uploads/memorandum-of-understanding-on-conversion-therapy-(2017).pdf)

Recent evidence appears to confirm that conversion therapy is potentially very harmful. According to the 2018 National Faith & Sexuality Survey by the Ozanne Foundation, of those respondents with experience of attempting to change their sexual orientation, well over half said they had suffered from mental health issues and nearly a third said they had sought counselling to help them recover from it. Mental health issues included attempting suicide, self-harm, eating disorders, anxiety and depression.

The UK government has also made a commitment to banning conversion therapy. The majority of the public are in favour of a ban (see [https://docs.cdn.yougov.com/ws6xam57wg/Ozanne\\_ConversionTherapy\\_200715.pdf](https://docs.cdn.yougov.com/ws6xam57wg/Ozanne_ConversionTherapy_200715.pdf)).

On the basis that there is a wide professional consensus that conversion therapy is harmful, and therefore cannot serve a public benefit, the NSS wrote to the Charity Commission in January 2020 to ask it to review Core Issue Trust’s charitable status.

In its reply, the Commission said it was “not the role of the commission to adopt a position on the charity's conduct in this matter”. It noted that Core Issues Trust “contests the view that this practice is inherently harmful”.

We are deeply concerned that this response suggests the Commission, whose remit is to ensure charities are compliant with charity law, considers itself unable to challenge a charity that promotes a practice that is potentially so harmful that the UK government intends to ban it. Compliance must include compliance with the fundamental requirement that charities serve a public benefit. The fact that conversion therapy is still legal should not be sufficient reason to allow a charity promoting it to be unchallenged by the regulator. The bar for an activity to be classified as in the public benefit should be higher than it simply being legal.

We are also concerned that the response seems to indicate that the Commission considers a charity's own argument that its activities are not harmful to be a factor in determining whether or not compliance with the public benefit requirement has failed. It is plain that charities are highly unlikely to assess their own activities as harmful.

The Commission must therefore be empowered to challenge charities where there is evidence of it promoting a practice that is not in the public benefit and causes harm. This includes the power to reverse former decisions on registering those charities on the basis that they were originally considered to serve a public benefit.

Societal attitudes as to what amounts to a 'public benefit' change through time, and charity law should reflect this. Charity law should also have due regard for evidence that demonstrates a practice previously thought to be beneficial or benign is in fact harmful. If the Commission is compelled to operate on archaic notions of what is and is not a public benefit, this undermines trust in the whole charity sector and causes its very purpose to be called into question.

## 5. Investigation powers

Have you raised, or assisted a charity to raise, a concern with the Charity Commission about a charity?

Yes

## 5. Investigation powers - experience of procedures

What has been your experience of the Commission's procedures for dealing with such concerns?

Please see our response to the previous question, "Please explain what elements of the Charity Commission's compliance procedures could be improved."

Has your charity ever been subject to an investigation by the Charity Commission?

Not applicable

## 6. Enforcement and Appeal Procedures

In your experience to date, has the Commission in its implementation of the Charities Act struck the right balance between supporting charities to do the right thing and deterring or dealing with misconduct?

No

Please explain your answer. (If you have no view please type 'no view' in the text box).:

Please see our response to the previous question, "Please explain what elements of the Charity Commission's compliance procedures could be improved." The fact that the Commission is unable to challenge a charity promoting an evidentially harmful practice suggests that the Commission is not sufficiently empowered to deal with misconduct.

This question asks whether the Commission requires additional powers to enable it to protect charitable assets and support good governance in charities. Should the Charity Commission be given the power:

to remove a trustee (and thereby disqualify him or her), even if the trustee resigns before being removed?:

Yes

to direct trustees not to take a particular action if it considers that the action would amount to misconduct or mismanagement? :

Yes

to remove a trustee who is otherwise disqualified from being a charity trustee?:

Yes

to issue a formal warning when it considers that a breach of duty has occurred without the need to first open a statutory inquiry?:

Yes

If you wish to explain your responses to any of the questions above, please do so in the box below (e.g., whether you think the Commission requires additional powers, why you think it should, or should not be given the specified powers):.

The experience of the Charity Commission for England and Wales in dealing with trustees demonstrates that charity regulators require strong powers to hold trustees to account and to remove and disqualify them where necessary. The Commission struggled to disqualify Zakir Naik as a trustee of the charity Islamic Research Foundation International (no. 1122086), despite him being banned from entering Britain in 2010 for behaviour which included praising Osama bin Laden and saying all Muslims "should be terrorists". Naik has also condoned the execution homosexuals and people who leave Islam. He was finally disqualified in 2019. See more:

<https://www.secularism.org.uk/news/2020/09/nss-welcomes-intervention-at-charity-accused-of-promoting-extremism>

## 6. Enforcement and Appeal Procedures - Appeal of Regulator Decision

Have you had any experience of the Commission's internal review process to challenge a decision?

No

## 7. Delegation Powers

Do you think it is appropriate to delegate some decisions to Commission staff?

Yes

At present, the Charities Act provides that it is the Charity Commissioners who decide when a statutory inquiry is opened. Do you think that other decisions or particular categories of decisions should remain the decision of Charity Commissioners and not be delegated to staff?

Yes

Do you agree that decisions that are more administrative in nature, such as charity registration or the making of schemes, may be generally delegated to Commission staff, as is the case in other jurisdictions?

Yes

If you wish to explain your responses to any of the questions above, please do so in the box below.

It seems reasonable that routine administrative decisions be left to staff, while more complex decisions should remain the decision of Charity Commissioners.

## 8. The Role of the Department for Communities in Charity Regulation

By establishing the Charity Commission and creating a register of charities, the Charities Act aimed to increase charity transparency and accountability to better support public trust and confidence in the charity sector. In your view, are there gaps in the current regulatory framework that prevent these objects being met?

Yes

Please elaborate. (If no view, type 'no view' in the textbox below).:

Please see our response to the previous question, "Please explain what elements of the Charity Commission's compliance procedures could be improved."

The fact that the Commission is unable to challenge a charity promoting an evidentially harmful practice potentially undermines public trust and confidence in the charity sector.

Additionally, the premise for what should be considered a charitable purpose in 21<sup>st</sup> Northern Ireland needs review, because purposes once widely accepted as charitable and of public benefit are no longer regarded in this way.

One such charitable purpose is "the advancement of religion". This charitable purpose was established at a time when religion (particularly Christianity) held a much more central position in society and politics. Today, more people than ever reject religion, and many are suspicious or critical of religious practices promoted or carried out by some charities. Some activities promoted by religious groups, such as Core Issue Trust's 'change orientated therapy' for gay people, are widely regarded by both professionals and public as harmful. For this reason, the inclusion of "the advancement of religion" in the list of charitable purposes should be seriously questioned.

Including "the advancement of religion" as a charitable purpose also unfairly privileges religious organisations, because they can essentially register solely on the virtue of their ethos. Charities with a secular ethos cannot do the same. Religious charities that do provide a genuine, demonstrable public benefit can easily register under one of the other recognised charitable purposes in law.

While "the advancement of religion" remains on the list of charitable purposes, Northern Ireland will continue to see the proliferation of religious charities that the majority of the public will regard as serving them no benefit, and some of these charities may even be harmful. This will seriously erode public trust and confidence in the charity sector, and could cause the very purpose of charities to be called into question.

For more discussion on why ‘the advancement of religion’ as a charitable purpose should be questioned can be found in our 2019 report, *For The Public Benefit*:  
[https://www.secularism.org.uk/uploads/nss-advancement-of-religion-charity-report-\(electronic\).pdf](https://www.secularism.org.uk/uploads/nss-advancement-of-religion-charity-report-(electronic).pdf)

It is a global experience that the introduction of more robust charity regulation regimes aimed at improving transparency can increase the regulatory burden borne by charities. On a scale of 1 to 5 (where 1 is poor and 5 is excellent) how would you rate your experience of complying with the Charities Act?

Not applicable

In your view does the regulatory burden need to be reduced?

Yes

Please tell us why/how this could be done to reduce the regulatory burden whilst retaining the transparency required to maintain public trust and confidence.

Removing “the advancement of religion” as a charitable purpose would help remove regulatory burden in the long term, as it would reduce the number of organisations registering with the Charity Commission that serve no demonstrable public benefit.

Religious charities that do provide a genuine, demonstrable public benefit can easily register under one of the other recognised charitable purposes in law.

The charitable purpose of “the advancement of religion” may also make it easier for charities promoting harmful activities to register. Core Issues Trust is registered under the category of “the advancement of religion”, and indeed it does this - it advances Christian ideas about homosexuality that are regarded by many as discriminatory and stigmatising to gay people. Removing “the advancement of religion” would make it easier to identify potentially harmful organisations before they attempt to register as charities, as they would be unable to justify promoting harmful messages or practices through the argument that they are ‘advancing religion’ in doing so.

As religion is frequently a contentious point, removing “the advancement of religion” would result in fewer disputes arising from conflicts arising between the public benefit requirement and religious teachings and practices. It would also result in fewer tribunals over whether or not newer, more unusual religious organisations meet the definition of ‘religion’ for the purposes of charity law. UK charity regulators have been forced to wrestle with this question on a considerable number of occasions when dealing with registration applications from organisations representing Scientology, Paganism, Plymouth Brethren and Jediism, to name a few. These cases have been consuming in terms of time and resources, and in some cases have generated negative press reports that damage the reputation of charity regulators and the charity sector.

For more discussion about these cases and why “the advancement of religion” as a charitable purpose should be questioned can be found in our 2019 report, *For The Public Benefit*:  
[https://www.secularism.org.uk/uploads/nss-advancement-of-religion-charity-report-\(electronic\).pdf](https://www.secularism.org.uk/uploads/nss-advancement-of-religion-charity-report-(electronic).pdf)

## 8. The Role of the Department for Communities in Charity Regulation - Section 167 Register & CIO

Do you currently work for a charity, or provide advice to charities in a professional capacity?

No

## 9. Other Matters for Consideration

We will not be revisiting past decisions. However, we are keen to understand what can be learned from them. What changes, if any, in the processes of engagement with charities and communication of decisions could develop stronger positive relationships between the Commission and its stakeholders?

Please see our previous answers regarding Core Issues Trust and “the advancement of religion” as a charitable purpose. The Commission should be empowered to challenge charities if their purposes or activities are found to be harmful. Removing “the advancement of religion” as a charitable purpose would facilitate this.

Having considered this Questionnaire, what are the most important recommendations that you think need to come out of the Review?

The premise for what should be considered a charitable purpose in 21<sup>st</sup> Northern Ireland needs review, because purposes once widely accepted as charitable and of public benefit are no longer regarded in this way. “The advancement of religion” is one such purpose. If charity law cannot keep up with changes in society, the very nature of charity itself and its benefit to society will be under question. For more discussion on why “the advancement of religion” as a charitable purpose should be questioned can be found in our 2019 report, For The Public Benefit:

[https://www.secularism.org.uk/uploads/nss-advancement-of-religion-charity-report-\(electronic\).pdf](https://www.secularism.org.uk/uploads/nss-advancement-of-religion-charity-report-(electronic).pdf)