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## **Draft Public benefit and registration guidance**

### **Summary of responses to our public consultation – June 2013**

To be a charity in Northern Ireland an organisation must have exclusively charitable purposes. To be charitable they must be for the public benefit. The Charities Act (Northern Ireland) 2008 states that the Charity Commission for Northern Ireland has a statutory duty to produce guidance on the public benefit requirement. The guidance is intended to promote awareness and understanding of public benefit amongst anyone connected to or involved with charities in Northern Ireland.

On the 18 January 2013, Royal Assent to the Bill to amend the Charities Act (Northern Ireland) 2008 was granted. The Charities Act (Northern Ireland) 2013 opened the door for the Commission to commence a public consultation on its draft public benefit and charity registration guidance. The consultation was launched on Monday 4 February 2013 for a 13 week period and closed on Monday 6 May 2013.

#### **Consultation objectives**

The fundamental purpose of the consultation exercise was to provide an opportunity for anyone involved, or interested, in the work of charities to help shape the guidance.

The consultation's key objectives were:

- To support the Northern Ireland charitable sector in gaining a deeper awareness and knowledge of the public benefit requirement and the next steps in the registration process
- Obtain feedback from our stakeholders
- To involve our stakeholders in our work.

The consultation exercise concentrated on how the Commission had applied the principles set out in the legislation in drafting our public benefit and registration guidance.

#### **Consultation methodology**

The Commission produced a written consultation document 'Consultation on public benefit and registration' which was available, along with the draft guidance, on its website and in hard copy. The consultation document outlined the reasoning behind the consultation as well as including a questionnaire that attended to the key issues that the Commission wished to address. A number of communication channels were used to disseminate the

information widely to public sector, statutory, voluntary, community and charitable groups as well as amongst the general public.

There were 5 ways in which the public were able to respond to the consultation by:

1. Participating in one of the 12 consultation events held throughout Northern Ireland.
2. Completing the online consultation survey which was accessible via our website on the consultation page.
3. Completing the consultation response form available in the consultation document and returning it by email or post.
4. Contacting the Commission (by email, post, telephone) with comments.
5. By joining in with the conversation on Twitter.

## **Respondents**

Responses and comments were collected from written responses received, individual engagement meetings, stakeholder events which were attended by 200 participants as well as the Commission's own consultation events, which were attended by 384 people.

We received responses from a mix of charities, umbrella organisations and individuals.

## **Next steps**

Our final step will be to incorporate appropriate recommendations made during the consultation period and update the guidance to reflect these.

## **Responses**

The responses received were positive and constructive. The tables below set out a summary of the responses including broad themes contained therein. It should be acknowledged that some of the responses were beyond the remit of the guidance and consultation; however they have been noted by the Commission.

## General comments

Issue	Comments	Commission response
<b>General Comments</b>		
<b>Language</b>	The language may be too legal for some trustees to understand.	We aimed to ensure that the language explained the legislation without including a lot of legal terminology. In some cases this was not possible as the legal term was required to explain the specific subject. For these particular phrases, we produced a glossary for the reader to refer to in order to gain the full understanding of the terminology. Although some responses indicated that the language was still too legal, these responses are balanced by several comments that acknowledged the use of clear language.
<b>Layout and Structure</b>	<p>Too many documents.</p> <p>Would prefer some of the documents combined and made more succinct.</p> <p>Too much information</p> <p>It was suggested that the documents were dated, as well as being numbered in the order they are to be read.</p>	<p>The Statutory guidance will be combined with the 'Public' and 'benefit' elements guidance, which will reduce the amount of documents. However, we received comments stating that there was a preference for the charitable purposes documents being split up into separate documents.</p> <p>The feedback received that there was too much information in the guidance</p>

	<p>Contents page should be closer to the start of the document.</p> <p>Request for more diagrams and flowcharts; including how the Commission will make decisions with regards to organisations meeting the public benefit requirement.</p>	<p>is countered by the fact that other respondents felt that there was too little information in the guidance.</p> <p>We will date all the documents similar to the registration guidance.</p> <p>We will be removing the values statement from the front of the guidance which will in turn result in the contents page coming closer to the start of the guidance.</p> <p>We will try to include more diagrams/ flow charts to illustrate process, if and where appropriate. The use of a flow chart to demonstrate how the Commission will assess an organisation's public benefit is not feasible as it is too individualistic; applications will be assessed on a case by case basis.</p>
<b>Accessibility</b>	<p>Navigation through the documents was difficult.</p> <p>There is a need for better signposting from the Charity Commission homepage.</p>	<p>We will insert a table with a key that will describe the colour coding and make it more user-friendly.</p> <p>We will investigate a way in which we can make the information easier to access on the Commission's website.</p>
<b>Content</b>	<p>Too much preliminary information at the beginning of each document which was quite repetitive.</p> <p>It would be better if the 'Vision, values and equality' statement was not repeated throughout all</p>	<p>We will be removing the values statement from the front of the guidance which will in turn result in the contents page coming closer to the start of the guidance.</p>

	documents.	
<b>Accounting and reporting requirements</b>	Information requested on the reporting and accounting regulations that charities will have to abide by.	These details are beyond the remit of the public benefit guidance; however initial information will be included in guidance produced following a consultation on reporting requirements later this year.

## Public benefit statutory guidance

Issue	Comments	Commission response
<b>Public benefit statutory guidance</b>		
<b>Examples</b>	More examples requested.	Where more examples are available through case law, we aim to include them in the guidance.
<b>S167 groups</b>	More information is needed to help charities who are already registered with a regulator but are also operating in Northern Ireland. Suggestion that the current FAQ is included in the guidance.	We acknowledge these comments and will aim to rephrase the information so that it is clearer. It should be emphasised that the regulations regarding Section 167 groups will be enacted by the Department for Social development in the future and so current available information is limited.
<b>Equality legislation</b>	Respondents feel that there is a need for information to be included on the exceptions to equality legislation that exist for religious organisations/charities.	Within the guidance we state that there are some exceptions to these pieces of legislation as well as providing a few examples of instances when these exceptions may apply. It is not possible for us to name all examples that are exceptions and it will be up to that particular organisation to investigate any exceptions and



		if they are applicable.
<b>Clarification needed</b>	<p>Further guidance was sought on the definition of a 'commercial company' and on 'trading arms'.</p> <p>More clarity sought in relation to organisations which have a commercial arm which generates additional income to help fund their charity work.</p>	We will explore the possibility of including a definition of these terms within the guidance or the glossary.

## 'Public' and 'benefit' elements guidance

Issue	Comments	Commission response
<b>'Public' and 'benefit' elements guidance</b>		
<b>Explanation of 'harm' and 'detriment'</b>	<p>There was some confusion over whether detriment or harm is looked at in relation to the organisation's purposes or to its activities.</p> <p>The subject regarding trying to convert other religions is raised as to whether this will be deemed detrimental or harmful by the Commission.</p>	<p>The use of the words 'detriment' and 'harm' caused some concern among respondents and event participants. We have acknowledged these concerns and will review the explanations within the guidance. To avoid confusion, we will no longer be using the term 'detriment'. We will make it clearer in the guidance that, at registration, it will be the organisation's purposes which are being considered.</p>
<b>Explanation of 'restrictions'</b>	<p>Definition of restrictions is unclear; can there not be reasonable restrictions?</p>	<p>Following comments regarding the use of the term 'restrictions' we have decided to substantially remove the term from the Public benefit statutory guidance. We agree that it may not be suitable within this guidance and therefore it will be moved to supporting guidance on <i>Running your charity</i>.</p>
<b>Explanation of 'sufficient section of the public'</b>	<p>Respondents feel that the explanation is vague and subjective.</p>	<p>We acknowledge these concerns and we plan to try and include further clarification in the guidance of 'sufficient section of the public' as well as on how</p>

		<p>'public' is defined. We accept that in some cases it may be easier to understand the explanation if examples are also used to help illustrate the definition, therefore where possible we aim to include more examples.</p>
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## Twelve charitable purposes supporting guidance

Issue	Comments	Commission response
<b>Twelve charitable purposes supporting guidance</b>		
<b>Titles of charitable purpose documents</b>	Comments suggested that the titles of the supporting guidance could cause confusion as they are not worded the same as the twelve charitable purposes within the legislation.	We will try to amend all the titles so that they are the same as the legislation.
<b>Examples of charitable purposes in case law</b>	<p>More examples requested to help demonstrate the individual purposes. It was also requested that the purposes of the organisations within the examples are illustrated.</p> <p>It was suggested that the guidance could include similar examples as "Guidance for the Advancement of Religion for the Public Benefit" issued by the Charity Commission for England and Wales in 2008.</p>	We aim to enhance the examples where appropriate and where case law provides that we are able to do so.
<b>CASCs</b>	Some responses asked for further clarification in relation to those organisations that deemed amateur sport as their charitable purpose, with regard to chess and bridge clubs as well as the position of Community Amateur Sports Clubs (CASCs) so that sports organisations would be able to decide whether charitable status or CASC is more suited to them.	It is the responsibility of an organisation to examine what suits their organisation best and all queries will be dealt with on a case by case basis. We will examine the possibility of including information in the guidance to advise that organisations may wish to seek advice in connection to whether they should register as a CASC or a charity.
<b>Exempt charities</b>	There were some responses that indicated that larger, more complex organisations are not	No organisation whose purposes meet the definitions set out in the legislation is

	sufficiently covered by the guidance. They felt that there was a need for supplementary guidance for these organisations that are 'exempt' due to their complexities, such as universities.	exempt from the requirement to seek registration and to meet the public benefit requirement.  There are no 'exempt' categories of charity in Northern Ireland legislation.
<b>Purposes or activities</b>	It is noted that the language tends to refer not to purposes but generally to activities, which is confusing for the readers.	We acknowledge these comments and will investigate a way to reword the content of the guidance so that it is clear that an organisation's application to become a charity will be based on benefits flowing from their purposes and not their activities.
<b>Advancement of religion</b>	Some comments displayed apprehension regarding the Commission's decision making in applications for registration.  Some thought the guidance inadequate as it does not acknowledge exemptions in equality legislation for religious organisations.  Definition of 'improper pressure' needs clarified.  Concern regarding the example provided of evangelism.	We would like to reassure all organisations applying for charitable status that the Commission will be evaluating applications on the basis of legislation and case law, and not by judging cultural or religious views. It is not the role of the Commission to adjudicate over beliefs.  Within the guidance we state that there are some exceptions to the pieces of equality legislation as well as providing a few examples of instances when these exceptions may apply. It is not possible for us to name all examples that are exceptions and it will be up to that particular organisation to investigate any exceptions and if they are applicable.  It is not possible to specifically define

		<p>'improper pressure' as it needs to be examined on a case by case basis. We will try to provide examples within the guidance on the twelve charitable purposes.</p> <p>We aim to reword the example on evangelicalism in order to remove any concerns that may be associated with it.</p>
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## Registration guidance

Issue	Comments	Commission response
<b>Registration guidance</b>		
<b>Process for being called forward</b>	There is some uncertainty about how to apply and when to apply. Respondents also requested pre-warning on the specific dates on which they will be called forward for registration.	We do not feel that this would be appropriate to place within the printed guidance. Therefore we will consider if there is an opportunity to put updated information on the website regarding which tranche the organisation will be in and which tranche we are working on currently.
<b>Example of application form</b>	Event participants expressed a strong feeling that including examples of the registration system in the guidance would be useful to all organisations.	We acknowledge this suggestion and will examine methods to include screenshot examples of the online application so that organisations can preview what they will be working with, prior to their actual registration. As well as the inclusion of screenshots, we feel it will be beneficial to have an online tutorial to aid organisations during the registration process. We also hope to be able to engage with organisations prior to registration by holding

		registration workshops.
<b>Role of HMRC</b>	There was confusion regarding the difference between the role of the Charity Commission and HMRC. Some respondents were not aware that the number provided by HMRC was not a charity registration number.	We will examine an approach that we can use within our guidance to emphasise that there is a difference between the two registration numbers and registration with the Commission is a legal requirement for organisations meeting the legal definition of a charity.



## **Next steps**

In response to the many comments and suggestions that were provided during the consultation period, the Public benefit and registration guidance will be updated as appropriate. The updated Public benefit guidance will be made available during the summer 2013 so that organisations will be able to access it prior to registration commencing in the autumn. The updated Registration guidance will be made available in the autumn following the test registration phase.

Following comments made during the consultation regarding providing further support to charities, the Commission will aim to undertake targeted road shows and briefings for umbrella groups to help provide support during the registration process. During these sessions we aim to cover operational issues also such as access to computers, scanners and broadband.

We understand, as many respondents acknowledged, if there are gaps within the guidance, they may not be identified until it is put to use. Therefore the Commission will be running a pilot phase for registration and during that time we will have an opportunity to review the updated guidance and identify if there are gaps.

## **Thank you**

The Charity Commission for Northern Ireland would like to extend many thanks to everyone who responded to the consultation on the Public benefit and registration guidance, both in writing and at events. We have taken into consideration all comments and submissions so that we are able to enhance the guidance to ensure it is more effective for the charity sector.