

**Setting the Charity Commission for Northern Ireland’s strategic agenda 2019-22**

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# How can we adapt to the prevailing financial climate and continue to regulate charities within Northern Ireland in a proportionate and timely way?

# The Charity Commission for Northern Ireland is the regulator of charities in Northern Ireland, a non-departmental public body sponsored by the Department for Social Development.

**Our vision**

To deliver in partnership with other key stakeholders in the charitable sector “a dynamic and well governed charities sector in which the public has confidence, underpinned by the Commission’s effective delivery of its regulatory role”.

Further information about our aims and activities is available on our website [www.charitycommissionni.org.uk](http://www.charitycommissionni.org.uk)

**Equality**

The Charity Commission for Northern Ireland is committed to equality and diversity in all that we do.

**Accessibility**

If you have any accessibility requirements please contact us.

**Our approach to engagement**

When we engage with stakeholders we adhere to principles of:

* commitment
* honesty and integrity
* openness
* adherence to the best approach
* early involvement
* information sharing
* accessibility
* separation of functions
* evaluation
* clear communication.

## Introduction

The Charity Commission for Northern Ireland (the Commission) is the independent regulator of charities in Northern Ireland. The Commission is a non-departmental public body, established by Royal Assent in March 2009, to deliver the legislative requirements of the *Charities Act (Northern Ireland) 2008* (the Charities Act). The Commission, in partnership with other key stakeholders in the charitable sector, is responsible for ensuring a dynamic and well governed charities sector in which the public can have confidence.

The Commission is developing a new strategic plan to guide its work from 2019-2022. The finalised plan will set organisational priorities to enable the Commission to deliver the statutory framework governing charity regulation in Northern Ireland.

The major focus of our last strategic plan was the introduction of charity registration and the creation of the *register of charities*. The Commission also dealt with significant compliance and casework arising from registered charities. For example:

* processing requests from charities for regulated alterations such as changing purposes or amending the dissolution clause of its governing document
* verifying that charity trustees properly discharged their legal obligations in terms of closed charities and
* responding to concerns received from the public and others about the operation of charities.

During the life of the previous plan more sections of the Charities Act and the *Charities (Accounts and Reports) Regulations (Northern Ireland) 2015* (the Regulations) came into operation. The regulations introduced annual reporting for registered charities for the first time. This set out the form and content requirements for charity accounts and the level of review or audit these charity accounts must have. During this time the Commission also conducted a wide consultation on a suite of guidance designed to assist charity trustees in meeting their annual reporting obligations.

The Commission is developing this new strategic plan in the context of ongoing reductions in public spending, which are likely to continue during the life of this plan and perhaps beyond. With the Commission’s resources being cut in real terms over the next few years, our strategic plan must address how and to what extent the Commission can fulfil its objectives effectively and efficiently. As we develop this strategic agenda, we are using this comment phase to seek the views of the charity sector, stakeholders and the public.

The questionnaire below is designed to enable you to provide feedback on the Commission’s approach and the high level goals which will inform the development of the final strategic plan.

## How can you engage with the Commission during this comment phase?

There are a variety of ways you can provide your comments on the Commission’s strategic agenda:

1. Complete an online questionnaire which is available at: [www.charitycommissionni.org.uk](http://www.charitycommissionni.org.uk)
2. Complete the questions in this document and either:
* Email it to consult@charitycommissionni.org.uk or
* Post it to Charity Commission for Northern Ireland, 257 Lough Road, Lurgan, Northern Ireland, BT66 6NQ

Comments should be submitted as early as possible before 5 pm on Monday 12 November 2018.

You can also keep updated on our engagement, and other Commission news, via our Twitter feed **@CharitycomNI** using **#NIcharities**

The Commission will also have some discussion about its strategic plan at its Public Meeting to be held on Monday 15 October 2018, visit our website to see further details.

If you have any accessibility requirements, please do not hesitate to contact us and let us know.

## Context

The Commission‘s statutory objectives, functions, powers and duties are set out in the *Charities* *Act* as follows:

*Statutory objectives*

1. The public confidence objective is to increase public trust and confidence in charities.

2. The public benefit objective is to promote awareness and understanding of the operation of the public benefit requirement.

3. The compliance objective is to promote compliance by charity trustees with their legal obligations in exercising control and management of the administration of their charities.

4. The charitable resources objective is to promote the effective use of charitable resources.

5. The accountability objective is to enhance the accountability of charities to donors, beneficiaries and the general public.

*General functions*

1. Determining whether institutions are or are not charities.

2. Encouraging and facilitating the better administration of charities.

3. Identifying and investigating apparent misconduct or mismanagement in the administration of charities and taking remedial or protective action in connection with misconduct or mismanagement therein.

4. Determining whether public collection certificates should be issued, and remain in force, in respect of public charitable collections. (Not yet commenced)

5. Obtaining, evaluating and disseminating information in connection with the performance of any of the Commission's functions or meeting any of its objectives. (This includes the establishment and maintenance of an accurate and up-to-date register of charities under section 16.)

6. Giving information or advice, or making proposals, to the Department on matters relating to any of the Commission's functions or meeting any of its objectives.

*General duties*

The Commission also has general duties, which require it to:

1. Perform its functions in a way which is compatible with its objectives and which it considers most appropriate to meet the objectives
2. Perform its functions in a way which is compatible with charitable giving and voluntary participation in charities
3. Have regard to the need to use its resources in the most efficient, effective and economic way
4. Have regard to the principles of best regulatory practice
5. Have regard to the desirability of facilitating innovation by or on behalf of charities
6. Have regard to good corporate governance

The overall objectives of charity regulation by the Commission could be summarised as producing two key outcomes.

* the public understand which organisations are and are not charities
* more charities are run better, increasing public trust and confidence.

The key challenge which the Commission’s strategic plan must address is:

**How can we adapt to the prevailing financial climate and continue to regulate charities within Northern Ireland in a proportionate and timely way?**

Setting the Commission’s strategic agenda

When beginning the strategic planning process the Commission assessed the reduction in resources and the impact of changes in the regulatory landscape as key issues. Recent public interest and media coverage of the risk to charities of not having appropriate policies and procedures in place to deal with safeguarding issues has also emerged as a priority.

In this context the Commission initially considered adopting a radical approach to how it delivers charity regulation, for example, by:

* Suspending monitoring and compliance and investigations, focussing on registering the outstanding charities that have expressed their intention to register. Monitoring and compliance would recommence when the registration of known organisations was complete and registration was an open rather than a managed process. This would help the Commission to reduce time that organisations currently have to wait under the managed process prior to being called forward to apply for charity registration.

Or

* Suspending registration and focussing on regulating those charities that are currently on the *register of charities*. This would enable the Commission to continue to build a culture of compliance among registered charities until resources become available to restart registering charities.

Clearly radical options, such as these, have advantages and disadvantages for individual charities and for the charity sector as a whole. If either approach was to be adopted, these impacts would have to be carefully considered and assessed from both an equality and natural justice perspective.

Either approach would require the consent of a Minister, as they would involve not fulfilling part of the Commission’s statutory remit. As this is not currently possible, the Commission has noted these potential approaches and may revisit them in the future.

Likewise, given that reduced resources are likely to continue in the foreseeable future the Commission will observe the Charity Commission for England and Wales’ (CCEW) upcoming consultation on the introduction of charges for charity regulation, to assess the viability of this approach as a future option.

Proposed focus of the strategic plan 2019/2022

The key features of the landscape in which the Commission is drafting this strategic plan are:

* Ongoing reduction in public sector spending resulting in reduction in real terms of the Commission’s budget.
* Lack of a devolved Executive and no Ministers to take decisions, meaning no potential for legislative change in the near future.

In this context, the Commission has adopted an approach to the development of the strategic plan which it believes will preserve the quality of its work across all of its functions. The strategic plan will set out how we can continue to take a proportionate approach and prioritise registration, compliance and investigatory work. Adopting this approach has implications for the speed with which we can register charities, process requests for casework and the priority which we can give to concerns of a lower risk.

This approach relies on the development of a new risk framework. This framework will enable the Commission to identify registration/casework applications, annual monitoring submissions and concerns which carry a low risk of damaging public trust and confidence in the sector. Resources can then be focused on higher risk issues and cases. Applying this risk framework will, in turn, enable the Commission to fast track some work while continuing the in-depth scrutiny which other cases require.

The table below sets out some key goals of the draft strategic plan with potential advantages and disadvantages of pursuing these goals.

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| **Goal** | **Key goals** | **Potential advantages** | **Potential disadvantages** |
| 1 | Continue to progress registration by: Deploying some staff time from other parts of the Commission.Altering processes to include exploring options for slimming down the registration process and reducing the collection of governance information. | The *register of charities* continues to be populated.Commission resources will initially be focussed on organisations which are willing to engage with the registration process. | Registration will still be slower than the sector and the Commission would prefer.We will continue to spend resources dealing with complaints about processing times. |
| 2 | Continue to progress casework decisions by: Reviewing processes currently requiring consent to identify a de minimus level that would not require consent. For example, authorised transactions incurring small sums of money such as a gift under £100 on the retirement of a long serving charity employee or volunteer.Streamlining processes, for example, limiting or stopping chases for information from applicants where they have failed to meet a deadline. | Will reduce some of the bureaucratic burden on charities.Will enable the Commission to focus resources on higher risk or more complex casework applications.Enable Commission to focus on those charities that engage. | A de minimus level and/or lack of information may mask mismanagement, which could go unidentified by the Commission.May be legislative restrictions. |
| 3 | Reduce our engagement with public events, research activities and guidance, and reassign staff to other measures:Use limited staff engagement to continue supporting registration through workshops, and introduce workshops for those submitting their first annual monitoring return (AMR). | Some AMR compliance issues can be dealt with in advance of submission, preventing mistakes from happening. | Already minimal profile of charity registration among the public may be reduced.Commission staff will not be available to speak at charity events, such as good governance roadshows.Production of new guidance will slow or cease. |
| **Goal** | **Key goals** | **Potential advantages** | **Potential disadvantages** |
| 4 | Be proportionate in which annual returns will be checked for compliance and the rate at which checks are completed:By using IT systems to automate monitoring and checking of SORP accounts, which are prepared under the mandatory framework for reporting charity accounts.Focus staff on manually checking a proportion of Receipts and Payments accounts submitted as part of the annual monitoring regime.Focus checking on higher risk casesFocus on addressing or taking action against those charities that become “in-default”. | Increase proportion and speed of checking regime.Addressing charities that have failed to comply with the accounting and reporting regulations through self-regulatory and regulatory guidance.Identify trends and errors and provide appropriate thematic reports on lessons learned for the sector on accounting matters.Improve compliance in a proportionate way as the annual reporting regime becomes established.Improved accuracy of the register and improved public understanding of the charity accounts and the Commission’s work. | Increasing reliance on technology may create new issues and frustrations among the sector.Many annual returns and accounts will not be checked but will be on view to the public. |
| 5 | Prioritise the investigation of serious mismanagement in charities by:Applying risk assessment criteria to focus resources on investigating only the highest risk concerns.Increase the use of self-regulatory guidance for minor concerns  | Improvement in good governanceFulfils Commission’s undertaking to be a proportionate regulator. | Public opinion may rate issues which the Commission has not addressed as being more relevant to its trust in charities.Mismanagement may go unchecked in some cases. |
| 6 | Address new risk issues such as safeguarding within registered NI charities by progressing registration and reporting to bring the maximum number of charities under the control of the regulator. | Raise profile of safeguarding and contribute to increase in public trust and confidence.Also raise awareness of serious incident reporting in general. | Charity sector may see this as less a priority for the Commission than other areas. |

The questionnaire below is designed to enable you to provide feedback on the general approach and high level goals which will inform the development of the final strategic plan.



**Setting the Charity Commission for Northern Ireland’s strategic agenda**

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# Comment phase – response document

**Consultation questions**

Thank you for responding to the public comment phase of the Charity Commission for Northern Ireland’s consultation on its draft Strategic Plan 2019-2022. Your feedback will enable us to finalise the plan and ensure our actions are proportionate. In completing the consultation questionnaire, you will be asked to voluntarily provide some personal data. We encourage you to read the privacy notice available at <http://www.charitycommissionni.org.uk/about-us/privacy-notice-and-retention-schedule/> which sets out the Commission’s privacy notices and retention and disposal schedule summary.

For each question, please identify your answer by inserting an X in the selected box. Please insert only one X per question. Please add additional comments in the spaces provided.

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| 1. **Which of the following best describes your status?**
 |
| **Charity trustee** | **Charity employee** | **Charity volunteer** | **Funder/Donor** | **Professional adviser** | **Other (please specify)** |
| **[ ]**  | **[x]**  | **[ ]**  | **[ ]**  | **[ ]**  | **[x]**  |
| **Other:** Helper Group and Critical Friend of the Commission  |

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| 1. **Are you providing this response as an individual or on behalf of an organisation?**
 |
| **Individual** | **Organisation** |
| **[ ]**  | **[x]**  |

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| 1. **On the whole do you agree with the Commission’s general approach to the strategic plan 2019/2022?**
 |
| **Yes [x]**  | **No [ ]**  |
| Why do you say that?We are sympathetic of the position that the Commission finds itself in, ie it has been given a huge task to implement charity regulation but hasn’t been given the adequate resources in which to do. We would not however have agreed with the radical approach options outlined on page 7 of the consultation document. Nor would we be in favour of charging for charity registration – when charity registration was consulted on, we were told that there would be no cost to charities, this should remain.  |

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| 1. **On the whole do you agree with the main goals which the Commission has proposed?**
 |
| **Yes [x]**  | **No [ ]**  |
| Why do you say that?Goal 1. Agree that registration should continue and if staff may be deployed from other parts of the Commission if necessary. Consultation with helper groups could perhaps help identify options for slimming down the registration process. Registration of very small charities should be halted unless they really want to be registered. Since the enactment of the Charities Act, it has been highlighted by many that a de-minimis threshold is needed so that very small charities are not required to register. While we realise that the Commission is powerless to change the legislation, it could using its current situation as an opportunity to not call very small charities forward. This should also satisfy a risk based approach to registration. If the Commission is proposing that it focuses on higher risk cases, would a small charity of an income under £20K fall into this category?. Registration should match compliance ‘highest risk concerns’ Goal 2. It would seem reasonable to implement a de minimus level for consents for gifts. Also reasonable that the Commission shouldn’t have to chase applicants for information. Goal 3. Having the Commission staff attend seminars and roadshows that we have held has always been really beneficial, not only from the point of view of outlining their expectations of charities but also the personal touch is very much appreciated by attendees. Commission staff are always able to put it across that they are fulfilling the legislative requirements, they’re not making them. It would be a shame to lose this altogether however we understand that the number of engagements could be reduced. Helper groups and umbrella bodies could be used more effectively to help charities eg if the Commission is finding that there are common problems with compliance then it could liaise with Helper Groups and umbrella bodies to communicate the issues among their service users. Workshops on the AMR would be welcome but also podcasts would be extremely useful as trustees are not always able to attend daytime workshops. Podcasts will also be useful for charities submitting their return on an ongoing basis as it could be different people doing it as personnel and trustees change. In terms of the Commission’s proposal to reduce its guidance role, NICVA believes that this should not be reduced to Helper Groups as they can then pass on the learning to so many other charities. Also if the written detailed guidance is not produced there is a danger that Trustees do not have the detailed guidance to help them in their role. CCEW has produced some excellent guidance for charities eg on Trading, Risk Management and on internal financial management. In the absence of the Commission publishing its own it could signpost to CCEW’s guidance. Many charities would not know to look at CCEW’s guidance so CCNI shouldn’t make the assumption that they do know, so where relevant signpost to the guidance which isn’t dependant on the legislation from a jurisdiction eg tax is a UK wide matter. Goal 4. We understand that the Commission would not be able to check all of the annual returns, see Q12 below for more.Goal 5. The Commission should always take a proportionate approach. Investigating only the highest risk concerns would be in line with this, however what are all of the highest risk concerns? See Q13 below for more.  |

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| 1. **Are there other goals which in your view the Commission should include?**
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| **Yes [x]**  | **No [ ]**  |
| Why do you say that?Need to progress the introduction of a CIO. We understand that the Commission has limited resources but the introduction of the CIO is very much needed. Charities are converting from unincorporated associations into companies ltd by guarantee to benefit from the limited liability aspect of the company. They are doing this without realising the financial implications of having to prepare accrual accounts that comply with charities SORP. For smaller charities, the cost of doing this is significant in comparison to preparing receipts and payments accounts which does not require specific expertise. If chairties under £250K could register as CIOs they could benefit from both limited liability and prepare R&P accounts. Ancedotely we’re hearing that people are unwilling or anxious about sitting as trustees because they’re concerned about their personal liability.  |

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| 1. **What impact do you think this plan, if implemented, will have on the public’s confidence in the charity sector?**
 |
| **Strongly increase****[ ]**  | **Somewhat increase****[ ]**  | **Neither increase nor reduce** **[x]**  | **Somewhat reduce****[ ]**  | **Strongly reduce****[ ]**  |
| Why do you say that?The Commission carrying out its full functions should increase public confidence. Charities themselves can play a bigger role in highlighting the good work that charities do. The general public are probably not aware that that the accounts on the charity register have not all been scrutinised by the Commission.  |

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| 1. **Do you agree with the Commission’s proposal to streamline the process of charity registration?**
 |
| **Yes [x]**  | **No [x]**  |
| Why do you say that?See Goal 1 answer in Q4 (I can’t cut and paste out of Q4….the edting restrictions on this document are far too restrictive for the user!) |

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| 1. **Do you agree with the Commission’s proposal to streamline casework decisions?**
 |
| **Yes [x]**  | **No [ ]**  |
| Why do you say that?See Goal 2 answer in Q4 |

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| 1. **Do you agree with the Commission’s proposal to streamline and introduce a de minimus level into some consent processes?**
 |
| **Yes [x]**  | **No [ ]**  |
| Why do you say that?See Goal 2answer in Q4 |

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| 1. **Do you agree with the Commission’s proposal to reduce its engagement with public events, research and guidance?**
 |
| **Yes [ ]**  | **No [x]**  |
| Why do you say that?See Goal 3 answer in Q4 |

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| 1. **Do you agree with the Commission’s proposal to introduce workshops for those submitting their annual return for the first time?**
 |
| **Yes [x]**  | **No [ ]**  |
| Why do you say that?See Goal 3 answer in Q4  |

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| 1. **Do you agree with the Commission’s proposal to automate the checking of SORP accounts, which are prepared under the mandatory framework for charity accounts?**
 |
| **Yes [x]**  | **No [ ]**  |
| Why do you say that?It makes sense to use technology to help with this. Charities that prepare SORP accounts are supposed to use a specified format however would be concerned that if the accounts submitted aren’t in the specified format that they would be rejected?  |

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| 1. **Do you agree with the Commission’s proposal to focus on investigating the highest risk concerns only?**
 |
| **Yes [x]**  | **No [x]**  |
| Why do you say that?What are the highest risk concerns? While on the face of it, this would seem a reasonable approach, it could be highly frustrating for whistleblowers reporting concerns about charities. They may feel despondent and think what is the point of reporting concerns if the Commission is not going to look into it? If the Commission is not going to look into certain Concerns it should tell the charity that a concern has been received about it. If it’s not serious enough for the Commission to look into however improvements could be made, it could signpost to its guidance and a helper group in its area or sub-sector could advise further. We believe that the Commission should always take a proportionate approach to compliance and investigations.  |

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| 1. **Recent public interest and media coverage has highlighted the risk to charities of not having appropriate policies and procedures in place to deal with safeguarding issues. In this context do you agree with the Commission’s proposal to focus on new risks such as Safeguarding?**
 |
| **Yes [x]**  | **No [x]**  |
| Why do you say that?Safeguarding is a matter which many charities will be concerned with. The Commission already asks the question at the point of registration and on the AMR about working with children and vulnerable adults and if they have policies in place. Whether their policies and procedures are appropriate is another matter altogether. However for those that didn’t have policies on this, the question is a good prompt for them to attend to it. The Commission has already identified that it is underresourced, however this is such an important issue that it should be classed as a high risk area.  |

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| 1. **Have you any additional comments on the Commission’s strategic plan proposals?**
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| The Commission should prioritise those new charities who have identified that they urgently need to be registered, in particular, because of rates exemption issues and funding issues.  |

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| 1. **Are you content to have your comments attributed?**
 |
| **Yes** | **No** |

**If you would like to be added to our stakeholder database, please provide your details below:**

|  |  |
| --- | --- |
| **Name** | Denise Copeland |
| **Organisation** | NICVA |
| **Role** | Governance and Charity Advice Manager |
| **Email** | denise.copeland@nicva.org |
| **Please let us know if you have any accessibility requirements** | Click here to enter text. |
| **Are you content to be listed as having provided input to the Commission’s strategic plan?** | **Yes [x]** **No [ ]**  |

Thank you for providing feedback to this public comment phase.

We will send you a copy of the consultation report to explain where and how we have taken into account the responses provided during this process.