

## **NICVA response to the Consultation on A Bill to amend the Charities Act (Northern Ireland) 2008**

The Department for Communities launched a public consultation on 27 March 2026 to seek comments on its proposed amendments to the Charities Act. Please see the following link to the full consultation which closes on 24 April 2026.

[Consultation on a Bill to amend the Charities Act \(Northern Ireland\) 2008 | Department for Communities](#)

### **Background**

NICVA is the umbrella representative organisation for the voluntary and community sector in Northern Ireland with a membership of over 1,500 organisations.

NICVA's response is based on its role as the representative body for the voluntary and community sector in N. Ireland. Comments are based on practice and informed by previous charity regulation consultations as well as years of experience as a Charity Commission helper group: from helping charities through the charity registration process, working with charities 'in-default' on the charity register and advising on complying with charity regulation.

### **Questions from online consultation questionnaire**

We have copied the questions and rationale from the online consultation questionnaire below along with our response to each question.

#### **Clause 2 – Disclosure**

The amendment to section 24 broadens who the Commission can share information with. Currently, disclosure is limited to “public bodies or office-holders”, which has caused practical issues when working with organisations like the Fundraising Regulator or members of legislatures. The new wording allows information to be shared with any person or organisation carrying out public or regulatory functions, ensuring clearer cooperation while maintaining existing safe-guards and legal protections.

**The Department proposes** that section 24 of the 2008 Act be amended to replace the reference to public body or office-holder with one to reflect persons discharging functions of a public nature.

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

Yes  No  No View

Please explain your answer:

NICVA held a seminar on this consultation on Monday 20 April 2026 at which we gleaned issues or concerns about the draft bill. One such concern was about the information sharing but NICVA understands that by giving these clearer powers to the Commission it can help it work with others to help in particular situations or aid research into the Sector.

### Clause 3 - Official warnings

The Review recommended that the Department consult appropriately on the possible introduction of an official warning power and whether it should be treated as a reserve power of the Commissioners or exercisable by Commission staff.

This amendment introduces a new power for the Commission to issue official warnings to charities or their trustees where there has been misconduct, mismanagement, or a breach of trust or duty. The warning can be used instead of a full investigation or as an outcome of an inquiry when this is a more proportionate response. Safeguards include prior notice, clear reasons, an opportunity to respond, and the ability to vary or withdraw warnings. Failure to comply with an official warning will also become grounds for further regulatory action under section 33 of the 2008 Act.

**The Department proposes** the insertion of a new section 32A into the 2008 Act to grant the Commission the power to issue an official warning to a charity or its trustees.

3a. Do you agree with the introduction of an official warning power for the Commission?

Yes  No  No View

Please explain your answer:

NICVA agrees that the Commission should be able to issue official warnings to charities or their trustees where there has been misconduct, mismanagement or a breach of trust or duty. If issuing an official warning prevents a full investigation by the Charity then that is a good thing as it might help to make the Trustees take notice if they hadn't previously. We welcome that there will be safeguards including prior notice and an opportunity for the charity to respond so that the Commission could then vary or withdraw the warning.

3b (Only answer if you selected Yes to 3a). Do you agree with the Department's proposed amendments?

Yes  No  No View

Please explain your answer:

While NICVA agrees that the Commission should be able to issue official warnings, we do not agree that they should be published in the public domain as this could cause reputational damage to the charity. We have seen in recent years how some media outlets jump on a bad news story about a charity. This negative media can have a damaging effect on the whole charity sector.

If the Commission issues an official warning to the Charity and it is ignored by the Charity or its trustees then the Commission would still be able to carry out a full investigation. We agree with the right to publish a warning after a full statutory investigation if the charity does not adhere to the recommendations or directions of the Commission.

It was highlighted at our consultation seminar that section 32a excludes Designated Religious Charities. We would think that it is appropriate for all charities to be treated equally in this matter, even if Designated Religious Charities have special arrangements under the Charities Act.

3c. If such a power was introduced, should this power be reserved to Commissioners?

Yes    No    No View

Please explain your answer:

Senior staff in the Commission should be eligible to issue this but only if it is not published in the public domain otherwise it should be the Commissioners, given how potentially damaging it could be to the reputation of a charity

#### **Clause 4 - Power to remove trustees etc. following an inquiry**

The Review recommended that to assist the Commission to regulate in an effective and proportionate manner the Department should expand the scope of the power to remove trustees to include those trustees who have resigned from office. It recommended that this power should be reserved to Commissioners.

As it currently stands, if a trustee, charity trustee, officer, agent or employee of the charity is under investigation for misconduct and retires or resigns before the investigation is concluded, then the Commission has no authority to stop this person from becoming a trustee of another charity, even if they are found guilty of misconduct. This loophole presents a risk to charities whereby someone who has been removed can become involved in another charity, putting that charity at risk.

**The Department proposes** to amend section 33 so that the Commission has the power to continue with removal action, even if the person ceases to hold office or discontinues acting as an officer, agent or employee.

4. 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?

Yes  No  No View

Please explain your answer:

NICVA agrees that the Commission should have the power to remove a trustee for misconduct from a charity even if they have resigned so that they can be officially removed as a trustee and entered into the public register of removed trustees. This will then prevent them from serving as a Trustee with another charity.

## Clause 5 - Power to direct specified action not to be taken

The Review recommended that to assist the Commission to regulate in an effective and proportionate manner that a power is granted to the Commission to issue directions to trustees not to undertake certain actions.

Section 36 provides the Commission with powers to direct that a charity take specific actions during the course of a statutory inquiry. However, the Commission does not have the complementary power to direct that a specific action is not to be taken where such actions are considered likely to constitute misconduct or mismanagement in the administration of a charity. This is not the case in other jurisdictions in the UK where regulators do have this power.

**The Department proposes** adding a new section 36A to the 2008 Act which mirrors section 84A of the Charities Act 2011 in England and Wales. This provision will empower the Commission to issue a direction prohibiting a person from taking specified actions where it considers that such actions would amount to misconduct or mismanagement in the administration of the charity. Associated appeal rights are provided in the draft Bill.

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

Yes  No  No View

Please explain your answer:

NICVA agrees that the Commission, when it has instituted an inquiry, should be able to issue a direction to a charity for specified action *not* to be taken where such actions are considered likely to constitute misconduct or mismanagement in the administration of a charity. This would then complement the Commission's power to direct that specific actions be taken by the trustees.

## Clause 6: Automatic disqualification for being a trustee

Section 86(1)(d) automatically disqualifies anyone who has been formally removed as a trustee for wrongdoing from acting as a trustee again. However, this does not apply to other roles within a charity, such as officers, agents, or employees. The amendment closes this gap by extending automatic disqualification to these roles when a person is removed from acting as a charity trustee following an inquiry. This change helps prevent individuals who have been removed for serious misconduct from moving into positions of responsibility in another charity, reducing risk and strengthening public trust.

**The Department proposes** to amend section 86(1)(d) of the 2008 Act to extend automatic disqualification to officers, agents or employees from acting as a charity trustee if they have been removed by the Commission.

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

Yes  No  No View

Please explain your answer:

NICVA agrees with this but has concerns that this should not extend to employees who may have acted under duress by a CEO or Officer of the Board.

NICVA seeks clarification that agents would include advisors and would therefore welcome that this disqualification extends to agents, as anyone in an advisory role that continues to give improper advice which encourages trustees to engage in misconduct or mismanagement of a charity should rightly be disqualified from acting as a trustee.

NICVA asks if this disqualification for trustees and agents can be backdated to Inquiries previously carried out by the Commission or must it only apply when this Bill becomes legislation?

## Clause 7 - Requirement to prepare accounts

The Review recommended amending the 2008 Act and the Charities (Accounts and Reports) Regulations (Northern Ireland) 2015 (the 2015 Regulations) to reduce reporting burdens for small charities and introduce greater flexibility. Key proposals include updating section 64 and the 2015 Regulations to allow the Commission to grant dispensations from the requirement to prepare accruals accounts where a charity exceeds the £250,000 threshold due to exceptional, one-off income; and to set clear content requirements for receipts and payments accounts and statements of assets and liabilities, improving consistency and clarity for smaller charities. The Review also recommended adopting a proportionate, tiered approach for charities with gross annual income of £25,000 or less by removing the requirement to file an annual statement of accounts and undergo independent examination, replacing these with an annual monitoring return and a simple online financial

template, and consulting on whether thresholds should be based solely on income or include assets.

### **Dispensation from the requirement to prepare accruals accounts**

**The Department proposes** to amend the 2008 Act to allow the Commission to grant dispensations from the requirement to prepare accruals accounts when a charity exceeds the £250,000 income threshold due to exceptional, one-off circumstances, such as a large grant or fundraising campaign. This change aims to reduce unnecessary administrative burdens on smaller, unincorporated charities while maintaining proportionate regulation. The amendment will simplify section 64 to enable detailed rules to be set in secondary legislation, providing flexibility for future updates. The 2015 Regulations will then be revised to allow the Commission, on application and at its discretion, to grant such dispensations for the financial year concerned.

7a. Do you agree with the Department's proposed amendments?

Yes      No       No View

Please explain your answer:

NICVA welcomes that a dispensation be available to charities from the requirement to prepare accruals accounts where a charity exceeds the £250,000 threshold due to exceptional circumstances.

There were a few concerns however raised at the consultation seminar about how this would work in practice given that a charity must file their accounts and reports within 10 months of its financial year end. The proposed wording states that it is the Charity Commission which would be granted the power to grant the dispensation however we are concerned about the wait time to get that permission from the Charity Commission. Currently for (straightforward) Consents, it can take at least 3-5 months or longer for the Consent to change charitable purposes. If the Commission decides NOT to grant the dispensation then it would leave it very difficult for the charity to prepare the accruals accounts in time for the 10 month deadline.

It is a big step for a charity having to change from preparing Receipts and Payments accounts to Accruals Accounts, as accruals are a lot more complex and must adhere to the Charities SORP. Couple that with the potential need to also change the charity's Independent Examiner, as the Independent Examiner may only be qualified to carry out the IE of accounts up to £250,000. Over that threshold the IE must be carried out by someone who is on the prescribed list eg a professional accountant. It takes time to find a new Independent Examiner or Auditor and this is something which may have to be tendered for, which takes time.

Cost is also a factor. Preparing the receipts and accounts is quite often done in house however charities would need to pay an external professional to prepare their accounts on the accruals basis if they don't have that expertise. Preparing accruals

accounts in compliance with the Charities SORP is inevitably more expensive as more time is required.

These same issues were most likely the reason why the Independent Review Panel included the recommendation for the Commission to be able to grant dispensation in exceptional circumstances, but we believe that the Panel would have expected the Commission to be able to make this decision quickly. It was suggested at the recent seminar that the Commission should be required to make its decision within 30 days of receiving the request. Commission staff should be able to make this decision and not the Commissioners.

NICVA would also suggest that 'exceptional circumstances' should not be limited to 'one-off' as suggested by the Department. A recent example of this is a small charity (typically under £30K income) received a legacy for over £100k (a windfall moment for the charity) from a donor that used the charity register to identify charities with particular purposes. The legacy was to be split with another charity but the other charity since dissolved and therefore another similar amount was given to the charity pushing it very close to the threshold. The charity could easily have been pushed over the threshold with a little more income. This was exceptional circumstances for this charity two years running but it is quite unlikely to happen again. There needs to be flexibility in the legislation that the Commission can grant dispensation not just for one year but for a further year if required.

There is also the possibility that this spike in income over the threshold be treated in the same way that was suggested for the charity registration threshold. That is, that Trustees be allowed to monitor income for the next 2 years after the first spike and if remaining above the threshold in both subsequent years must then prepare the accrual accounts. A question could then be added to the AMR where trustees would have to let the Commission know that they are dealing with it.

## Content requirements for Receipt and Payments Accounts

**The Department proposes** that section 64 of the 2008 Act is amended to provide a regulation making power enabling the Department to prescribe the format and content of receipts and payments accounts, including the statement of assets and liabilities. This will allow the detailed amendment to be made by secondary legislation, allowing flexibility to update requirements over time without the need for further primary legislation.

Following this, the 2015 Regulations will be amended to:

- specify the minimum content requirements for the statement of assets and liabilities, including the requirement to provide values for assets and liabilities; and
- disapply the content requirements for receipts and payments accounts for charities who are eligible for template reporting.

7b. Do you agree with the Department's proposed amendments?

Yes      No       No View

Please explain your answer:

NICVA agrees in principle that having an agreed format for the content of receipts and payments accounts could be a good thing, but only if it is in a simple format. The concern here is that a format would be created that looks to the SORP and the accrual accounting for a framework, which is much more onerous to prepare. The proposal is that it will also include the requirement to provide values for assets and liabilities but there is no detail on what that would look like. While it may be nice to know this information, it should not be at the expense of causing more unnecessary stress on our Trustees who are already spending precious time volunteering in their roles on charity boards. Is this something that is required in other neighbouring jurisdictions?

NICVA is concerned that requiring a value for assets could potentially bring the complexity of accrual accounting to the receipts and payments framework. For example to properly account for the value of assets do you need to include depreciation? If so then the R&P framework wouldn't be simplified, it would be more complex. Requiring values could also mean more expense for the charity to get an asset valued. NICVA believes that the Department should not be introducing changes which are going to incur greater expense on small charities. It has included an asset threshold of £100k for those charities under £20K but what consideration with regard to assets has been given to this income category.

NICVA believes that there must be consultation on the proposed new format so that trustees of small charities are easily able to complete it. Some would question that if the intention is to simplify the accounting framework to reduce reporting burdens for small charities, then why is the Department creating more work for small charities by forcing them down this structured route?

Charities in the income bracket of £20-£250,000 should not be adversely affected by new rules for preparing R&P accounts because a simple template is being introduced for charities under £20K. For example a charity is still small if it is under £100K income, it is very small if it is under £20K. NICVA therefore believes that consultation is essential on the proposed wording before the 2015 Regulations are amended to include this.

## Template Reporting

The Department intends to introduce a simplified reporting framework for the smallest charities, reducing administrative burdens while maintaining transparency. Following feedback from a recent consultation, the reporting threshold will align with the registration threshold<sup>[1]</sup> of £20,000 or less annual income and £100,000 or less

assets. Charities below this threshold will benefit from a simplified statement of accounts.

**The Department proposes** to amend section 64 to simplify the primary legislation to allow the detailed amendment to be made by secondary legislation, allowing flexibility to update requirements over time without the need for further primary legislation. Template accounting can be achieved because the Department can prescribe a different form and content of accounts for very small charities.

Following this, the 2015 Regulations will be updated to:

- allow for the introduction of a simplified form of statement of accounts for charities falling below a £20,000 annual income and £100,000 asset threshold, which will be amendable by order of the Department.

*[1] The threshold below which charities will not be required to register with the Commission nor provide them with an annual report and accounts.*

7c. Do you agree with the Department's proposed amendment?

Yes  No  No View

Please explain your answer:

NICVA agrees but again has concerns around what the content requirements would be. We also need to recognise that not everyone has the digital capabilities, something which Helper Groups who assist small charities with annual reporting will know. NICVA suggests that the new template be available for download so that charities can complete it, and that it is either uploaded or information inputted digitally.

While participants did not raise any concerns at our consultation seminar on this draft Bill, some did at our 2024 seminar on the registration threshold consultation. Those concerns included worries about digital capability and also that some small organisations are already completing annual accounts on a template required by their funder and some with an umbrella body. This would then introduce a third template for those particular small charities which could be confusing.

We need the detail of this to be consulted upon and believe that the requirement to consult be included.

## **Clause 8 - Audit requirements: disapplication for small charities**

Linked to the recommendation to remove the requirement to file an annual statement of accounts, the Review also recommended charities below the template reporting threshold should not be required to undergo independent examination, which can be costly in some cases.

**The Department proposes** to amend section 65 to remove the requirement for independent examination for charities that have an annual income below £20,000 and assets below £100,000.

8. Do you agree with the Department's proposed amendment?

Yes  No  No View

Please explain your answer:

NICVA welcomes the amendment to remove the requirement for very small charities under the £20K reporting threshold from having to carry out an independent examination of their accounts as some have found it difficult to find someone to carry this voluntarily for them. This requirement has caused stress for some, and an expense to others that they didn't feel was justified given the small income.

## Clause 9 - Meaning of 'gross income'

The Review recommended that the Department amend the definition of 'gross income' in section 180 of the 2008 Act to provide greater clarity to charities as to its meaning. The Charities Statement Of Recommended Practice (SORP) recognises that deciding whether a charity's incoming resources count as income or capital is complex. The Department is of the view that this is not something that can be easily fixed by changing the law. The current legal framework works well, and writing detailed accounting rules into legislation would remove flexibility and make it harder to adapt to future changes. For example, if new types of capital assets or receipts emerge, the law could quickly become outdated.

**The Department proposes** not to amend the definition of "gross income" in the 2008 Act but instead to take a power for the Department to update and clarify the meaning of income over time via subordinate legislation. This would allow the Department to respond to new developments and align with best practice across the UK.

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

Yes  No  No View

Please explain your answer:

NICVA agrees with the Department not to amend the definition of gross income in the 2008 Act but instead to allow for it to be updated over time via subordinate legislation.

## Clause 10 - Annual reports and returns

Here, the Bill returns to the idea of “template reporting” as provided for in clause 7. This clause makes some comparatively modest alterations to sections 69 and 70 of the 2008 Act. These ensure that the form and content of annual reporting and returns can be adjusted for very small charities.

**The Department proposes** to amend sections 69 and 70 to allow for template reporting.

10. Do you agree with the Department’s proposed approach?

Yes  No  No View

Please explain your answer:

NICVA does not see an issue with these amendments and understands they are necessary to allow for the template reporting section.

## Clause 11 - Removal of regulatory arrangements

The repeal of section 167 is intended to provide clarity for organisations operating for charitable purposes in or from Northern Ireland, enabling them to make informed decisions about their operations in Northern Ireland without the uncertainty that this uncommenced provision has created. Responses to the recent public consultation highlighted strong opposition to introducing Northern Ireland-specific reporting requirements, which would be required if the current provision were to be commenced, exceeding reporting requirements in other jurisdictions and creating additional burden without clear benefit.

As registration under section 167 would not confer charitable status under Northern Ireland law, it would not resolve existing funding or tax issues experienced by some such organisations. These institutions can choose to constitute separately in Northern Ireland and register with the Commission if they feel it is in their best interests to do so.

Furthermore, the practical effect of the territorial extent of the 2008 Act would prevent the Commission from exercising protective powers over charities established elsewhere, with concerns about misconduct or criminality remaining more appropriately addressed by the home regulator or the Police Service of Northern Ireland. Maintaining a registration framework without corresponding regulatory oversight risks confusing the public and undermining trust and confidence in the Commission.

**The Department proposes** the repeal of section 167 to provide certainty to such institutions and to allow them to continue to operate for charitable purposes in or from Northern Ireland, as they currently do.

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

Yes  No  No View

Please explain your answer:

NICVA responded to the Department's consultation in October last year which sought views on proposed changes to section 167 of the 2008 Act. NICVA supported the commencement of Section 167 believing that it would allow charities registered in other jurisdictions to be formally recognised in Northern Ireland, facilitating eligibility to access local funding and enhancing donor confidence.

As the Department has now outlined that registration under section 167 would not confer charitable status under Northern Ireland law, so would therefore not resolve the funding issues or tax issues experienced by some organisations, NICVA agrees with the decision to repeal section 167. NICVA notes that some charities which operate on the island of Ireland but which are registered with the regulator in the Republic of Ireland have already had to establish a separate NI charity in order for it to continue to claim gift aid on donations from UK taxpayers.

## Anything else

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

### **Increase in the Audit threshold for charities**

NICVA had hoped to see the inclusion of an amendment to increase the audit threshold of £500k as we had already requested an increase to the Department following announcements in other jurisdictions to increase their audit thresholds last year.

At the consultation seminar, Officials advised that an increase to the audit threshold can be made by an Order provided that there isn't an asset element otherwise it would require primary legislation. They advised that they need to research this further and that the Minister is aware of the need to increase the audit threshold. The Department could lay an Order in the Assembly before the end of the Minister's current mandate in May 2027. NICVA would warmly welcome this increase.

It is worth noting also that the Independent Review Panel also made a recommendation to review and amend the audit threshold for Group accounts.