

A Response to the consultation document -

**Review of Charities Administration and
Legislation in Northern Ireland
Charities Branch Voluntary and
Community Unit
Department for Social Development**

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Introduction

The Women's Support Network (WSN), established in 1989, is an umbrella organisation with charitable status providing support for more than 40 community-based women's centres, women's projects and women's infrastructure groups. The WSN aims to achieve social, political and economic justice through the promotion of the autonomous organisation of women. The Network also aims to strengthen the collective voice for women's groups, to promote and develop networking to enable collective action and to influence policy and decision making processes. The WSN is an important vehicle for taking forward the common agenda of community-based women's organisations, many of which are based in the most disadvantaged areas of the city and which have experienced the worst effects of the political conflict.

The WSN welcomes the review of charity legislation in Northern Ireland and we take this opportunity to add our views to the discussion on the future regulation and governance of charities.

CLARITY

Definition of Charity

We welcome this expansion of the definition of charity as a response to social, economic and cultural changes in society. The inclusion of (12) the promotion of peace and the (13) promotion of good community relations reflects the work of many organisations in addressing sectarianism and racism. Clause (14) is also important in maintaining the flexibility that is essential if charity law is to continue to evolve with regard to changing circumstances.

Public Benefit Charity Test

We would question the presumptions behind some inclusions in this list of charitable purposes. With regards to clause (2) the advancement of education, we would ask if the advancement of education alone is sufficient to be considered charitable, given the divisions within the education system in Northern Ireland. While the public benefit charity test is important and there is leeway for rebutting the presumption of charitable purpose, we would urge that this be accompanied by a condition that stipulates the aim of advancement of education must include one of the other charitable purposes, such as the promotion of good community relations. There should, in other words, be a proactive approach to defining charity in the context of a society such as Northern Ireland, which is attempting to emerge out of conflict.

We would also question the presumption that religious organisations should have charitable status. In situations where religion has been a divisive force, we believe that the activities of religious organisations should be subject to a more stringent and broadly based public benefit test before qualifying for charitable status. The purpose of the advancement of religion should be accompanied by a commitment to promote religious tolerance.

Given the history of Northern Ireland, there should be a more rigorous public benefit test on all organisations seeking charitable status for activities that could reinforce existing community divisions. In addition, recognition and additional incentives could be given to organisations that serve to bridge divisions.¹

¹ Kerry J. O'Halloran, 'Charity Law and Alienation in Northern Ireland: the Findings of a Research Project and the Resonance Between Events in New York and Belfast', *The International Journal of Not-for-Profit Law*, Vol. 4, Issue 2/3, May 2002 p.6. <http://www.icnl.org/JOURNAL/vol4iss23/ohalloran4.htm>

Another area that requires careful consideration is that of private schools. Will the public benefit charity test compel such schools to work for the public benefit and would this requirement be monitored by the Charity Commission?

TRANSPARENCY

Registration of Charities

The WSN welcomes the proposal to establish a comprehensive Northern Ireland register of Charities. This will be an important stage in promoting public confidence and accountability. We believe that the registration process outlined in the proposals, including phasing in of the process and confidentiality of sensitive material is evidence that the primary intention is to support rather than penalise charities. We also note and welcome the clause that there will be 'no automatic assumption of charitable status or exemption from oversight for religious or any other category of charities'.

ACCOUNTABILITY

Charity Commission

The decision to establish a Northern Ireland Charity Commission as an independent NDPB is welcomed. We hope that it will work closely with other charity regulators, both in the UK and in Ireland, enhancing access to information concerning charities that operate throughout these jurisdictions.

With regards to staffing of the Commission, we hope that the Commissioners (while subject to the merit principle governing all public appointments) will be reflective of the diversity of the community, including gender, race and age.

We urge strongly that the Commission is resourced adequately from the outset.

We view the existence of an appeals mechanism as a vital aspect of the Commission as it is vital to good governance that charities are empowered to question the decisions of the NI Charity Commission. An independent tribunal should be introduced to hear appeals against the decisions of the Charity Commission.

COMPLIANCE

Regulation of the Northern Ireland Registered Charities

These proposals, in defining the regulatory power to which charities will have to adhere, are important in maintaining public confidence in local charities. We agree with NICVA in that the proposal 'reflects a good understanding and recognition of the diversity of the charitable sector' and is 'fair and proportionate' in terms of reporting and accounting.²

Given the specific nature of Northern Irish society, we welcome the proviso that the Department should have the power to waive grounds for disqualification of Trustees in exceptional circumstances. This would have particular relevance for large numbers of ex-prisoners.

GOVERNANCE

Charitable Incorporated Organisations (CIO)

The WSN welcomes the proposal to introduce a new type of organisation, the Charitable Incorporated Organisation. This will introduce a greater degree of

² NICVA *Briefing Paper*, 'Review of Charities Administration and Legislation in Northern Ireland in 2005', February 2005, p.7.

flexibility for organisations, both in terms of formation and in terms of amalgamation or dissolution. Charity law must help to encourage an environment that helps to promote the inclusion of marginal groups and the WSN believes that the combination of support and flexibility will help achieve this objective.

THE ADMINISTRATION OF CHARITIES

The WSN welcomes the relaxation of some of the formalities relating to the administration of charities, in terms of altering of purposes, amalgamation or expending of capital. This reflects the developing nature of the charitable sector, particularly in terms of smaller organisations.

Given the difficult relationships that some communities have with the PSNI, the requirement that all public collections must be approved by the PSNI may encounter some difficulties. We call for the proposed new Commission to be given the power to act as lead authority for charitable collections, both in terms of issuing permits and also providing advice to the public and to collectors. In other instances the Charity Commission can act as intermediary between the Department and the PSNI.

EQUALITY

The WSN welcomes the proposal to establish a Charities Commission for Northern Ireland. As we have said, we hope that the appointments of Commissioners will be reflective of the community as a whole and will live up to the commitment of the Good Friday Agreement pledging equal opportunities and the right of women 'to full and equal' representation.

When the Department is developing procedures for screening these proposals we would urge that times be published well in advance, that the Department consults as widely as possible and that the results are published, including full details of Departmental reaction and proposed action.

Appendix 1

WSN Member groups

Al-Nisa Women's Group
Ardoyne Women's Group
Ashton Centre
ATLAS (Lisburn)
Ballybeen Women's Centre
Ballymurphy Women's Centre
Belfast Travellers Education & Development Group
Brook (Belfast)
Citywide Women's Consortium
Derry Women's Centre
East Belfast Community Education Centre & Walkway Women's Group
Falls Women's Centre
Footprints Women's Centre
Greenway Women's Centre
Lenadoon Women's Group
Lesbian Advocacy Service Initiative
Northern Ireland Women's European Platform
Parenting Forum NI
Shankill Women's Centre
South Tyrone Empowerment Programme (STEP)
Strabane & Lifford Women's Group
Windsor Women's Centre
Women's Information Group
Women into Politics
Women's News
Women's Resource Development Agency
Women's Tec