



Evangelical Alliance
Northern Ireland
Briefing Paper
Charities Bill
February 2008

The Charities Bill was introduced to the Northern Ireland Assembly on Monday 10 December and is currently being scrutinised by the Social Development Committee. This briefing paper highlights some of the key issues relating to the Bill.

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1. What is it?

The Charities Bill, prepared by the Department for Social Development will:

- Provide a definition of ‘charity’ and ‘charitable purpose’
- Establish the Charity Commission for Northern Ireland (CCNI) and the Charity Tribunal for Northern Ireland
- Create a new register of charities
- Provide for a new form of charitable body (Charitable Incorporated Organisation – CIO)
- Deal with regulation of charities, their assets and public charitable collections

2. Why are these proposals being brought forward?

In March 2004 the Department for Social Development established an Advisory Panel to consider the regulation of Charities in Northern Ireland and make recommendations on the way forward. Following their recommendations the Department carried out a public consultation in early 2005 on the principles underlying the charity regulation proposals. Public consultation on draft legislation then took place in the autumn of 2006.

3. What is happening now?

The Charities Bill was brought before the Northern Ireland Assembly on Monday 10 December and referred to the Social Development Committee for consideration. The Committee has received a wide range of written evidence and has also been taking oral evidence from a number of organisations and individuals. Evangelical Alliance Northern Ireland has submitted written evidence to the Committee and subsequently presented oral evidence on Thursday 21 February. Over the coming weeks the Committee will scrutinise the Bill clause by clause before compiling all the evidence and reporting back to the Assembly.

You can access the proceedings of the Committee [here](#).

You can find out who is on the Committee [here](#).

4. What does the Bill contain?

The Bill has 186 clauses and 9 Schedules. This briefing paper does not cover every aspect of the Bill but a copy of the legislation can be accessed through this [link](#).

The rest of the briefing paper will highlight some key areas.

5. Definition of ‘charity’ and ‘charitable purpose’

The Bill introduces new categories for charitable purpose making the provisions much broader than before. ‘Advancement of religion’ remains a charitable purpose

although this now includes ‘any analogous philosophical belief (whether or not involving belief in a god)’.

However the Bill does not presume that these charitable purposes automatically convey public benefit and so all charities seeking to register with the new Charity Commission must also demonstrate that they meet a public benefit test.

6. Public Benefit test

Evangelical Alliance supports in principle the concept of a universal public benefit test and does not believe there should be special exemption for religious organisations. Christian groups by definition should not fear such a test given the societal focus of their faith.

However, how that test is interpreted requires the most careful consideration if the Christian voluntary sector is to be encouraged to do its good work, and indeed be free to prosper. Without proper safeguards in place there is a danger that the important religious voluntary sector could unintentionally suffer severe damage should ‘public benefit’ be framed in such a way as to leave its definition prey to political control or manipulation – for example, from secularist or politically correct agendas which might seek to interfere with the motivating ethos of an organisation.

If a universal public benefit test is to be introduced we consider it is important, therefore, not to limit its definition to the many obvious and tangible activist outworkings of Christian faith. We are concerned to retain the still widely acknowledged presumption of broader societal value and benefit in the purely spiritual aspects of faith which directly address the spiritual and moral dimensions to human life and existence. We would suggest that spiritual and holistic approaches to human well-being which involve personal responsibility for our own and one another’s welfare are presumed to be of significant benefit to society as a whole.

7. Disbenefit

The legislation states that regard must be given to any “ ‘disbenefit’ incurred or likely to be incurred by the public”.

We consider ‘disbenefit’ to be a confusing term which is subjective in nature and is vulnerable to political exploitation. We would prefer to see the clear, accepted and well understood language of ‘harm’ to be employed instead. Documentation from the Office of the Scottish Charities Regulator indicates that they understand the meaning of ‘disbenefit’ to be harm. Similarly the guidance on public benefit from the Charities Commission in England & Wales makes reference to ‘harm’ rather than ‘disbenefit’.

To have the language of ‘harm’ included within the NI legislation would leave the definition clearer at the outset.

8. Charity Commission for Northern Ireland

A Charity Commission for Northern Ireland will be established with a chair, deputy chair and at least 3, but no more than 5, other members. At least one member will be legally qualified. One of the general functions of the Commission will be the establishment and maintenance of an accurate and up-to-date register of charities.

9. Charity Tribunal for Northern Ireland

A Tribunal will be created to hear appeals against some types of decision made by the Commission.

10. Register of charities

Under the new legislation:

‘Every institution which is a charity under the law of Northern Ireland must be registered in the register of charities’.

The register will contain the name of the charity and any other information relating to the charity which the Commission sees fit. The register will be a public record and accessible to the public for inspection at all times.

It is unclear yet how this relates to Northern Ireland operations of charities which are registered elsewhere in the UK. At the minute however we understand this to include all churches and all organisations which have headquarters in Northern Ireland. The main denominations will have their own guidance in relation to the implementation of this proposal.

It will be the duty of the trustees to apply to the Commission for the charity to be registered and to supply the Commission with required documents and information.

The fact that a charity is registered must be stated in all notices, advertisements and documents issued by the charity; in all bills of exchange, promissory notes etc signed on behalf of the charity; and in all bills rendered by it, invoices, receipts and letters of credit.

11. Information Powers

Part 5 of the legislation empowers the Commission to institute inquiries into any aspect of the work of a particular charity or class of charities. The Commission will be able to call for the disclosure of documents and to disclose information in pursuit of its functions.

12. Power to act for protection of charities

Sections 33 – 36 outline the powers that the Charity Commission will have to appoint additional trustees to a charity if it considers this to be necessary for the proper administration of the charity. It can also suspend trustees, officers, agents or employees of the charity from the exercise of the person's office or employment pending consideration being given to that person's removal.

Section 165 exempts designated religious charities from these clauses.

13. Charity Accounts, Reports and Returns

This part deals with the duty of charities to keep accounting records, issue statements of accounts and arrange for their accounts to be audited. The thresholds have increased following the consultation on the draft legislation in autumn 2006. The requirements are as follows:

- Unincorporated charities with an income of under £100k must have an independent examination of their accounts. They will be required to prepare a receipts and payments account and a statement of assets and liabilities.
- Charities with an income between £100k - £500k can choose not to have a full audit but must have an independent examination carried out by a reporting

accountant who is a member of the Chartered Institute of Public Finance and Accounting or a full member of the Association of Charity Independent Examiners.

- Charities with an annual income of £500k or more will be required to carry out a full audit.

The [NICVA briefing](#) on the Charities Bill has more information on this.

Once the Charity Commission for Northern Ireland has been established it will develop its own requirements and guidelines for reporting.

14. Charitable Incorporated Organisations

The Bill provides for the constitution of Charitable Incorporated Organisations, a new legal entity for charities. Its purpose is to avoid the need for charities that wish to benefit from incorporation to register as companies and be liable to dual regulation.

15. Application of the Act in relation to designated religious charities

As mentioned above Section 165 of the Bill exempts designated religious charities from sections 33 – 36 of the Bill. The Department may also specify that designated religious charities be exempt from other aspects of the Bill.

To be a designated religious charity the following conditions must be fulfilled:

- a. Advancement of religion must be its principal purpose
- b. The regular holding of public worship must be its principal activity
- c. It must have been established in Northern Ireland for at least 10 years
- d. It must have a membership of at least 1000 persons who are:
 - i. Resident in Northern Ireland, and
 - ii. At least 16 years of age
- e. It must have an internal organisation such that:
 - i. One or more authorities in Northern Ireland exercise supervisory and disciplinary functions in respect of the component elements of the charity, and
 - ii. Those elements are subject to such requirements regarding the keeping of accounting records and auditing of accounts as appear to the Commission to correspond to those required by Part 8 of the Charities Bill

While the provisions of this section of the Bill provide protection for, and recognise the accountability structures in, the main denominational bodies in Northern Ireland it however leaves out many smaller churches, mission organisations and other faith based organisations which may feel vulnerable under Section 33 – 36.

16. Conclusion

There is much about the proposals which will help to strengthen the voluntary and community sector in Northern Ireland. In presenting evidence to the Social Development Committee Evangelical Alliance focused on the following points:

- (i) Missionary work at home and overseas to be seen as an integral part of the charitable purpose ‘advancement of religion’
- (ii) Spiritual benefit to be recognised within the public benefit test
- (iii) Replacing the term ‘disbenefit’ with harm
- (iv) Clarity required regarding obligation of those charities that operate within Northern Ireland but have headquarters outside of Northern Ireland
- (v) Issues arising from the designated religious charity status

Contact

If you have any questions or need more information in relation to this briefing paper please contact me on 028 9029 2266 or by email on k.jardine@eauk.org.