

Targeted Regulation of Scottish Charities: Consultation headlines and what happens next

1. Introduction

In 2014, the Scottish Charity Regulator consulted on proposals designed to allow us, within the existing legislative framework, to focus on the key issues that have the greatest potential to undermine confidence in the charity sector, to use our resources more effectively and to carry out more proactive work to balance our primarily reactive approach to date.

Here we provide the headline outcomes from the consultation and explain what we intend to do next. We hope that this summary will be particularly useful for charity trustees to stimulate discussions at their meetings.

2. Consultation headlines

In brief, the proposals that we consulted on were:

- Changing the content of the Annual Return that all charities complete and file with the Regulator
- Publishing charity annual reports and accounts on the Scottish Charity Register
- Developing a database of all charity trustees
- Introducing a regime of Serious Incident Reporting where charities would be required to actively report such incidents occurring in their charity to the Regulator.

There was a highly encouraging level of engagement in the consultation, with largely positive feedback on our proposals although some constructive comments and suggestions were received that will help us to progress and refine our proposals. The headline responses to each proposal are outlined below:

Annual Reporting by charities to the Regulator

- A majority of written respondents felt that the new questions for the Annual Return were clear and understandable (48% without any doubts and a further 15% with some observations about specific questions or sets of questions). Further investigation in the focus groups showed that while the questions as stated were deemed fairly clear and understandable, they might not always be the right questions.
- There was a mixed response with respect to whether the new return would be easier or more difficult, with 26% feeling that it would be more or less the

same, 17% thinking that it would be more difficult and 9% thinking that it would be easier.

- 62% answered 'Yes' to the proposal of keeping a £25,000 threshold. However, a percentage of these were answering Yes to the 'fact' of the threshold as opposed to its level. In terms of the 38% who responded 'No' to this question, the majority felt that the threshold was too low.

Publishing charity annual reports and accounts

- 70% of those responding to these questions supported the proposal to publish accounts for charities with incomes of £25,000 and more, plus all Scottish Charitable Incorporated Organisations (SCIOs).
- The main reasons given for supporting this proposal were to increase levels of transparency and accountability.

Creation of a database of charity trustees

- There was an almost even split in terms of those who felt that the development of a database would be a positive or a negative thing. A high level of concern was expressed about the privacy of data. Some of this concern appeared to be due to a lack of clarity about the proposals, and the misunderstanding that personal addresses and dates of birth of trustees would be published on the Register which was never the intention.
- 42% of respondents (many of whom also highlighted privacy risks) acknowledged the benefits of these proposals in terms of increased transparency and the value for the Regulator.

Serious Incident Reporting

- 64% of responses in this area agreed with the proposals, although there were a number of suggestions about how the incidents that should be reported to the Regulator could be amended in terms of additions and deletions.
- It was accepted that, if such a regime were introduced, clear guidance would be needed for charities to enable them to easily understand when a report was required.

3. What will happen now?

In general, the intention to move towards a more targeted approach was welcomed. However, there were clear areas where the consultation showed that further work is required. The OSCR Board has now agreed the way forward:

- We will publish information about the key issues that we want to focus on and generally how those issues will impact on what we do.
- We will change the Annual Return so that it asks questions that better add to our knowledge about how charities are operating. The system developed for

issuing and analysing the Return will be a flexible one, as areas of risk for the charity sector will change over time. We will develop clear guidance on the changes and work with support organisations to help ensure that there is sufficient support in the initial implementation phase. We will work towards getting all charities to use online filing facilities, making sure that the support needs of charity users are considered as a core part of our programme.

- We will move ahead with the project to publish charity annual reports and accounts, initially by encouraging more charities to get their reports and accounts online and actively sharing links to these on our Register.
- We will be issuing guidance on good practice in preparing and publishing Trustee Annual Reports, particularly aimed at small charities.
- Work will be done on the development of an internal trustee database. This will include clarifying the information that we are requesting. We do not intend to publish trustee details on the Register as part of this initiative.
- We will develop a new approach to charity review that will be more holistic in nature. We will move away from the routine annual check on all charity accounts to develop a more integrated system using information from a variety of sources. This should allow us to concentrate on sub-sectors and charities that are posing a higher risk to public trust and confidence, and allow us to be more proactive as a regulator.
- We will be initiating a regime similar to serious incident reporting. However, there will be further work done on clarifying the actual incidents we are interested in and developing benchmarks and guidance about when an incident is serious and needs to be reported.
- We will be increasing our resources and visibility in terms of tackling the number of charities that are in default by persistently not submitting their annual returns and annual reports and accounts to us.
- Digital service development and delivery will be an essential strand of all future work. We will be looking to make more and more services available online over time.

Charities will begin to see changes during 2015-2016, with many of the bigger changes being implemented at the start of financial year 2016-2017, when redesigned IT systems should be in place. We will communicate well in advance of changes being made, particularly where these impact on what charities need to do.