



Department for

Communities

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Scheme of Delegation for the Charity Commission for Northern Ireland Public Consultation

March 2023

Contents

1. Introduction	4
2. Consultation approach	5
3. Background and Draft Scheme	6
i. Background	6
ii. The rationale for a Scheme of Delegation	7
iii. What impact would a Scheme of Delegation have on your charity?	9
iv. How to Respond	11
v. Equality Screening	11
vi. Human Rights Act 1998 Screening	11
vii. Rural Needs Impact Assessment	12
viii. Confidentiality of Consultations	12
4. Draft Scheme of Delegation for the Charity Commission for Northern Ireland	14
5. Questions	26
6. The consultation process and how to respond	38

1. Introduction

In 2022, the Minister for Communities brought a Charities Bill through the Assembly to restore the fundamental pillars of the regulatory framework. This short but important Bill is known as the Charities Act (Northern Ireland) 2022 (the 2022 Act).

The 2022 Act allows that the Department may make a Scheme of Delegation to allow some of the Charity Commission's decision-making functions to be delegated to staff, as they are in other jurisdictions. This consultation exercise seeks the views of those with experience of, or an interest in, charity regulation here. It asks whether it is appropriate to delegate any of the Commission's decision making powers to staff, as is the case in other charity regulators. Should it be determined that a Scheme of Delegation would improve the efficiency and effectiveness of regulation here, this consultation also seeks views on what a Scheme should look like, to enable the Commission to provide cost effective and high-quality regulation services to charities here.

The 2022 Act stipulates that some decisions of the Commission, which in the main are those with the potential to cause detriment

to individual trustees or charity members, should never be delegated to staff. Whilst this will put the Commission in a different place as regards to other charity regulators, in our case this was necessary to restore that public trust and confidence in our system which is so essential to good charity regulation.

In order for charities to enjoy the support and confidence of the public, they must be well run, open and transparent. It is through the regulatory framework that their worth and legitimacy can be best demonstrated. They in turn need to be assured that regulation is open, transparent and proportionate and that decisions given to them by the charity regulator are made appropriately, lawfully and at the right level within the Commission, with appropriate appeal and review processes in place.

This consultation is your opportunity to shape the future of charity regulation and have your say on what level decisions are taken at to enable the Charity Commission to provide the best quality and most cost-effective service possible to charities. The Department would encourage you to take this opportunity.

2. Consultation approach

The Charity Commission for Northern Ireland (the Commission), established by the Charities Act (Northern Ireland) 2008 (the 2008 Act), is the statutory regulator of charities in NI. It is responsible for ensuring Northern Ireland has a dynamic and well governed charities sector in which the public can have confidence. In this regard, it is charged with keeping a register of charities, investigating mismanagement and misconduct in the operation of charities, providing consents and other services as set out in the 2008 Act.

In this consultation document the Department for Communities (the Department) sets out the rationale for a Scheme of Delegation to allow for some decisions to be taken by staff at various levels of the Commission.

The purpose of the consultation is to seek the views of all interested parties on what functions of the Commission, if any, should be delegated, and to what level. When considering Annex A, it may be helpful to the reader to access the **2008 Act**.

As the Independent Review of Charity Regulation panel has already run a very inclusive engagement exercise which explored high level views in respect of a Scheme of Delegation, and officials have engaged in a pre-consultation exercise involving representative groups, the consultation will run for twelve weeks. The Department will analyse both qualitative and quantitative data, giving due consideration to all responses before developing recommendations for consideration. A formal response document will be published as soon as practicable following the consultation period.

Copies of this consultation document may be made without seeking permission. This document is also available in alternative formats; please contact us to discuss your requirements. The document is published on the Department's website. If you have any queries regarding this consultation please contact the Charities Team by email **CharitiesBranch@communities-ni.gov.uk**, by post to the address below, or by telephoning 02890829424.

3. Background and Draft Scheme

i. Background

Most of us will volunteer with a charity, donate, or benefit from the many services they provide to society. The value of charities in our society and the work they do across a wide spectrum of issues cannot be underestimated. In fact, charities are often described as the lifeblood of our communities.

However, for charities to enjoy the support and confidence of those giving to them, they must be well run, open and transparent. It is through the regulatory framework that their worth and legitimacy can be well demonstrated. They in turn need to be assured that regulation is open, transparent and proportionate and that decisions given to them by the charity regulator are made appropriately and most importantly, lawfully.

The High Court Judgment of May 2019 in *McKee & Hughes (and others) v The Charity Commission for Northern Ireland*, subsequently confirmed by the Court of Appeal in February 2020, found that the Commission did not have the power to delegate its functions to staff acting alone. This rendered almost 7,500 regulatory decisions taken by Commission staff unlawful. The effect of this was to create great uncertainty within the charitable sector. Charities were worried that their now unlawful registration

could adversely affect their funding, and that there were cases where services they provided to their beneficiaries had no lawful basis.

To address these concerns, the Minister for Communities introduced a Charities Bill to make those decisions previously taken by staff lawful, where to do so, did not impinge on the rights of individuals under the European Convention on Human Rights. In addition, the Bill, which became the 2022 Act, allows that the Department may make a Scheme of Delegation to permit some functions of the Commission to be delegated to staff. However, the legislation also stipulates that the following functions, which in the main are taken during the course of a statutory inquiry, can never be delegated to staff:

- the instituting of a statutory inquiry;
- the making of a decision that a report or statement of such a statutory inquiry be published;
- the making of an order for the protection of charities or charity property under any of sections 33 to 37, for example suspension or removal of a trustee, appointment of additional trustees or an interim manager, restriction of transactions, or to direct the application of charity property; and
- the making of statutory regulations.

ii. The rationale for a Scheme of Delegation

If a Scheme were to be introduced, this in effect would mean that going forward staff could make those delegated regulatory decisions stipulated in the Scheme. Staff in the regulators in England & Wales, Scotland, the Republic of Ireland and further afield routinely take such regulatory decisions. As a result of the 2022 Act, the Commission will be required to function differently as regards to other charity regulators because of the stipulation that those decisions referenced above can never be delegated. It was the Department's belief in bringing forward the legislation that this was necessary to restore public trust and confidence which is so essential to good charity regulation.

In making the Scheme of Delegation, the legislation requires that the first Scheme should be subject to public consultation. It also stipulates that any Scheme will be published in order that there is full transparency as to how the Commission takes its regulatory decisions.

Decisions taken at Commissioner level are more costly than those delegated to staff and, as Commissioners are part-time, the speed of the process is reduced. In making a Scheme of Delegation, the Department aims to strike a careful balance between the cost and timeliness of decisions and the most appropriate level decisions should be delegated to.

This consultation asks if it is necessary for some or any of the Commission's decisions or functions to be delegated, and if so, to what level they should be delegated. Respondents will have the opportunity to provide their views on the benefits or otherwise of the introduction of a Scheme and, if such a Scheme were introduced, the level at which individual regulatory decisions that can be delegated should be taken.

The Department engaged in a targeted pre-consultation exercise in May and June 2022, holding meetings with representative groups from the Sector and those who expressed views on delegation during the Independent Review of Charity Regulation. In those meetings the Department cited two possible reasons for making a Scheme:

- i. The Commission can function more effectively and efficiently. The Commission has been taking all decisions via a Committee since the High Court Judgment in *McKee & Hughes (and others) v The Charity Commission for Northern Ireland*. The Department is concerned that this is not sustainable in the long term as it slows down the service provided to charities, charity trustees and their beneficiaries; and
- ii. Decisions are taken at the appropriate level within the Commission in an open and transparent manner.

The majority of those consulted during the pre-consultation meetings were supportive of some form of delegation and of the Department's proposal to move to formal public consultation as provided for in the 2022 Act.

Some issues respondents may wish to consider in respect of the prospective introduction of any Scheme are listed below:

- In dismissing the Charity Commission's appeal against the High Court Judgment in *McKee & Hughes (and others) v The Charity Commission for Northern Ireland*, the Court of Appeal concluded that, 'If the effect of our decision is to require some review and amendment of the 2008 Act, careful consideration should be given to the question of whether any of the powers and functions therein enshrined can properly be discharged by the staff of the Commission and, if appropriate, to reflect this in unambiguous language. The business of administering and overseeing charities in Northern Ireland is a matter of significant public importance, engaging a public interest of some potency.'
- Concerns have been voiced about the timing of the introduction of a Scheme of Delegation as the changes required of the Commission recommended by the Independent Review of Charity Regulation have not yet been implemented;
- The Independent Review of Charity Regulation recommended, 'In line with international best practice, the Department legislate for and develop a Scheme of Delegation allowing Commissioners to be more strategic in their involvement in Commission decisions';
- Is it proportionate to have Commissioners making all statutory decisions?
- The Commission estimates that for those variable or non-fixed costs, the cost per decision taken by staff is approximately 50% of that taken by a Committee that has one Commissioner sitting on it;
- The speed at which charities currently receive decisions is predicated on the frequency of Committee meetings e.g. if there is only one Committee meeting per month, those decisions cannot be conveyed to charities until after that Committee has concluded its deliberations;
- It was suggested during pre-consultation that the skill set developed by staff who are trained caseworkers, supported by an in house legal team, may enhance consistency of decision making;
- Decisions delegated to staff can be conveyed to charities quicker as there is no requirement to wait for the next Committee meeting;

iii. What impact would a Scheme of Delegation have on your charity? ¹

The Commission's functions which are being considered for delegation to the Senior Management Team (SMT) and staff are listed in Annex A and Annex B of the Draft Scheme. Respondents will be able to give their views on these within the consultation.

The scenarios below are examples of how a Scheme of Delegation may impact your charity according to the level of decision.

Scenario 1a – Commissioners take decisions via Schedule 1 Committee without the need for further information.

1. Charity applies to the Charity Commission.
2. Caseworker assesses the application, liaises with charity as necessary and seeks legal advice if required.
3. Caseworker assesses and determines recommendation.
4. Administrative staff compile summary reports for each case based on recommendation.
5. Papers compiled, uploaded and issued at least 10 working days before next available Schedule 1 Committee.
6. Schedule 1 Committee meets and makes a determination.
7. Data base updated with decision.
8. Where applicable, caseworker requests application of the Commission's seal.
9. Caseworker conveys decision to charity.

Scenario 1b - Commissioners take decisions via Schedule 1 Committee but require further information.

1. Charity applies to the Charity Commission.
2. Caseworker assesses the application, liaises with charity as necessary and seeks legal advice if required.
3. Caseworker assesses and determines recommendation.
4. Administrative staff compile summary reports for each case based on recommendation.
5. Papers compiled, uploaded and issued at least 10 working days before next available Schedule 1 Committee.
6. Schedule 1 Committee meets, unable to make a decision and requests further information from caseworker.
7. Caseworker acts on request for further information, liaising with charity if necessary.
8. Caseworker provides further information to the next available Schedule 1 Committee.
9. Schedule 1 Committee meets and makes a determination.
10. Database updated with decision.
11. Where applicable, caseworker requests application of the Commission's seal.
12. Caseworker conveys decision to charity.

¹ Currently all decisions are taken as in scenarios 1a and 1b

Scenario 2a: Decision is made via a member of Senior Management Team (SMT)

1. Charity applies to the Charity Commission.
2. Caseworker assesses the application, liaises with charity as necessary and seeks legal advice if required.
3. Caseworker assesses and makes recommendation.
4. Administrative staff compile summary report/s for each case based on recommendation.
5. Papers compiled, uploaded and issued.
6. Member of SMT makes a determination and conveys decision/s to caseworker.
7. Database updated with decision.
8. Where applicable, caseworker requests application of the Commission's seal.
9. Caseworker conveys decision to charity.

Scenario 2b: Decision is made via a member of SMT but requires further information

1. Charity applies to the Charity Commission.
2. Caseworker assesses the application, liaises with charity as necessary and seeks legal advice if required.
3. Caseworker assesses and determines recommendation.
4. Administrative staff compile summary report/s for each case based on recommendation.

5. Papers compiled, uploaded and issued.
6. Member of SMT is unable to make a decision/s and requests further information from caseworker.
7. Caseworker acts on request for further information, liaising with charity if necessary.
8. Caseworker provides further information to member of SMT as soon as available.
9. Member of SMT conveys decision/s to caseworker.
10. Database updated with decision/s.
11. Where applicable, caseworker requests application of the Commission's seal.
12. Caseworker conveys decision to charity.

Scenario 3: Decision is taken by a member of staff

1. Charity applies to the Charity Commission.
2. Caseworker assesses the application, liaises with charity as necessary and seeks legal advice if required.
3. Caseworker assesses and makes a decision.
4. Database updated with decision/s.
5. Where applicable, caseworker requests application of the Commission's seal.
6. Caseworker conveys decision to charity.

iv. How to Respond

Early responses are encouraged but all responses should arrive no later than **5pm on 12 June 2023**. Responses are requested through the preferred method of the online survey, which can be found at **<https://consultations.nidirect.gov.uk/dfc/charity-commission-for-ni-scheme-of-delegation>**

Alternatively, responses may be sent by email to **CharitiesBranch@communities-ni.gov.uk** or by post to: CCNI SCHEME OF DELEGATION CONSULTATION Charities Team, Department for Communities, Level 4 NINE Lanyon Place, Town Parks, BELFAST. BT1 3LP.

If responding in an alternative format, please state whether you are responding as an individual, or representing the views of an organisation. Please also indicate if you consent to your name being published as having responded to the Consultation. Before you submit your responses please read the “Confidentiality of Consultations” section below, which gives guidance on the legal position.

v. Equality Screening

Section 75 of the Northern Ireland Act 1998 requires that public authorities have due regard to equality issues in carrying out functions relating to Northern Ireland. The Department has completed an equality

screening of the document being consulted upon and have concluded that the proposals do not impact on equality of opportunity for any of the nine categories specified in section 75 (religious belief; political opinion; race; age; marital status; sexual orientation; men and women generally; disability; and dependants).

We have not identified any evidence of higher or lower participation or uptake by different groups; nor that different groups have different needs, experiences, issues and priorities in relation to the particular proposal; nor that there is an opportunity to better promote equality of opportunity or better community relations by altering the proposal or working with others in government or the community at large. Pre-consultation engagement with relevant groups, organisations or individuals has not indicated that particular proposals create problems specific to them. If you have any evidence to the contrary we would invite you to share this with the Charities Team via email or hard copy, using the contact details in Section 6 below.

vi. Human Rights Act 1998 Screening

The Human Rights Act 1998 incorporates the European Convention on Human Rights (“the Convention”) and makes it unlawful for a public authority to act in a way that is incompatible with these rights.

Evidence gathered by the Department does not show that the proposed Scheme of Delegation, if introduced, would impact any rights under the European Convention on Human Rights. The Department's view is that the document is fully compliant with Convention rights. If you have any evidence to the contrary we would invite you to share this with the Charities Team via email or hard copy, using the contact details in Section 6 below.

vii. Rural Needs Impact Assessment

The Rural Needs Impact Assessment (RNIA) is a process to ensure all relevant Government outputs are examined carefully and objectively to determine whether or not they have a different impact in rural areas from elsewhere, because of the particular characteristics of rural areas. Where necessary, the process should also examine what adjustments might be made to reflect rural needs and in particular to ensure that, as far as possible, public services are accessible on a fair basis to the rural community. The Department has considered this framework in relation to the rural community and has found no potential differential impacts. If you have any evidence to the contrary we would invite you to share this with the Charities Team via email or hard copy, using the contact details in Section 6 below.

viii. Confidentiality of Consultations

For this consultation, and in the interest of openness and transparency, we will publish the names of participants, whether they be individuals or organisations, where they have provided clear consent. We do not intend to publish the responses of individuals but a formal response document will be published on the outcome of the consultation as soon as is practicable following the consultation period. For more information about what we do with the information please see our **privacy notice**.

Although we do not intend to publish your response, responses to this consultation may be disclosed in accordance with Freedom of Information Act 2000 (FOI) and Environmental Information Regulations 2004 (EIR); however all disclosures will be in line with the Data Protection Act 2018 and the General Data Protection Regulations EU 2016/679. The Freedom of Information Act 2000 gives the public a right of access to any information held by a public authority (the Department in this case). This right of access to information includes information provided in response to a consultation.

The Department cannot automatically consider information supplied to it in response to a consultation as confidential. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity, should be made public or treated as confidential. This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances. The Department is the data controller in respect of any personal data that you provide and the **Department's privacy notice** gives details in respect of your rights in respect of handling your personal data.

4. Draft Scheme of Delegation for the Charity Commission for Northern Ireland

1. Introduction

- 1.1. The Charity Commission for Northern Ireland (the Commission) is the statutory regulator of charities in NI established by the Charities Act (Northern Ireland) 2008 (the 2008 Act).
- 1.2. The Commission is responsible for ensuring Northern Ireland has a dynamic and well governed charities sector in which the public can have confidence. In this regard, it is charged with keeping a register of charities, investigating mismanagement and misconduct in the operation of charities, providing consents and many other services. The Commission's objectives, functions and duties are set out in sections 7 – 9 of the 2008 Act.
- 1.3. The High Court Judgment of May 2019 in *McKee & Hughes (and others) v The Charity Commission for Northern Ireland*, subsequently confirmed by the Court of Appeal in February 2020, found that the Commission did not have a power to delegate its functions to staff acting alone.
- 1.4. The Charities Act (Northern Ireland) 2022 (the 2022 Act) which achieved Royal Assent on 30 March 2022 amended the 2008 Act to allow for limited delegation to staff provided that the functions to be delegated are stipulated in a Scheme of Delegation made by the Department following consultation with the Commission and a public consultation.
- 1.5. As a result of the 2022 Act, paragraph 9A(2) of Schedule 1 to the 2008 Act stipulates that the following may not be delegated to Commission staff:
 - power under section 22(1) to institute an inquiry;
 - decisions under section 22(6) that a report or statement be published;
 - power to make an order under sections 33 to 37; and
 - any statutory power of the Commission to make regulations.

- 1.6. This Scheme of Delegation is therefore made pursuant to paragraph 9A of Schedule 1 to the 2008 Act.
- 1.7. The Scheme will be formally reviewed every 5 years but can be reviewed at any time should the Minister for Communities determine that a significant change is proposed or at any other time should they believe it to be in the public interest.
- 1.8. Where the Scheme allows delegation of a regulatory decision to staff, all the administrative actions and decisions associated with that decision may also be conducted by staff.
- 1.9. Commission staff may take any decision in the furtherance of the Commission’s objectives, functions and duties as stipulated at sections 7, 8 and 9 of the Charities Act (Northern Ireland) 2008, except where a decision is proscribed by paragraph 9A(2) of Schedule 1 to the 2008 Act or is otherwise reserved for the Commission or their Senior Management Team in Annexes A and B of this Scheme of Delegation. Where the Scheme does not allow for delegation of a regulatory decision to staff, they may conduct all the research and other administrative acts required before bringing a recommendation to the decision maker.

2. Definitions

- 2.1 The following definitions are applicable for this document:
- “The Commission” - as defined by section 6 of the 2008 Act or a decision making Committee established in accordance with Paragraph 9, Schedule 1 of the 2008 Act.
 - “CEO” – the Chief Executive of the Commission.
 - “SMT” – any member of the Senior Management Team of the Commission comprising the CEO, the Head of Inquiries and Compliance, the Head of Charity Policy and the Head of Corporate Services.
 - “Staff” – as defined by section 1(11) of the 2022 Act.
 - “the Department” – the Department for Communities.

DEPARTMENT FOR COMMUNITIES

Annex A

Decisions, Orders & Directions of the Commission which have been commenced

Section	Decision (D), Order (O), Direction (DR) or Other (OR)	Authority delegated to:	Charity Tribunal - Appeal rights (A) or Review (R) or Not Appealable (NA) in accordance with Schedule 3 of the 2008 Act
1(4)	(DR) Direction that for all or any purposes of the 2008 Act an institution established for any special purposes of or in connection with a charity (being charitable purposes) shall be treated as forming part of that charity or as forming a distinct charity	Staff	A – decision not to give such a direction
1(5)	(DR) Direction that two or more charities having the same trustees shall be treated as a single charity	Staff	A - decision not to give such a direction
4	(OR) Must issue guidance in respect of public benefit, revise any such guidance, carry out consultation and publish any such guidance	The Commission	NA
10	(OR) The power to do anything which is calculated to facilitate, or is conducive or incidental to, the performance of any of its functions or general duties.	Staff	NA
16	(D) To enter or not to enter an institution on the register or remove or not remove an institution from the register	Staff	A – decision to enter or not to enter an institution on the register or remove or not remove an institution from the register
16(9)	(D) To make or not to make a determination under s16(9) that certain information contained on the register as specified in the determination, shall not be open to public inspection (as s.16(7) will not apply to that information).	Staff	A – decision not to make a determination under section 16(9) in relation to particular information contained in the register
20	(DR) Requiring a name change of a charity	Staff	A – direction requiring the name of charity to be changed

Section	Decision (D), Order (O), Direction (DR) or Other (OR)	Authority delegated to:	Charity Tribunal - Appeal rights (A) or Review (R) or Not Appealable (NA) in accordance with Schedule 3 of the 2008 Act
22(2)	(D) To conduct an inquiry or appoint a person to conduct it and make a report to the Commission	The Commission	NA
22(3)	(DR) Direction to a) produce accounts/statements and verify by statutory declaration (b) produce copies of documents and verify by statutory declaration (c) attend to give evidence or produce documents	The person appointed by the Commission under s22(2)	NA
22(4)	(OR) For the purpose of an inquiry, may administer oaths, or require a person to make, and subscribe to, a declaration of truth of the matters about which the person has been examined.	The person appointed by the Commission under s22(2)	NA
23	(O) For production of information or documentation	SMT	A – Order requiring a person to supply information or documents
24	(D) Disclosure of information to any public body or office-holder insofar as it relates to the exercise of the Commission's functions and enabling the performance of the public body/ office-holders functions	Staff	NA
26(4)	(OR) Cy-près powers to alter the purposes for which property is to be applied or alter the provisions and conditions governing the application of property comprised in a charitable gift	SMT	NA
27(4)	(O) To direct that certain property is to be treated as belonging to donors who cannot be identified	SMT	NA
27(6)	(D) To direct donor entitlement in specified instances where donors make claims on property applied cy-près	SMT	NA
29	(D) to make schemes to apply property cy-près and (D) make schemes in respect of gifts for mixed purposes	SMT	NA
31(1)	(D) Exercising powers as are exercisable by the High Court in respect of schemes of administration, removing, appointing etc. a trustee or employee, vesting or transferring property etc.	SMT	A – Order made under section 31
32(1)	(D) Settling a scheme for the administration of a charity (altering a provision made by an Act of Parliament etc.)	SMT	NA
32(8)	(O) To authorise trustees to apply accrued income at their discretion where the accrued income cannot be applied effectively for the purposes of the charity.	SMT	NA

Section	Decision (D), Order (O), Direction (DR) or Other (OR)	Authority delegated to:	Charity Tribunal - Appeal rights (A) or Review (R) or Not Appealable (NA) in accordance with Schedule 3 of the 2008 Act
39(4)	(D) Make a determination that the publicity requirement in 39(2) does not apply in relation to a scheme if compliance with the requirement is unnecessary	Staff	NA
46	(O) To sanction action taken in the administration of a charity that is deemed to be in the interests of that charity e.g. enter into a transaction, apply property etc.	Staff	R – not to make such an Order
47	(O) To exercise the same power as the A.G. with regard to the application of charity property	Staff	NA
48	(DR) – Transfer of monies in respect of dormant charity bank accounts	Staff	A – Direction given under section 48
49	(D) – Provide advice or guidance to trustees	Staff	NA
50	(D) – To determine the membership of a charity	SMT	NA
52(1)	(OR) For the purpose of a section 22 inquiry, obtain a warrant from a lay magistrate to authorise a staff member to carry out actions in accordance with s52(3)	The Commission	NA
53	(OR) – Decision to take legal proceedings in respect of charities or the compromise of claims with a view to avoiding or ending such proceedings.	The Commission	NA
54	(O) – Authorising the decision by other persons to take legal proceedings with reference to a charity	The Commission	NA
55	(OR) – Issue a certificate to prove that a copy of a section 22 report is a true copy for admittance in court	SMT	NA
56	(OR) – Application to the court in respect of moveable property relating to a charity registered in England, Wales or Scotland	Staff	NA
63(4)	(D) – Consenting to the destruction of accounting records	Staff	NA
65 (2)	Linked to 65(2): 'The Charities (Accounts and Reports) Regulations (Northern Ireland) 2015' Regulation 27: (OR) - Dispense of the requirement to have an audit carried out on the charity accounts or charity group accounts where they exceed the audit threshold in the case of a particular charity or a particular year	SMT	N/A

Section	Decision (D), Order (O), Direction (DR) or Other (OR)	Authority delegated to:	Charity Tribunal - Appeal rights (A) or Review (R) or Not Appealable (NA) in accordance with Schedule 3 of the 2008 Act
65(6)	(O) Requiring the accounts of a charity to be audited	SMT	A – Order made under section 65(6)
65(9)	(OR) - Give guidance to trustees in connection with the selection of independent examiner or (DR) - Give directions relating to an independent examination.	Staff	NA
66(2)	(O) – Giving directions to the facilities to be provided to an auditor or independent examiner to ensure a default is made good	SMT	A – the making of an order or not making the order
69(2)	(DR) – In relation to the public inspection or not of an annual report and accompanying documents	Staff	NA
70(3)	(D) To dispense with the requirement to prepare an annual return in the case of a particular charity or a particular class of charities, or in the case of a particular financial year of a charity or of any class of charities.	SMT	A- decision to dispense or not to dispense of the requirement to prepare an Annual Monitoring Return
86(4)	(D) To waive or not waive a person's disqualification for being a charity trustee	The Commission	A – decision to waive or not to waive, a person's disqualification
87(4)	(O) To repay any expenses or remuneration received when automatically disqualified under section 86	Staff	A – making of an order to repay remuneration received
90(5) or (6)	(O) Requiring a trustee or connected person to repay or not receive remuneration	Staff	A – making of an order requiring a trustee or connected person to repay, or not to receive remuneration
91(2)	(O) To relieve trustees, auditors, reporting accountant or independent examiners from liability for breach of trust or duty	Staff	NA
96(2)	(D) - To give or not to give prior written consent to any regulated alteration by a company	Staff	A – decision to give or withhold consent
98(1)	(D) - Provide prior written consent required for approval etc. by members of charitable companies	Staff	A – decision to give or withhold consent
99	(D) - Provide prior written consent for specified acts of a charitable company	Staff	NA

Section	Decision (D), Order (O), Direction (DR) or Other (OR)	Authority delegated to:	Charity Tribunal - Appeal rights (A) or Review (R) or Not Appealable (NA) in accordance with Schedule 3 of the 2008 Act
104(1)	(O) – Investigation and audit of accounts of a charitable company	Staff	R - making of order under s104(1)
104(5)	(O) – Requiring facilities for an auditor	Staff	NA
123(6)	(DR) – To give public notice of a trustee resolution	Staff	NA
123(7)	(DR) – To direct trustees to provide more information in respect of a trustee resolution	Staff	NA
123(11)	(O) – To vest property of the transferor charity in the transferee charity, in its charity trustees or in any trustee for that charity, or in any other person nominated by charity trustees to hold property in trust for that charity at the request of the trustees	Staff	NA
124(2)	(D) Objecting to a resolution made by charity trustees under sections 123(2) or 126(2)	Staff	A – decision to notify charity trustees that it objects to the resolution under sections 123(2) or 126(2)
129	(D) Not to concur with a trustee resolution made under sections 129(3) or 130(2)	Staff	A – decision not to concur with a resolution of charity trustees under sections 129(3) or 130(2)
129(6)	(DR) Charity trustees to give public notice of a resolution	Staff	NA
129(7)	(DR) – Charity trustees to provide more information in respect of larger incorporated charities spending capital given for a particular purpose	Staff	NA
129(10)	(D) In respect of the powers of larger unincorporated charities to spend capital given for a particular purpose - to concur or not concur with a resolution	SMT	NA
166(1)	(D) Whether to make designation as a religious charity	The Commission	A – decision to refuse designation as a religious charity
166(4)	(D) To determine that the condition in section 166(3)(c) (has been established in NI for at least 5 years) need not be satisfied	The Commission	NA

Section	Decision (D), Order (O), Direction (DR) or Other (OR)	Authority delegated to:	Charity Tribunal - Appeal rights (A) or Review (R) or Not Appealable (NA) in accordance with Schedule 3 of the 2008 Act
166(5)	(D) To withdraw designated religious charity status	The Commission	A – decision to withdraw the designation of a charity as a designated religious charity
172(4)	(OR) - Impose charges of such amounts as it considers reasonable in respect of the supply of any publications produced by it	SMT	NA
173(1)	(O) - To give directions to a person who has failed to comply with any requirement imposed by or under the 2008 Act, such directions being designed to make good the default.	SMT, except where the original order was made by the Commission.	NA
174	(OR) – Where a person guilty of disobedience of orders of the Commission, may by application to the High Court by the Commission be dealt with as for disobedience to an order of the High Court.	SMT	NA
175(3)	(OR) - To discharge an order, in whole or in part, within 12 months of making it if satisfied the order was made by mistake, on misrepresentation or not in conformity with the 2008 Act	SMT, except where the original order was made by Committee or the Commission.	NA
175(5)	(O) – Any order made by the Commission may be varied or revoked	SMT, except where the original order was made by the Commission.	NA
176(1)	(DR) - To vary or revoke a direction given by the Commission by further direction	The same group, staff, SMT, or the Commission that issued the first order.	NA
Sch 1 para 4(1)	(OR) - The Commission may with the approval of the Department for Communities (DfC) and the Department of Finance (DoF) as to numbers and as to remuneration and other terms and conditions of employment - (a) employ such staff as the Commission considers necessary (b) employ the services of such other person as the Commission considers expedient for any particular person	SMT within a structure agreed by the Commission.	NA

Section	Decision (D), Order (O), Direction (DR) or Other (OR)	Authority delegated to:	Charity Tribunal - Appeal rights (A) or Review (R) or Not Appealable (NA) in accordance with Schedule 3 of the 2008 Act
Sch 1 para 4(2)	(OR) - The Commission may, in the case of such of its staff as may be determined by it with the approval of the DfC and the DoF, pay such pensions, allowances or gratuities, or provide and maintain such pension schemes, as may be so determined.	The Commission	NA
Sch 1 para 5(2)	(OR) The Commission may make arrangements with the DfC for persons employed in the Northern Ireland Civil Service to be seconded to the Commission.	SMT within a structure agreed by the Commission.	NA
Sch 1 para 9	(OR) - In determining its own procedure the Commission may, in particular, make provision about - (a) the discharge of its functions by committees (which may include persons who are not members of the Commission); (b) a quorum for meetings of the Commission or a committee.	The Commission	NA
Sch 4 para 1(2)	(OR) - The Commission may make reference to the Charity Tribunal only with the consent of the Attorney General	The Commission	NA
Sch 4 para 5(2)	(OR) - In relation to matters referred to the Charity Tribunal - the power for the Commission to act whilst a reference is in progress	The Commission	NA
Sch 6 para 6(5)	(O) - To make an order requiring group accounts to be audited if they have not been audited within ten months from the end of the financial year.	Staff	NA
Charities (Accounts and Reports) Regulations (Northern Ireland) 2015	(OR) Reg 3(7) - Financial year of a charity which is not a company 'A charity must not specify a new accounting reference date more than once in any three year period without the consent of the Commission.'	Staff	NA
Charities (Accounts and Reports) Regulations (Northern Ireland) 2015	(OR) Reg 32(4) (a) Dispense with requirement to disclose the name of any person whose name is required by any of sub-paragraphs (d), (e), (f) and (i) of paragraph (3) to be contained in the annual report of a charity if this could lead to that person being placed in any personal danger.	Staff	NA
	(b) Dispense with requirement to disclose the principal address of the charity in accordance with paragraph (3)(c) if this could lead to any such person being placed in any personal danger	Staff	

Annex B

Decisions, Orders & Directions of the Commission which have **not** been commenced

Section	Decision (D), Order (O), Direction (DR) or Other (OR)	Authority delegated to:	Charity Tribunal - Appeal rights (A) or Review (R) or Not Appealable (NA) in accordance with Schedule 3 of the 2008 Act
11(2) and (3)	(OR) Designation of Official Custodian and specification of duties by directions	The Commission	NA
11(9)	(OR) Publishing and laying before the Assembly of certified accounts and report of Official Custodian.	The Commission	NA
42(3)	(O) To make an order to authorise a transaction affecting land by charity trustees where land is vested in the Official Custodian by section 33.	SMT	NA
43	(O) To make a common investment scheme	The Commission	R - not to make such an Order
44	(O) To make a common deposit scheme	The Commission	R - not to make such an Order
51(1)	(OR) - To provide books in which any deed, will or other document relating to a charity may be enrolled	Staff	NA
51(2)	(OR) - To preserve charity documents	Staff	NA
57(1)	(O) - To dispose of land held by or in trust for a charity	SMT	R - not to make such an Order
57(9)	(DR) - To direct that the publicity requirement is not to apply in relation to an order for the disposition of land	SMT	NA
60(1)	(O) - Granting a mortgage of land held by or in trust for a charity	SMT	R - not to make such an Order

Section	Decision (D), Order (O), Direction (DR) or Other (OR)	Authority delegated to:	Charity Tribunal - Appeal rights (A) or Review (R) or Not Appealable (NA) in accordance with Schedule 3 of the 2008 Act
73(1)	(D) To grant or not grant a certificate of incorporation	SMT	A - decision to grant or not to grant a certificate of incorporation
79(4)	(O) or (D) to amend a certificate of incorporation either - (a) by making an order specifying the amendment; or (b) by issuing a new certificate of incorporation taking account of the amendment	SMT	A - decision to amend or not to amend a certificate of incorporation
84(1) or (2)	(O) To dissolve an incorporated body	SMT	A - making of an order dissolving an incorporated body
95(2)	(OR) Petition to the High Court to wind up a charity for insolvency	The Commission	NA
110	(D) To grant or not to grant an application for the constitution of a CIO and its registration as a charity	Staff	A - decision to grant or not to grant an application for the constitution of a CIO and its registration as a charity
113	(D) To refuse the conversion of a charitable company or registered society into a CIO and its registration as a charity	Staff	A - decision not to grant application for the conversion and the CIO's registration as a charity.
116	(D) To grant or refuse the amalgamation of two or more CIOs and the incorporation and registration of the successor CIO	Staff	A - decision to grant or not to grant an application for the amalgamation of two or more CIOs and the incorporation and registration as a charity of a new CIO
118	(D) To confirm or refuse a resolution passed by a CIO	Staff	A - decision to confirm or not to confirm a resolution passed by a CIO

Section	Decision (D), Order (O), Direction (DR) or Other (OR)	Authority delegated to:	Charity Tribunal - Appeal rights (A) or Review (R) or Not Appealable (NA) in accordance with Schedule 3 of the 2008 Act
138(2)	(D) After making inquiries as it thinks fit, determining the application for a public collections certificate by either: (a) issuing a public collections certificate, or (b) refusing the application	Staff	A – decision to refuse to issue a public collections certificate
138(4)	(D) – To attach to a public collections certificate such conditions as it thinks fit.	Staff	A – decision to attach any condition to such a certificate
141(3)	(DR) – To direct transfer of a public collections certificate between trustees of unincorporated charity	Staff	NA
141(4)	(D) To direct that a public collections certificate not be transferred	Staff	A – decision to direct that a public collections certificate not be transferred
142(1)	(D) To withdraw or suspend a public collections certificate, attach a condition to a certificate or vary an existing one	Staff	A – decision to withdraw or suspend a public collections certificate, attach a condition to a certificate or vary an existing one
Sch7 para 15	(D) To refuse to register an amendment to the constitution of a CIO	Staff	A – decision to refuse to register an amendment to the constitution of a CIO

5. Questions

1. Are you completing this consultation as an individual or organisation?

If as an individual, provide name and whether you consent to DfC publishing your name in the consultation response.

If as an organisation, provide name, organisation name, organisation email address and whether you consent to DfC publishing the name of your organisation in the consultation response.

2. What are your views on the proposal that a number of the Commission's functions should be delegated to staff in the interests of efficiency and effectiveness? (Please indicate whether or not you support a Scheme of Delegation and provide any comments you may have to support your answer).
3. The proposed Scheme lists all regulatory decisions required of the Commission that can be delegated, along with which of three proposed groups could take those decisions i.e. 1) the Commission which would include a decision making Committee, 2) the Senior Management Team, or 3) staff generally, who are trained caseworkers, supported by an in-house legal team. Do you agree with this format for the Scheme?

- a. Is there some other format that you believe would deliver transparency as to the level decisions are taken? (Please provide comments to explain your answer).

4. The draft Scheme sets out that decisions for which there are no appeal or review rights to the Charity Tribunal should either be taken by the Commission or Senior Management Team. Do you agree with this proposal? (Please explain your reasoning).
5. Do you think it would be useful to include information to indicate which decisions have appeal or review rights to the Charity Tribunal in any final Scheme of Delegation?

Powers reserved to the Commission

Paragraph 9A(2) of Schedule 1 to the Charities Act (Northern Ireland) 2008, inserted by the 2022 Act prevents the following orders and decisions of the Commission from ever being delegated to staff i.e. they are reserved powers for Commissioners:

- s22(1) - the decision to open a statutory inquiry;
 - s22(6) - decisions that a report or statement be published;
 - s33 - powers of the Commission to act for the protection of Charities;
-

- s34 - powers to suspend or remove trustees, etc. from membership of a charity;
 - s35 - supplementary provisions relating to an interim manager appointed for a charity;
 - s36 - powers to give specific directions for protection of a charity;
 - s37 - powers to direct application of charity property;
 - any statutory power of the Commission to make regulations.
6. The proposed Scheme also reserves the following powers to the Commissioners. Please indicate if you agree, disagree or have no view on the following decisions and functions remaining as powers exercised by the Commission and not delegated to the Senior Management Team or staff in a Scheme of Delegation:
- s4 – the power to issue guidance as to the operation of the public benefit requirement
 - s22(2) – to conduct an inquiry or appoint a person to conduct it and make a report to the Commission
 - s52(1) – For the purpose of a section 22 inquiry, obtain a warrant from a lay magistrate to authorise a staff member to carry out actions in accordance with s52(3)
 - s53 - decisions to take legal proceedings in respect of charities or the compromise of claims with a view to avoiding or ending such proceedings
 - s54 – authorising the decision by other persons to take legal proceedings with reference to a charity
 - s86(4) - the decision to waive or not waive a person’s disqualification for being a charity trustee
 - s166(1) – whether to make designation as a religious charity
 - s166(4) – in relation to designated religious charities - the decision to determine that the conditions in section 166(3)(c), that the charity has been established in NI for at least 5 years, need not be satisfied
 - s166(5) – to withdraw designated religious charity status
 - s176(1) - to vary or revoke a direction given by the Commission by further direction (only for decisions where the original decision was taken by the Commission, or a Committee of the Commission)
 - Schedule 1, para 4(2) - the Commission’s powers, with the approval of the Department, to pay pensions, allowances or gratuities, or provide and maintain such pension schemes
 - Schedule 1, para 9 - in determining its own procedure the Commission

may, in particular, make provision about the discharge of its functions by committees (which may include persons who are not members of the Commission); and (b) a quorum for meetings of the Commission or a committee

- Schedule 4, para 1(2) – the power for the Commission to make reference to the Charity Tribunal only with the consent of the Attorney General
- Schedule 4, para 5(2) – in relation to matters referred to the Charity Tribunal - the power for the Commission to act whilst a reference is in progress

If there are some powers listed above which you disagree with being reserved to Commissioners, please provide a) your reasoning as to why you believe these powers should be delegated, and b) indicate whether you feel they should be delegated to the Senior Management Team (SMT) or staff in general (trained caseworkers supported by the in-house legal team).

7. In addition to those listed above, are there any other types of regulatory decisions that you feel should be reserved to Commissioners?
 - a. If yes, please provide which powers you believe should be reserved to Commissioners and your reasons why.

Powers delegated to Senior Management Team

The proposed Scheme delegates the Commission's functions as listed below to the Senior Management Team which consists of the Chief Executive, the Head of Inquiries and Compliance, the Head of Charity Policy and the Head of Corporate Services.

8. Please indicate if you agree, disagree or have no view on the following decisions and functions being delegated to the Senior Management Team (SMT):
 - s23 – the power to call for documents and search records
 - s26(4) – cy-près powers to alter the purposes for which property is to be applied or alter the provisions and conditions governing the application of property comprised in a charitable gift.
 - s27(4) – the power to direct that certain property is to be treated as belonging to donors who cannot be identified
 - s27(6) – the power to direct donor entitlement in specified instances where donors make claims on property applied cy-près
 - s29 – the power to make schemes to apply property cy-près and make schemes in respect of gifts for mixed purposes

- s31(1) - exercising powers as are exercisable by the High Court in respect of schemes of administration, removing, appointing etc. a trustee or employee, vesting or transferring property etc.
- s32(1) - settling a scheme for the administration of a charity (altering a provision made by an Act of Parliament etc.)
- s32(8) - to authorise trustees to apply accrued income at their discretion where the accrued income cannot be applied effectively for the purposes of the charity
- s50 - to determine the membership of a charity
- s55 - to issue a certificate to prove that a copy of a section 22 statutory inquiry report is a true copy for admittance in court
- s65(2) - dispense of the requirement to have an audit carried out on the charity accounts or charity group accounts where they exceed the audit threshold in the case of a particular charity or a particular year
- s65(6) - requiring the accounts of a charity to be audited
- s66(2) - giving directions to the facilities to be provided to an auditor or independent examiner to secure that a default is made good
- s70(3) - to dispense with the requirement to prepare an annual return in the case of a particular charity or a particular class of charities, or in the case of a particular financial year of a charity or of any class of charities
- s129(10) - in respect of the powers of larger unincorporated charities to spend capital given for a particular purpose - to concur or not concur with a resolution made by trustees
- s172(4) - impose charges of such amounts as it considers reasonable in respect of the supply of any publications produced by the Commission
- s173(1) - to give directions to a person who has failed to comply with any requirement imposed by or under the 2008 Act, such directions being designed to make good the default. (Note this will not be delegated to SMT where the original order was made by the Commission or a Committee of the Commission)
- s174 - where a person guilty of disobedience of orders of the Commission, may by application of the Commission to the High Court be dealt with as for disobedience to an order of the High Court.
- s175(3) - power to discharge an order, in whole or in part, within

12 months of making it if satisfied the order was made by mistake, on misrepresentation or not in conformity with the 2008 Act (Note this will not be delegated to SMT where the original order was made by the Commission or a Committee of the Commission)

- s175(5) - any order made by the Commission may be varied or revoked (but will not be delegated to SMT where the original order was made by the Commission or a Committee of the Commission)
- s176(1) - any direction given by the Commission under any provision contained in the 2008 Act may be varied or revoked by a further direction given under that provision (only to be delegated to SMT where SMT have taken the original decision)
- Sch 1 para 4(1) – the power to employ staff or the services of other persons as necessary with the approval of DfC & DoF as to numbers, remuneration and other terms and conditions of employment (to be delegated to SMT only within a structure agreed by the Commission or a Committee of the Commission)
- Sch 1 para 5(2) - the Commission may make arrangements with the DfC for persons employed in the Northern Ireland Civil Service to be seconded to the Commission (to

be delegated to SMT only within a structure agreed by the Commission or a Committee of the Commission)

If there are some powers listed above which you disagree with being delegated to the Senior Management Team, please provide a) your reasoning as to why you believe these powers should not be delegated to the Senior Management Team, and b) indicate whether you feel they should be retained for decision by the Commissioners or delegated to staff in general (trained caseworkers supported by the in-house legal team).

9. In addition to those listed above, are there any other types of regulatory decisions that you feel should be delegated to the Senior Management Team?
 - a. If yes, please provide which powers you believe should be delegated to Senior Management Team and your reasons why.

Powers delegated to general staff (trained caseworkers supported by in-house legal team)

The proposed Scheme delegates a number of the Commission’s functions to trained staff of the Commission.

10. Please indicate if you agree, disagree or have no view on the following

decisions and functions being delegated to the Commission's staff:

- s1(4) - direction that for all or any purposes of the 2008 Act an institution established for any special purposes of or in connection with a charity (being charitable purposes) shall be treated as forming part of that charity or as forming a distinct charity
 - s1(5) - direction that two or more charities having the same trustees shall be treated as a single charity
 - s10 - the Commission's power to do anything which is calculated to facilitate, or is conducive or incidental to, the performance of any of its functions or general duties
 - s16 - to enter or not to enter an institution on the register of charities, or remove or not remove an institution from the register
 - s16(9) - to make or not to make a determination that certain information contained on the register as specified in the determination, shall not be open to public inspection as s16(7) will not apply to that information (s16(7) states 'The register (including the entries cancelled when institutions are removed from the register) shall be open to public inspection at all reasonable times')
 - s20 - requiring the name change of a charity
 - s24 - disclosure of information insofar as it relates to the exercise of the Commission's functions and enabling the performance of the public body/office-holders functions
 - s39(4) - in respect of publicity relating to schemes, the Commission may make a determination that the publicity requirement in 39(2), (which states 'the publicity requirement is that the Commission must give public notice of its proposals, inviting representations to be made to it within a period specified in the notice'), does not apply in relation to a scheme if compliance with the requirement is unnecessary
 - s46 - to sanction action taken in the administration of a charity that is deemed to be in the interests of that charity e.g. enter into a transaction, apply property etc.
 - s47 - to exercise the same power as the Attorney General with regard to the application of charity property
 - s48 - to transfer of monies in respect of dormant charity bank accounts
 - s49 - to provide advice or guidance to trustees
 - s56 - application to the court in respect of moveable property relating to a charity registered in England, Wales or Scotland
 - s63(4) - consenting to the destruction of accounting records
-

- s65(9) – to give guidance to trustees in connection with the selection of independent examiner or to give directions relating to an independent examination
- s69(2) – in relation to the public inspection or not of an annual report and accompanying documents
- s87(4) – to order a person to repay any expenses or remuneration received when automatically disqualified under s86 (s86 deals with persons disqualified for being trustees of a charity)
- s90(5) & (6) - requiring a trustee or connected person to repay or not receive remuneration
- s91(2) – to make an order to relieve trustees, auditors, reporting accountants or independent examiners from liability for breach of trust or duty
- s96(2) – to give or not to give prior written consent to any regulated alteration by a company
- s98(1) – to provide prior written consent required for approval etc. by members of charitable companies
- s99 - provide prior written consent for specified acts of a charitable company
- s104(1) – by order to require the investigation and audit of accounts of a charitable company
- s104(5) – to give such directions to a person or charity trustees that the Commission thinks appropriate to make good a default of any facility to which an auditor is entitled under s104(3) (s104(3) provides an auditor access to information from trustees including books, accounts and documents etc.)
- s123(6) - to give public notice of a trustee resolution
- s123(7) – to direct trustees to provide more information in respect of a trustee resolution
- s123(11) - to vest property of the transferor charity in the transferee charity, in its charity trustees or in any trustee for that charity, or in any other person nominated by charity trustees to hold property in trust for that charity at the request of the trustees
- s124(2) – to object to a resolution made by charity trustees under sections 123(2) or 126(2) (s123(2) provides that a charity may resolve that property may be transferred to another charity or charities. s126(2) provides that the trustees of a charity may resolve that the trusts of a charity be modified)
- s129 - not to concur with a trustee resolution made under

sections 129(3) or 130(2)(s129(3) provides that trustees of a larger unincorporated charity may resolve to free capital given for a particular purpose from the restrictions in respect to expenditure applied to it. s130(2) provides that trustees of an available endowment fund of a special trust may resolve that the fund should be freed from the restrictions with respect to expenditure of capital that apply to it)

- s129(6) – to direct charity trustees to give public notice of a resolution
- s129(7) – to direct charity trustees to provide more information in respect of larger incorporated charities spending capital given for a particular purpose
- s176(1) - any direction given by the Commission under any provision contained in the 2008 Act may be varied or revoked by a further direction given under that provision. (only to be delegated to staff where staff have taken the original decision)
- Sch 6 para 6(5) - to order that group accounts be audited if they have not been audited within ten months from the end of the financial year.
- Charities (Accounts and Reports) Regulations (Northern Ireland) 2015 - Reg 3(7) – regarding the

financial year of a charity which is not a company, ‘A charity must not specify a new accounting reference date more than once in any three year period without the consent of the Commission’

- Charities (Accounts and Reports) Regulations (Northern Ireland) 2015 - Reg 32(4) –
 - (a) to dispense with the requirement to disclose the name of any person whose name is required by the regulations to be contained in the annual report of a charity if this could lead to that person being placed in any personal danger.
 - (b) to dispense with requirement to disclose the principal address of the charity if this could lead to any person being placed in any personal danger

If there are some powers listed above which you disagree with being delegated to staff of the Charity Commission, please provide a) your reasoning as to why you believe these powers should not be delegated, and b) indicate whether you feel they should be retained for decision by the Commissioners or delegated to the Senior Management Team.

11. In addition to those listed above, are there any other types of regulatory

decisions that you feel should be delegated to the staff in general of the Charity Commission?

- a. If yes, please provide which powers you believe should be delegated to staff and your reasons why.

Parts of the Charities Act (Northern Ireland) 2008 which have not yet been commenced

12. Some parts of the Charities Act (Northern Ireland) 2008 (the 2008 Act) have yet to be commenced. The draft Scheme of Delegation sets out at what level these decisions could be taken when they are eventually commenced to avoid having to amend the Scheme as new powers are enacted. Do you agree with this approach? (Please explain your reasoning).

Powers reserved to the Commission when commenced

The proposed Scheme reserves the following powers to the Commissioners when these parts of the 2008 Act are commenced.

13. Please indicate if you agree, disagree or have no view on the following decisions and functions remaining as powers exercised by the Commission and not delegated to the Senior Management Team or staff in the Scheme of Delegation:

- s11(2) and (3) - Designation of Official Custodian and specification of duties by directions
- s11(9) - Publishing and laying before the Assembly of certified accounts and report of the Official Custodian.
- s43 – to make a common investment scheme
- s44 – to make a common deposit scheme
- s95(2) – to present a Petition to the High Court to wind up a charity for insolvency

If there are some powers listed above which you disagree with being reserved to Commissioners when commenced, please provide a) your reasoning as to why you believe these powers should be delegated, and b) indicate whether you feel they should be delegated to the Senior Management Team or staff in general (trained caseworkers supported by the in-house legal team).

14. In addition to those listed above, are there any other types of regulatory decisions which have not yet been commenced that you feel should be reserved to Commissioners?

a. If yes, please provide which powers you believe should be reserved to Commissioners when commenced and your reasons why.

Powers to be delegated to the Senior Management Team when commenced

The proposed Scheme delegates the Commission’s functions as listed below to the Senior Management Team when these parts are commenced.

15. Please indicate if you agree, disagree or have no view on the following decisions and functions being delegated to the Senior Management Team when commenced:

- s42(3) - to make an order to authorise a transaction affecting land by charity trustees where land is vested in the official custodian by section 33 (s33 provides that the Commission may: vest, require persons in whom property is vested, or appoint any person, to transfer any property held in trust for a charity; in the official custodian)

- s57(1) - to dispose of land held by or in trust for a charity
- s57(9) - to direct that the publicity requirement is not to apply in relation to an order for the disposition of land
- s60(1) – to grant a mortgage of land held by or in trust for a charity
- s73(1) - to grant or not to grant a certificate of incorporation
- s79(4) - to amend a certificate of incorporation either – (a) by making an order specifying the amendment; or (b) by issuing a new certificate of incorporation taking account of the amendment
- s84(1) or (2) - to dissolve an incorporated body

If there are some powers listed above which you disagree with being delegated to the Senior Management Team when commenced, please provide a) your reasoning as to why you believe these powers should not be delegated, and b) indicate whether you feel they should be retained as decisions of the Commissioners or delegated to staff in general (trained caseworkers supported by the in-house legal team).

16. In addition to those listed above, are there any other types of regulatory decisions that you feel should be delegated to the Senior Management Team?

a. If yes, please provide which powers you believe should be delegated to the Senior Management Team and your reasons why.

Powers to be delegated to Commission staff (trained caseworkers supported by an in house legal team)

The proposed Scheme delegates the Commission's functions as listed below to the general staff (trained caseworkers supported by in-house legal team) when these parts are commenced.

17. Please indicate if you agree, disagree or have no view on the following decisions and functions being delegated to general staff of the Commission:

- s51(1) - to provide books in which any deed, will or other document relating to a charity may be enrolled
- s51(2) – to preserve charity documents
- s110 - to grant or not to grant an application for the constitution of a Charitable Incorporated Organisation (CIO) and its registration as a charity
- s113 - to refuse the conversion of a charitable company or registered society into a CIO and its registration as a charity
- s116 - to grant or refuse the amalgamation of two or more CIOs and the incorporation and registration of the successor CIO
- s118 - to confirm or refuse a resolution passed by a CIO
- s138(2) - after making inquiries as it thinks fit, determining the application for a public collections certificate by either: (a) issuing a public collections certificate or (b) refusing the application
- s138(4) - to attach to a public collection certificate such conditions as it thinks fit
- s141(3) - to direct the transfer of a public collections certificate between trustees of an unincorporated charity
- s141(4) - to direct that a public collections certificate not be transferred
- s142(1) - to withdraw or suspend a public collections certificate, attach a condition to a certificate or vary an existing one
- sch 7, para 15 - to refuse to register an amendment to the constitution of a CIO

If there are some powers listed above which you disagree with being delegated to staff of the Charity Commission when commenced, please provide a) your reasoning as to why you believe these powers should not be delegated to staff of the Charity Commission, and b) indicate whether you feel they should be retained for decision by the Commissioners or delegated to the Senior Management Team.

18. In addition to those listed above, are there any other types of regulatory decisions which are not yet commenced that you feel should be delegated to the staff in general of the Charity Commission?
- a. If yes, please provide which powers you believe should be delegated to staff when commenced and your reasons why.

6. The consultation process and how to respond

Framework for Consultation	Summary Detail
Topic of this Consultation	Proposed Scheme of Delegation for the Charity Commission for Northern Ireland
Scope of this Consultation	The consultation is to seek the views of all interested parties on what functions of the Commission, if any, should be delegated, and to what level.
Audience	Anyone with an interest in this area is welcome to respond
Body responsible for this consultation	The Department for Communities
Duration	The consultation will run for 12 weeks. It will begin on 20 March 2023 and will end on 12 June 2023
Enquiries	E-mail: CharitiesBranch@communities-ni.gov.uk Telephone: 028 9082 9424
How to respond	<p>Please respond to the consultation in one of the following ways:</p> <p>Complete the questions in the online survey at: https://consultations.nidirect.gov.uk/dfc/charity-commission-for-ni-scheme-of-delegation/</p> <p>By email to CharitiesBranch@communities-ni.gov.uk including CONSULTATION RESPONSE in the title line</p> <p>By post to: CCNI SCHEME OF DELEGATION CONSULTATION Charities Team Department for Communities Level 4 NINE Lanyon Place Town Parks BELFAST BT1 3LP</p>
After the Consultation	The views expressed by respondents to this consultation will be used to inform the Department's decision on a proposed Scheme of Delegation of the Commission's functions. The names of respondents to the consultation will be published where express consent has been provided.

Available in alternative formats.

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