

**ARRANGEMENTS FOR DEALING WITH ANY
ACTUAL/PERCEIVED CONFLICT OF
INTERESTS IN RELATION TO THE NORTHERN
IRELAND CENTRAL INVESTMENT FUND FOR
CHARITIES (NICIFC) AND ANY CHARITY
INVESTED IN IT OF WHICH THE DEPARTMENT
FOR COMMUNITIES (DfC) IS THE CHARITY
TRUSTEE**

REVIEW DATE: APRIL 2023

1. INTRODUCTION

- 1.1 The Voluntary and Community Division (VCD) within the Department for Communities (DfC) is responsible for charity policy and legislation in Northern Ireland. This division is also the Sponsor Branch for the Charity Commission for Northern Ireland (CCNI)
- 1.2 All charities under the law of Northern Ireland are required to register with and be regulated by the Charity Commission for Northern Ireland (CCNI). There are no exemptions to this requirement.
- 1.3 These arrangements apply to the Department for Communities (DfC) in respect of those charities for which DfC is the charity trustee.
- 1.4 The purpose of this document is to set out the procedures to be followed by DfC where any concern/issue is raised and does not obviate the need for any charity for which DfC is the charity trustee to adhere to the requirements of the Charities Act (Northern Ireland) 2008 (the 2008 Act) or any subordinate legislation emanating from it.
- 1.5 The aim of this arrangement is to protect DfC and CCNI from any appearance of impropriety.

2. Role of CCNI

- 2.1 The CCNI was established under the 2008 Act and is the statutory regulator and registrar of charities in Northern Ireland.
- 2.2 Once registered, a charity is required to provide a copy of its annual report and accounts to CCNI in accordance with the Charities (Accounts and Reports) Regulations (Northern Ireland) 2015.
- 2.3 Section 22 of the 2008 Act authorises the CCNI to institute inquiries into registered charities, either generally or for particular purposes. Sections 33 to 36 of the 2008 Act provide powers to CCNI to act for the protection of a charity, suspend or remove trustees, appoint an interim manager, or give

specific directions for the protection of a charity in respect of the administration of the charity or its property.

3. DFC AS TRUSTEE OF A CHARITY

Northern Ireland Central Investment Fund for Charities (NICIFC)

- 3.1 The NICIFC was established under the Charities Central Investment Fund Scheme (Northern Ireland) 1965 to provide Northern Ireland charities with the opportunity to invest all or part of their funds with the benefit of expert supervision. It comprises over 400 individual funds which are currently valued at approximately £57 million.
- 3.2 It is managed through a recognised independent fund manager who is not an employee of DfC. Its investment policy is guided by a locally based Advisory Committee appointed by the Minister for the Department of Communities.
- 3.3 The accounts of the NICIFC are audited by the Northern Ireland Audit Office and laid before the Northern Ireland Assembly under section 34(2) of the Charities Act (Northern Ireland) 1964.
- 3.4 The NICIFC (as a common investment fund) is deemed to be a charity under section 25(15) of the Charities Act (Northern Ireland) 1964 and as such is required to register with CCNI.
- 3.5 DfC as a corporate body is the charity trustee of the NICIFC with the senior official within Financial Management Directorate (FMD) (part of Strategic policy & Professional Services Group) authorised to execute documents with the Department's seal in relation to it.

Charitable Donations and Bequests (CDB)

- 3.6 In addition to the NICIFC, DfC is also the charity trustee of a number of other charities, either via a legacy in a Will, inherited from the Commissioners of

Charitable Donations and Bequests, a High Court Order, a Departmental legal scheme or charity property accepted by the Department.

- 3.7 These charities are also required to register with CCNI.
- 3.8 It should also be noted that the CDB charities funds are invested in the NICIFC.
- 3.9 DfC as a corporate body is the charity trustee of these charities with the senior official within Voluntary and Community Division (VCD) (part of Engaged Communities Group) authorised to execute documents with the Department's seal in relation to these charities.
- 3.10 For both the NICIFC and CDB the Department, as a corporate body, acts as the trustee and the senior official is not personally the trustee.
- 3.11 DfC as the charity trustee has a legal and fiduciary obligation to act in the best interest of those charities severally and in accordance with their respective charity governing documents and to avoid situations where there is or may be a potential conflict of interest.

4 PERCEIVED CONFLICT OF INTEREST

- 4.1 CCNI advised DfC that whilst there is no legal impediment to the registration of a charity for which DfC is a charity trustee there could be a perceived conflict of interest as DfC is the sponsor department for CCNI which would then regulate those charities.
- 4.2 Within DfC VCD is the sponsor branch for CCNI and the responsibilities of both parties are set out in the management statement and financial memorandum. These include providing advice to the Minister on charity regulation and the performance of CCNI against their corporate and business plans, regular accountability meetings, budgetary monitoring and laying the accounts of CCNI in the Assembly. In addition a separate Charities Team

within VCD has specific responsibility for charity policy and legislation in Northern Ireland and deals with any matters relating to the trusteeship of those CDB charities where the Department is the charity trustee. Crucially, therefore, the senior official responsible for VCD is responsible for both the sponsorship of CCNI and the trusteeship of the relevant CDB charities.

- 4.3 Responsibility and trusteeship for the NICIFC does not lie with the senior official in VCD but with the senior official within FMD. There is no influence across the teams with the NICIFC operating without reference to or influence from the VCD team.
- 4.4 DfC legal advice around the handling of the CDB charities is that to divest DfC of trusteeship could be extremely difficult and costly, in cases where alternative charity trustees were identified, and impossible, in cases where they were not. It is therefore agreed that suitable arrangements are needed to manage any situation where a perceived conflict of interest might arise i.e. where CCNI receive a concern or identify a charity law compliance issue about a charity of which the Department is a Trustee.

5. PURPOSE OF THIS ARRANGEMENT

- 5.1 This arrangement provides a framework to ensure that appropriate action is taken by DfC should a concern/issue be raised with DfC by CCNI about the operation of a charity for which DfC is a charity trustee.
- 5.2 It provides for the exchange of relevant information between the parties and seeks to ensure that disclosure of information is in a timely manner and complies with the provisions of the Act and any other relevant legislation.
- 5.3 A list of DfC contacts, having responsibility for the effective working of these arrangements is contained at **Annex A**.
- 5.4 The working relationship between DfC and CCNI through nominated contact points is designed to:

- Facilitate the prompt, effective and transparent processing of investigations where concerns/issues are raised about a charity of which DfC is the charity trustee; and
- Provide a consistent approach to the handling of such investigations.

6. OPERATING PROTOCOLS

6.1 The following operating protocols are set in the context of a concern/compliance issue being raised by CCNI with the Head of Voluntary and Community Division about a charity of which DfC is the charity trustee. Where the concern is about NICIFC, the initial contact will be with the Director of Financial Management who will manage the process within the Finance team.

OPERATING PROTOCOLS RECEIPT OF A CONCERN/COMPLIANCE ISSUES BY CCNI

- i. CCNI Head of Compliance and Enquiries (HCE) will contact the Head of the Voluntary and Community Division within DfC to request the disclosure of information relevant to a concern/compliance issue;
- ii. HCE will include contact details of appropriate staff within CCNI relevant to the concern/compliance issue;
- iii. the Head of the Voluntary and Community Division will advise the Minister and the Permanent Secretary when it is notified by CCNI that a concern/compliance issue has been raised;
- iv. the Head of the Voluntary and Community Division will pass the request to the Head of the Charities Team;
- v. the Head of the Charities Team will log the request and contact the appropriate business areas to gather all requested information and any other relevant documentation that they believe might be relevant to the concern keeping a full digital corporate record of all communications;
- vi. the Head of the Charities Team will provide all requested information and any other piece of documentation that they believe might be relevant to the concern as expeditiously as possible;
- vii. the Head of the Charities Team will contact the HCE at CCNI if delay is likely and will provide a regular updates to CCNI;

- viii. if the Head of the Charities Team is unable to provide the information required by CCNI they will advise the HCE at CCNI and provide a copy of the disputed documentation to the Head of the Voluntary and Community Division at the earliest opportunity providing full reasons for non-compliance;
- ix. on receipt of a notification from the Head of the Charities Team that he/she is unable to comply with the request for information the Head of the Voluntary and Community Division will undertake urgent enquiries of the veracity of the reasons for non-compliance and issue a full response to CCNI;
- x. if CCNI is not content with the reasons provided for non-compliance CCNI may use its powers to compel disclosure of the requested information;
- xi. if CCNI uses its powers to compel the disclosure of information the Head of the Voluntary and Community Division will advise the Minister, the Permanent Secretary and the Deputy Secretaries of Engaged Communities and Strategic, Policy and Professional Services Group so that the need to compel disclosure can be investigated;
- xii. on receipt of CCNI regulatory advice, The Head of the Voluntary and Community Division will advise the Head of the Charities Team that regulatory advice has been received and will arrange for a record to be held on the corporate digital records system and the advice to be complied with; and
- xiii. the Head of the Voluntary and Community Division will advise the Minister and the Permanent Secretary when it is notified by CCNI that it is satisfied that regulatory advice has been actioned and the case has been closed.

7. OPENING OF A STATUTORY INQUIRY BY CCNI

- 7.1 The following protocols are for use in the context of a statutory inquiry into a charity of which DfC is a charity trustee. This will be managed through Financial Management Directorate. Should the inquiry be about NICIFC, the

initial contact will be with the Head of Voluntary and Community Division, who will manage the process within that team, as laid out in 7(i-vi) below. DfC will adhere to the CCNI's guidance on Serious Incident Reporting. CCNI Head of Compliance and Enquires (HCE) will write to the Director of Financial Management to notify the Department that CCNI has opened a statutory inquiry, and:

- i. the Director of Financial Management will advise the Minister, the Permanent Secretary, the Deputy Secretaries of Engaged Communities and Strategic, Policy and Resources Group and the Head of the Voluntary and Community Division of the opening of the statutory inquiry;
- ii. the Director of Financial Management will appoint a Nominated Officer who will liaise with CCNI throughout the inquiry providing all information requested in accordance with the process which CCNI has stipulated;
- iii. should CCNI be unhappy with the level of co-operation it receives CCNI may use its powers under section 33-36 of the 2008 Act to protect the property of the charity or secure a proper application for the purposes of the charity of that property or property coming to the charity;
- iv. the Director of Financial Management will be responsible for updating the Departmental Audit and Risk Assurance Committee on any Statutory Inquiries in respect of the NICIFC or charities where DfC is the charity trustee; and
- v. any actions arising from the inquiry will be notified to the Minister, the Permanent Secretary and the Deputy Secretaries of Engaged Communities and Strategic, Policy and Resources Group for appropriate action in respect of any matters arising.

8. OPERATION, REVIEW AND VARIATION

- 8.1 These arrangements are operational from April 2023, will be posted on both the DfC and CCNI websites and will be reviewed every three years.

9. POLICY CO-ORDINATORS

- 9.1 Close liaison is essential to ensure the effective working of the procedures detailed at paragraph 7 of this arrangement. Liaison in respect of this arrangement should be through the arrangement coordinator listed at **Annex A**.