

Collette Stevenson MSP
Convener
Social Justice and Social Security Committee
Scottish Parliament
EDINBURGH
EH99 1SP

By email

11 May 2023

Dear Collette Stevenson,

Re: the Social Justice and social Security Committee's Stage 1 Report on the Charities (Regulation and Administration (Scotland) Bill

I write to you in your role of Convener of the Committee, following the publication of the Stage 1 Report on the Charities (Regulation and Administration) (Scotland) Bill. OSCR thanks the Committee for its considered Report that is supportive of the general principles of the Bill.

OSCR has considered all comments and recommendations made in that Report. This document is our response.

Paragraph 176 – Communication Plan

OSCR will use a phased communications programme timed to coincide with the implementation of specific measures in the Bill. We have an established number of channels via newsletters, website, social media, ability to communicate with individual charities through their Principal Contacts, and by working in conjunction with representative or membership bodies.

We will engage with charities through a number of channels reflecting what we know about communication needs and preferences – webinars, short videos, social media.

We will also target specific sub-sectors within the charity sector which may have specific issues relating to individual measures, working in collaboration with sector and intermediary bodies in these areas as appropriate.

OSCR will continue engaging with key stakeholders within the Charity Sector to ensure that new measures in the Bill are implemented in a manner that facilitates a smooth transition.

We will review all relevant guidance currently available on the OSCR website, and update where appropriate, before relevant measures are implemented and in good time to facilitate a smooth transition by charities. Guidance notes will be promoted as a key factor in the communications plan.

Additionally, our communications programme will be responsive to feedback and be subject to continuous improvement to ensure it is as effective as possible.

The Communications Plan supporting implementation of the measures contained within the Bill will be shared with the Committee prior to any engagement following the Bill's passage through the Parliament.

Paragraphs 88, 89, 92, 140, 177, 190 – Communication supporting specific aspects of the Bill

OSCR's communications plan will take full form once the Charities (Regulation and Administration) (Scotland) Bill has progressed through the Scottish Parliament. At that point we will be in a position to engage with all relevant stakeholders on the content of the Bill, sharing the final form.

OSCR will take forward communication with charities to help them understand what will be required of them. In particular, we will focus communication on those aspects of the Bill that may need more time or greater change within individual charities. We anticipate greater focus to be on areas where change may cause more concern within charities. We will focus on all measures in the Bill, with specific focus on:

- extension of automatic disqualification to senior charity staff,
- the dispensation process for trustee names,
- the list of disqualified trustees,
- use of positive direction.

We will continue to work with the Scottish Government to develop an implementation plan for all measures in the Bill. Following this information being available to OSCR, we will finalise and deliver the Communications Plan.

OSCR provides online guidance for charities on all key aspects of charity regulation. All relevant guidance will be updated following the Bill's passage through the Parliament. Following completion, updated guidance will be communicated to charities and other key stakeholders.

It was extremely helpful to have highlighted the confusion within the Charity Sector regarding the existing criteria for the disqualification of trustees. We will engage with the Sector on this issue immediately to ensure a better shared understanding and to pave the way for relevant measures in the Bill.

Paragraph 100 – Recruitment of interim trustees

The use of interim trustees will be for a relatively short period of time and solely to enable a charity to continue operationally until permanent trustees can be appointed, or for that charity to wind up. The concerns expressed by those giving evidence are likely to have been based upon experiences of the recruitment of permanent trustees. The factors involved in the recruitment of interim trustees will be different.

The Charity Commission of England and Wales already has similar powers available to it as a regulator. Having considered the size of the charity register held by the Charity Commission, and the number of times they are required to use this power, and their experience of using it, we anticipate using this power less than five times per year.

We have considered different operational models to identify interim trustees. We consider the most effective process to be initially seeking interim trustees from charities in the same sub sector – care providers, animal welfare, education etc.

OSCR has a strong sense from its casework experience of where these powers are most likely to be used, for instance, where there is a high turnover of trustees. We will be looking to focus implementation and recruitment of interim trustees in these areas.

Paragraph 125 – Lifetime gifts

OSCR has no objection to the inclusion of lifetime gifts in this measure and will work to the Scottish Government to consider the impacts of inclusion.

Paragraph 149 – Connection to Scotland

OSCR will monitor the use of this clause and report findings in its annual reports to the Parliament.

Paragraph 156 – Data protection and safeguarding

OSCR is continuing to develop a robust system and is currently in the process of achieving an advanced standard of system security.

Paragraphs 189 and 191 – Financial and administrative resources

We note and welcome the Committee's intention to scrutinise OSCR's implementation of the Bill's provisions and to consider resourcing issues. The overall public sector resourcing environment appears to remain challenging and within this context we are continuing to work with SG colleagues to ensure that the resourcing requirements of implementation (including the areas noted by the Committee as needing effective communication with the sector) can be met. There is likely to be a need for flexibility and prioritisation around timescales for implementation of different aspects covered by the Bill.

Yours Faithfully,



Maureen Mallon,
CEO, OSCR