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Independent Review of Charity Regulation – Departmental Response

November 2022

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Introduction

This document sets out the Department’s response to the recommendations from the Independent Review of Charity Regulation in NI (the Review) which was published in January 2022.

The Department is grateful to Dr Oonagh Breen, Rev Dr Lesley Carroll and Noel Lavery, who together made up the Independent Panel, for delivering a thorough and comprehensive review of Charity Regulation. The Review was wide reaching, inclusive in its approach and the findings and recommendations will have a significant impact in improving charity regulation and setting the way forward for the Department, the regulator and the charity sector for years to come. Taking forward the recommendations from the Review will improve the regulatory framework within which charities of all shapes and sizes operate and from which those giving to charities, can draw confidence.

The Department would also like to acknowledge the important and extremely valuable contribution made to the Review by interested parties and stakeholders in the form of 306 attendees at the webinars, 20 meetings with key stakeholders from across the spectrum of charities, regulators in other jurisdictions, the general public, lawyers, accountants, and other funders. The Panel also received 145 online questionnaire responses and written submissions.

The Minister’s main aim in commissioning the Review was to review the legal and regulatory framework within which the Charity Commission operates and the Commission’s relationships with stakeholders. The Review was designed to examine whether the legislation and the Commission’s efforts within that legal framework struck the right balance, in light of best practice, **between supporting charities to do the right thing and deterring or dealing with mismanagement and/or misconduct.** It was also required to make recommendations that could improve the delivery of services and the operation of the Commission going forward.

The Report made recommendations that will see a redesign of the existing regulatory framework to ensure that it is fit for purpose. It also makes recommendations for a Commission that is better equipped for the regulatory tasks required of it, which is outward facing in approach to support and enable the charity sector.

The Report represents a significant opportunity to improve charity regulation in NI for the benefit of charities to build upon and improve the fundamental pillars of the regulatory framework. This will ensure effective and proportionate regulation which in turn supports a vibrant and transparent charity sector able to respond to current and future challenges for the benefit of all of society.

The 93 recommendations made by the Panel in response to its remit cover a number of linked and in some cases mutually dependent themes. This document addresses at a high level the Department's response to the themes that run through the Report, and **Annex A** provides the Department's commitment against each recommendation and, where relevant, progress to date.

As indicated in the Annex, all but one of the recommendations have been accepted; partially accepted; accepted in principle; or will require further consideration. The only recommendation to be rejected, concerns the requirement that all charities in NI should be required to register. This has been rejected. In response to real concerns expressed by the sector, the Department will develop policy and begin to draft legislation that would see the introduction of a 20k threshold below which charities would not be required to register. Further work will be undertaken on the impact, shape and form of a £20k threshold to address concerns that the proposed reductions in the accounting and reporting burden alone, as recommended by the Panel, go far enough to ensure the continued vibrancy of the sector.

The Department plans to take forward implementation of the recommendations over a period of five years, given the complexity of the framework, involving primary and secondary legislation. The availability and allocation of significant additional resource in the initial stages

will be required. The Department recognises that it is important that the work is prioritised to make the most impact for the effective and efficient running of charities. Delivery of the recommendations will be dependent on resourcing and how those resources are deployed by the Commission, to deliver on the Minister's agenda.

i. Registration

The Review's Findings

The Terms of Reference for the Review asked the Panel to advise the Minister whether all charities should be required to register and whether the current system of registration is fit for purpose.

A de minimis threshold below which charities would not be required to register has long been called for by the charity sector in NI. The Charities Act (Northern Ireland) 2022 (the 2022 Act), which received Royal Assent on 30 March 2022, allows for the introduction of such a threshold through subordinate legislation at some future point, if it is deemed appropriate.

Whilst recognising that this is a policy decision for the Minister, the Panel has not recommended the introduction of a threshold. There is no such threshold in Ireland or Scotland, however, there is one in England and Wales, although the composition of the sector in that jurisdiction is vastly different to that in NI.

The Panel's rationale in not recommending a threshold is that you cannot regulate what you cannot see and the whole principle of registration, with the reputational and public confidence benefits arising from it, outweigh the disadvantage of mandating registration. The Panel states that if the model adopted was the same as that in England and Wales the Commission would retain responsibility for regulation of those unregistered charities without having visibility of them. In addition the Report points to the broad societal benefits that flow from having a comprehensive register of charities, which is the bedrock for public trust in charities, providing the visibility which protects the reputation of the sector and allows the charities themselves to demonstrate their worth.

Instead of the introduction of a threshold, the Panel stated that reducing the regulatory burden of the accounting and reporting framework and completion of the register should be the top priority for the Commission. The Report estimated that there are over 2,000 charities waiting to be called forward for registration and that these organisations should be registered as soon as possible to enable them to avail of the benefits accruing from it.

In regard to the question of whether the current system of registration is fit for purpose, the Panel has made a number of recommendations to simplify the process of registration to make it proportionate to the size of the applicant and to ensure the information that is requested from charities is only that which is required.

The Department's Response

The Department appreciates the Panel's reasoning with relation to the registration threshold, but is of the view that the potential benefits to small charities outweigh the risks to public confidence that the introduction of a threshold could raise. The Commission is the regulator of charities in NI. The exact nature of the regulatory regime for charities exempted from registration by virtue of a threshold would need to be determined during the consultation on any proposed regulations. Organisations which fall below any registration threshold, which had not previously been on the register would only become known to the Commission if a problem arose. Unless the regulations required them to identify as a charity exempt from registration by virtue of the threshold, it would not be immediately obvious to the Commission whether such an organisation was in fact a charity as it would not have been through the registration process and it would therefore be unclear whether the Commission had jurisdiction over them.

This recommendation has been rejected. The Department has listened to further representations from sectoral leaders, who believe that the regulatory framework in respect to the smallest charities has in large part contributed to a significant fall in the number of people volunteering for charities in NI. They believe that any perceived risk in respect to a loss of visibility of these charities, which would result from the introduction of a registration threshold, is far outweighed by the harm compulsory registration is having on civic society. The Department concurs with this view.

The Department, as a priority will develop policy and begin to draft legislation that would see the introduction of a £20k threshold, exploring the impact, and the shape and form of the resultant regulatory framework through further engagement with the sector and other key stakeholders.

Whilst work will be undertaken to introduce a registration threshold, the Department concurs with the Panel that completion of the register for those required to register or wishing to voluntarily register should they fall below the registration threshold, should be a priority. The Department will work with colleagues within the Commission, the Department of Education (DE) and the Department for the Economy (DfE) to progress the registration of schools and Further Education Colleges, which may require a legislative solution in some cases.

The Department funded a registration pilot with the aim of rapidly accelerating the rate of registrations in 2021/22. Initial findings are positive and the Department will look to work with the Commission to build on this. It is also the Department's intention to consult on a Scheme of Delegation which could allow staff to take registration decisions, thereby accelerating completion of the register for those required to register or wishing to voluntarily register should they fall below the registration threshold. The Department is also aware that the Commission is continually looking at the registration process with the aim of making it a more simple and straightforward journey for applicant charities. The Department supports this ongoing work.

ii. Communication and Engagement

The Review's Findings

The Report made a number of recommendations about the Commission's engagement with the sector to enable it to become more outward facing in its dealing with charities. It believes this will better enable the sector in the task of compliance with its statutory duties. The Panel suggested that a re-calibration of the Commission's approach is likely to assist it in becoming a more effective charity regulator. The Panel asserted that **how** the Commission communicates is just as important in terms of sectoral impact as **what** the Commission communicates. This is central to a number of the recommendations which focus on accessibility, clarity of communication, tone, culture and language.

Whilst the Panel recognised that the Commission has included comprehensive guidance on its website, this can be difficult to navigate, particularly for smaller charities that rely exclusively on volunteers. Being unable to talk to someone in the Commission was cited as a barrier. Many charities and their trustees may not be familiar with their duties and responsibilities under charities legislation in NI. The Panel believes that education of the sector in this regard is key to having a vibrant and well governed sector delivering for its beneficiaries. A move from the Commission being prescriptive and compliance driven to being enabling and proportionate is a key shift that is needed going forward.

The Department's Response

The Department supports the recommendations in respect of both communication and engagement, and education of the sector. Improvements to the website and a review of the use of NI Direct to enhance the Commission's engagement with stakeholders and make the Commission's staff more accessible, is seen by the Department as being an important deliverable in the Commission becoming an enabling regulator.

A key priority for the Department will be to educate the wider non-profit and voluntary and community sector on the choices available to them when establishing an organisation. As the Report suggests, the charitable form may not always be the best

route to deliver an organisation's objectives. To this end, the Department will work with the Commission and key sectoral partners to develop and deliver advice and guidance in this area.

The Department is aware of ongoing work within the Commission to address many of the recommendations as soon as possible and the remaining will be prioritised as appropriate.

The Commission has constituted a stakeholder forum which will enable it to communicate important messages directly to the sector and take their views on key policy areas to help inform the Department. The Commission has recently signed a Memorandum of Understanding with the Charities Regulatory Authority which will enable the better sharing of information between both parties as recommended. The Commission has also instigated engagement with the Office of the Scottish Charity Regulator to better understand what is meant by becoming an enabling regulator. Work has also been undertaken with the Charity Commission for England and Wales to set up a learning opportunity for staff to better understand the importance of a language shift from authoritative to engaging and how that shift can be achieved.

In addition, the Department is aware that the Commission has taken expert advice on a review of its complaints procedures with a view to being more transparent and consistent.

iii. Proportionality – annual reporting, compliance and enforcement

The Review’s Findings

The Panel made recommendations in regard to the need for proportionality in respect of the reporting required of charities, compliance expected of them, and enforcement by the Commission.

The Panel found that proportionality becomes ever more important if all charities are required to register. Bearing in mind that the Panel recommends that all charities should be registered, it therefore made recommendations to amend the 2008 Act and the associated Charities (Accounts and Reports) Regulations (Northern Ireland) 2015. This would enable much more proportionate regulation for smaller charities in terms of the type of financial information and reporting that they are required to file each year and the requirement for independent examination. The Panel also made a series of recommendations that would result in the Commission receiving less, but better quality financial data each year. This would result in it being able to make more targeted regulatory decisions aligned with its new Risk Assessment Framework, which it also recommends is prioritised with additional resources from the Department, if evidenced.

The Panel recognised that proportionality is not just important in annual reporting but also the Commission’s general regulatory approach. It recognised that the introduction of a targeted regulatory approach through the new Risk Assessment Framework will see the Commission follow a truly risk-based assessment system. This proportionate approach should reduce Commission scrutiny of compliant charities, and allow more targeted enforcement where breaches are identified. The Panel believes that by adopting this approach the Commission will free up its limited resources to focus on charities where its analysis indicates greater risk exists.

The Panel cited the speeding up of registration as an important factor in the Commission being able to be proportionate.

The Panel noted evidence provided which highlighted the difficulty the Commission had in prioritising a response to a concern where a charity remained on the combined list.¹ This meant the Commission had no visibility of the size and income of that organisation to determine the risk and need for intervention.

The Panel recommended that the Commission should build into its values and planning a commitment to proportionate enforcement that allows sufficient resources to be directed towards supporting charities to achieve compliance. It also suggested a more proportionate approach to filing defaulters, recommending a change to the register of

¹ The **combined list** consists of a list of organisations that the Commission is aware of and are yet to be called forward for registration; and, a list of organisations established in another jurisdiction but operate in NI, who await call forward once that part of the 2008 Act is commenced

charities to introduce a traffic light system to identify charities whose accounts are on time, slightly late and late.

In addition, the Panel thought that the automatic naming of charity trustees in a statutory inquiry report was disproportionate and recommended that the Commission reconsiders this approach.

The Panel recommended decisions relating to the suspension or removal of a trustee, decisions relating to the appointment of an interim manager, and decisions relating to the initiation of statutory inquiries should be reserved to Commissioners and never delegated to staff. It believes it would not be appropriate or proportionate to delegate to staff decisions which could have possible reputational damage to a charity or individual. In Scotland and in Ireland, the decision to remove a trustee requires an application by the regulator to court and is not a decision that can be made by the regulator itself. The entrusting of such powers to the Commission in NI follows the English practice in this area where the Charity Commission for England and Wales does hold such powers.

The Department's Response

The Department agrees that proportionality is not just important in annual reporting, compliance and enforcement but also the Commission's general regulatory approach. A move by the Commission toward a targeted regulatory approach will be dependent on the progression and completion of the new risk

framework, which might initially add to the information required of charities in the short term, but have long term benefits in terms of how the Commission targets its approach.

The Department commits to ensuring that this is given priority by the Commission.

The Department welcomes the Panel's recommendations in respect to compliance and enforcement. The Commission has closed out a number of long running inquiries over recent months in line with the Panel's recommendation. There are other recommendations which the Commission should be able to take forward relatively quickly such as not automatically naming trustees in statutory inquiry reports and extending the time limit for a Commission Decision Review. The Department will monitor developments in this area through its regular accountability meetings, seeking updates and recording progress.

The Department also agrees with the recommendation that decisions relating to the suspension or removal of a trustee, decisions relating to the appointment of an interim manager, and decisions relating to the initiation of statutory inquiries should be reserved to Commissioners. It is not proportionate that such impactful decisions which have caused such controversy in some cases in the past should be taken by staff. The 2022 Act stipulates that these, together with other decisions which can have a potentially negative impact on charities and individuals, will never again be taken by Commission staff.

iv. Legislation

The Review's Findings

i. Primary Legislation

The Panel made a series of recommendations, which would require Primary Legislation to implement. Amongst these recommendations is a potential amendment to section 167 of the 2008 Act which deals with institutions that are not charities under the law of NI but operate for charitable purposes in or from NI. Further to this it recommended potential changes to Part 8 of the 2008 Act dealing with reporting and accounting, the potential introduction of a statutory warning power, and a power to enable the Commission to issue directions not to undertake certain actions.

ii. Secondary Legislation

The Panel has made a number of recommendations which can be effected through secondary legislation.

The Panel suggested that the legal form of Charitable Incorporated Organisation (CIO) be available in NI as soon as is practical. It also suggested potential changes to the annual reporting and accounting requirements of charities to allow for the introduction of a more proportionate, tiered approach to reporting for small charities to reduce their reporting burden. In addition, a change to the Charity Tribunal Rules (NI) 2010 to allow a stay when a Commission decision review is underway was recommended. Such a stay would mean that

the internal review and appeal processes would not run concurrently, as is currently the case.

The Department's Response

i. Primary Legislation

The Department recognises and accepts weaknesses in the current legislative framework highlighted by the Review. It is also aware that since 2016 two new Charities Acts have received Royal Assent in England and Wales and that provisions within these Acts could be beneficial to charities and charity regulation in general in NI. The Department will establish a working group to explore these issues, and to scope out a potential comprehensive Charities Bill for introduction in the 2022-27 Assembly Mandate, subject to Ministerial and Executive agreement.

ii. Secondary Legislation

The Department accepts the Panel's recommendation that commencement of Part 11 of the 2008 Act, and the making of associated regulations to introduce CIOs as a legal form option for charities in NI, is taken forward as a matter of priority. This is notwithstanding the work to introduce the registration threshold, which is our first priority (see Annex A, recommendation 26). The Department recognises that many trustees and organisations in NI would benefit immensely from the CIO form as it reduces the reporting burden, not only by eliminating dual regulation with the Commission and Companies House, but

by possibly allowing smaller charities to apply a simpler reporting framework. It also gives charities the benefit of incorporation, including legal protection for charity trustees, without the need to additionally register with, or report to, Companies House.

In respect to accounting and reporting, the Department, together with the Commission, will initially scope out what changes are required to effect the reductions recommended, whether that be through Primary or Secondary legislation. This work will be undertaken in conjunction with the work to introduce a registration threshold.

The Charity Tribunal Rules are the responsibility of the Department of Justice (DoJ). The Minister for Communities has already committed her officials to working with DoJ in respect to extending the timeframe for appeals to the Charity Tribunal in response to the Committee for Communities deliberations on the 2022 Act. As part of that engagement the Department will also work with DoJ in respect of the recommended stay to proceedings in the event of a decision review by the Commission.

v. Relationship between the Department and the Commission

The Review’s Findings

The Panel made a series of recommendations about fundamental building blocks to underpin the future relationship between the Department and the Commission. Central to this is the progression of the new Partnership Agreement between the Department and the Commission and a recommendation to allow the free flow of information between the Commission and the Department which has been hindered following the McBride Judgment.

Recommendations specifically for the Department included a review of the funding model of the Commission within four months of the Panel’s Report. This, it believes should result in the required appropriate funding for the implementation of the recommendations in its Report. It also recommended that the Department ensures officials have the necessary skills and expertise to develop policy and keep legislation current in line with best practice. In addition the Department should formally review the metrics by which it measures the Commission’s performance.

The Panel recommended that the Department seek an ongoing assurance from the Commission, at its quarterly accountability meetings, on progress of the implementation of the Action Plan arising out of Independent Counsel’s final report. It also recommended the recommencement of the annual strategic meeting between the Minister and Board of the Commission.

The Department’s Response

The Department accepts the recommendations in respect to its relationship with the Commission. Indeed, work to fulfil some of these recommendations is at an advanced stage, such as that relating to a new Partnership Agreement which it is anticipated will be in place by the end of this financial year. Following the 2022 Act, the Department has held pre consultation engagement sessions with a number of key parties to inform the development of consultation materials on a draft Scheme of Delegation. One of the proposals within the Scheme, which will be subject to full public consultation, would permit the staff of the Commission to share information under section 24 of the 2008 Act with the Department, as originally intended.

The Department acknowledges the difficulties with short term funding allocations, with in year uplifts. However, as with the recent three year uplift in allocation to the Commission for transformation work that remains ongoing, the Department has and will continue to respond positively to need that is evidenced through a robust economic appraisal, subject to budget availability. The Department partially accepts this recommendation as a review of the funding model is not deliverable within four months and would likely be more usefully deployed when any amended processes have embedded following the potential introduction of a Scheme of Delegation, and the introduction of the registration threshold, which will change how the Commission operates.

The Department acknowledges that it needs to look wider and outwards in respect to how it assesses the performance of the Commission and not to rely solely on the Commission’s reporting of its performance in its Annual Report. To this end the Department has established a Planning and Partnership Strategic Group consisting of departmental officials, Commissioners, Commission staff and sectoral representatives, which has already met and will meet on an ongoing basis. This group will permit the Department and the Commission to hear directly from sectoral representatives about how they perceive the Commission to be performing.

This will enable the Department to focus more on outcomes and to explore how the Commission's actions in a given year have contributed substantively to the achievement of its statutory objectives. The Department will also work with the Commission to reflect this outcomes focussed approach to reporting in their Annual Report rather than the current outputs approach. We will also benchmark against other regulators in other jurisdictions, whilst acknowledging the legal and operating contexts are different.

The Department is aware that the Commission has published an Action Plan in response to Independent Counsel's Report. The Department will monitor progress against this Action Plan through its accountability framework.

The Department accepts that the strategic meeting between the Commission and the Minister is important and officials will prioritise this. The strategic direction provided by the Minister is paramount in how the Commission plans its work over the coming months and years.

The Department will ensure that staff working in the charities policy and legislation team, who also oversee the performance of the Commission, undertake the necessary training required to ensure that their skills remain up to date and fit for purpose. To this end, the team will undertake a skills audit and development plan in the 2022/23 financial year and draw in additional expertise where it is required.

vi. The Board

The Review's Findings

The Report made a number of recommendations regarding the decision making Committee, established under Schedule 1 to the 2008 Act. The Panel recommended that the Terms of Reference are reviewed to ensure the Committee is as effective and efficient as possible, with the requirement for staff attendance being reviewed. It also recommended that the decision making Committee continue to operate following the introduction of any Scheme of Delegation and to discharge any decisions reserved to it by the Charities Bill which subsequently became the 2022 Act.

It also makes recommendations to the Department on the size and composition of the Board, the skills required and ensuring that Commissioners can commit to the time required to fulfil their role. It recognised the potential loss of institutional knowledge that could potentially occur in the coming years and recommends staggered appointments to the Board.

The Department's response

The Department accepts the recommendations with regard to the Board. It agrees that the continued operation of Schedule 1 Committees is a more effective way for the Commission to take decisions reserved to it by the 2022 Act or by any Scheme of Delegation than by taking them at full Board level. It is committed to working with the Commission to ensure that they

have the appropriate skills mix and time afforded to fully fulfil their role. It will work with the Commission to address any issues arising from their regular Board Effectiveness Reviews and Skills Audits.

The Department also recognises that for a variety of reasons appointments to the Board have not been staggered as they might have been and this risks the loss of institutional knowledge. The Department will therefore take steps to ensure that appointments are appropriately staggered going forward to ensure that institutional knowledge is not lost and will begin this process when the next appointments are due to be considered.

The Department will also explore with the Commission the co-opting of individuals with required skills to increase the Commission's capacity.

vii. Policy Development / evidence base

The Review's Findings

The Panel's initial research in conducting its Review was in relation to the charity landscape in NI and what that looks like. It found that there are many gaps in our knowledge of the charity and non-profit sector. To that end, it recommended that the Department undertakes a mapping and information gathering exercise of the sector. This would develop a clear picture of the non-profit and charity sub-sector in NI, and it further recommends that the Department should develop an action plan

to provide ongoing, collated data about the non-profit sector, its benefits, scope, scale and contribution. In addition, the Department should provide education on the range of options outside the charity subsector to better inform choices for those seeking to support their communities through voluntary activities.

It further recommends that the Department should examine flexible options to significantly enhance its own expertise in charity law and policy including knowledge of developments in the Republic of Ireland, Scotland and England and Wales and should also extend this engagement to include other representatives in the charity sector and relevant government and regulatory peers in neighbouring jurisdictions.

The Department's Response

The Department recognises that implementing the recommendation to address the gaps in its knowledge of the sector and to provide ongoing collated data about the sector will inform good policy making, and will aid the voluntary and community sector in general. It also recognises that education of the sector will aid community and voluntary sector organisations to make informed choices about their options and legal structure to provide support to their communities, which may not necessarily require the establishment of a charity and the obligations that follow.

The Department will prioritise and address these recommendations as appropriate, taking account of the need to address the more urgent recommendations arising from this report.

In respect to the Department enhancing its own expertise in charity policy and law, the Department will work more closely with its counterparts in England & Wales, Scotland and Ireland in order to ensure policy is developed and kept up to date with developments elsewhere. The Department is conscious of legislation which has progressed in other jurisdictions and the implementation of the recommendations of the Review will seek to close these gaps.

Approach to delivery and next steps

The Department recognises that neither it nor the Commission can deliver the 93 recommendations working alone; therefore the Department, working closely with the Commission, will establish a project under a Senior Responsible Owner at Senior Civil Service level in the Department. The Commission and key stakeholders will be directly involved in oversight, reference groups and relevant work strands.

The overall aims of the Project will be to implement the Review recommendations, thereby improving charity regulation for charities and their beneficiaries and helping reset the culture of the Commission by delivering proportionate and collaborative

regulation. It is the aim of the Department and the Commission that it moves to becoming the enabling regulator envisaged in the Review.

The Project will work with partners to progress each of the 93 recommendations as indicated in this paper and at Annex A, and engage with key stakeholders throughout the process. In some cases this will involve cross-departmental working with DE, DfE and DoJ colleagues to progress cross-cutting issues such as registration of schools, Further Education Colleges and any changes required to the Charity Tribunal Rules (Northern Ireland) 2010. Consideration will also need to be given to the potential improvements which could be made to charity regulation in NI as a consequence of developments in charity regulation in England and Wales.

Work strands will take forward specialised work areas such as legislation, improvements in the registration process, and the development of the registration threshold. The Project will as a priority set appropriate timeframes for the delivery of the recommendations which will be published as soon as is practicable. The Department will take responsibility for driving forward and monitoring implementation.

Specifically, in relation to the registration recommendations, the Department will establish a registration strand to take forward all of the recommendations relating to registration, including the introduction of a

registration threshold. Whilst learning from the 2021/22 registration pilot, the aim of the registration strand will be to assess the viability of, and implement as appropriate, the recommendations in relation to streamlining the registration process; the documentation required of registering charities; and how the burden can be reduced for small charities who may still choose to register even though they would not be required to as they would fall below the registration threshold. IT amendments, resource implications, required amendments to guidance and education for the sector on registration will also be determined by this group.

An engagement and communication strand will form part of the Project, which will develop proposals, and examine the viability, and prioritise implementation of the engagement and communication themed proposals.

Whilst there are recommendations, set out in Annex A, which the Department and Commission can take forward relatively quickly, there are a number of complex issues to be further explored with some potentially requiring amending legislation, including the issues mentioned above regarding the registration of schools and Further Education Colleges, accounting and reporting and audit threshold recommendations. Legislation strands will be established in the 2022/23 financial year to progress this important work.

The Department will keep the Communities Committee informed of any key developments arising from this work, including the development of any legislative timetable.

Recommendations, Response and Prioritisation

No	Recommendation	Strategic Theme	Accept; Partially accept; Accept in principle; Requires further consideration; Reject	DfC Comment
1a	The Department undertakes a mapping and information gathering exercise to develop a clear picture of the non-profit sector and its charity subsector (this should include consideration of the government-supported work of Benefacts in Ireland referenced in Chapter 5, 4.2.)	Policy development	Accept in Principle	The Department recognises the value of this recommendation to inform good policy making. The Department commits to working with the sector to better understand the breadth of the sector but recognises that this recommendation may be a longer term objective.
1b	Implements a plan to provide greater guidance to government departments, local authorities, other public bodies, individuals and organisations on the range of options outside the charity subsector to better inform choices for those seeking to support their communities through voluntary activities	Policy development	Accept	The Department recognises that this recommendation will aid community and voluntary sector organisations to make informed choices about their options and legal structure to provide support to their communities, which may not necessarily require the establishment of a charity and the obligations that follow. The Department will work with all key stakeholders in the implementation of this recommendation.
1c	Develops an action plan to provide ongoing, collated data about the non-profit sector, its benefits, scope, scale and contribution	Policy development	Accept in Principle	This recommendation is linked to recommendation 1a, and is dependent on it and may be a longer term objective for the Department. The Project will work with all stakeholders to advance this along with 1a.
2	The Department develop a work plan for the implementation of recommendations in this Report to be delivered in a timely manner		Accept	The Department agrees that in order to take forward the 93 recommendations made by the Panel that a work plan is essential to implement the recommendations in a timely and accountable manner. The Project will as a priority develop a prioritised action plan for publication once the work and interdependencies have been fully scoped out.

No	Recommendation	Strategic Theme	Accept; Partially accept; Accept in principle; Requires further consideration; Reject	DfC Comment
3	The Commission embrace this opportunity to reset the culture of regulation	The Board / Proportionality - annual reporting, compliance & enforcement / Communication & Engagement	Accept	The Department sees the Independent Review of Charity Regulation as a key opportunity for all to reflect on the past decade of Charity Regulation; to hear what those who regulate and are regulated have told the Panel and to use this opportunity to reset and look to the future, embracing lessons learned and the Panel's recommendations to make improvements for the charity sector. Officials have met with the Commissioners and Senior Management Team of the Commission and there is a shared view that this is an opportunity that should not be missed. This is reflected in the Commission's Business Plan for 2022-23.
4	The wider charitable sector commit to collaborate fully with the Commission to create a good regulatory environment for charities	Policy development	Accept	Whilst the Department cannot speak for the wider charitable sector, the Panel notes that in its consultations with the sector there was a recognition by contributors that regulation is necessary for public trust and good governance. Officials have had early engagement with sectoral representatives who are largely supportive of the recommendations in the Panel's report and will work with the Department and the Commission to encourage a collaborative approach to facilitate a good regulatory environment for the sector. This will include being a core part of the oversight arrangements for implementation of the recommendations agreed by the Minister.
5	<p>The Commission should prioritise completion of the new Risk Assessment Framework and the supporting IT and the Department should provide additional resources should they be required (recommendation 10), to assist.</p> <p>In respect of this recommendation the Panel is conscious that there will be a lag while the system is completed and then while awaiting the desired trend data to ensure proportionality. We encourage the Commission to take steps to ensure proportionality and flexibility in approach in the interim.</p>	Proportionality - annual reporting, compliance & enforcement	Accept	The Commission is continuing with its work on the Risk Assessment Framework (RAF) with new Registration Forms and Annual Monitoring Return Forms about to be launched to populate the RAF to build the necessary data. This work features in the Commission's 2022-23 Business Plan.

No	Recommendation	Strategic Theme	Accept; Partially accept; Accept in principle; Requires further consideration; Reject	DfC Comment
6	<p>The Commission should move towards a targeted regulatory approach in line with its proposed Risk Assessment Framework. The Risk Assessment Framework should be tested for proportionality and flexibility in functionality.</p> <p>In respect of this work, the Panel believes the adoption of such an approach should result in a shift in Strategic and Annual plans with greater articulation of risk appetite, along with a shift in priorities about engagement with the sector and a focus on outcomes.</p>	Proportionality - annual reporting, compliance & enforcement	Accept	<p>The Department sees this recommendation as crucial in resetting the Commission's relationship with the sector. The Department is aware of the ongoing work being conducted by the Commission in this regard and will monitor it closely to ensure that it meets the objective of a more proportionate and flexible regulator.</p>
7	<p>The Commission refocus its regulatory efforts on its primary statutory objective to complete the register of charities by clearing the backlog of registration applications.</p> <p>In respect of this recommendation the Panel will propose supporting measures to achieve this in Chapter 5. The Panel is also aware that Royal Assent to the new Bill has yet to be given and it will take some time to implement. It is the Panel's view that the intervening time should be used to register as many charities awaiting registration as possible.</p>	Registration	Accept	<p>The Department funded a registration pilot in the 2021/22 year to facilitate acceleration of registrations. The Department will work strategically with the Commission through the implementation of a Registration Working Group which will encompass all recommendations in relation to registration to ensure that completion of the register is the primary focus of the regulator for those organisations who are required to register, or choose to do so if they fall below the registration threshold. This work features in the Commission's 2022-23 Business Plan.</p> <p>Completion of the register will remain the primary focus of the regulator for those charities required to register, whilst work proceeds to introduce a registration threshold (see recommendation 26).</p>
8	<p>The Commission should develop its learning approach to include how the new Risk Assessment Framework and the IT to deliver it, informs the culture of the Commission to mirror a transformation in regulatory approach.</p> <p>In respect of this recommendation the Panel is conscious of the need for there to be a meeting of strategic and operational thinking on the approach necessary to support a culture that enables the sector, focuses on responsive regulation and leads to an enabling regulator.</p>	Proportionality - annual reporting, compliance & enforcement	Accept	<p>The Department, in accepting this recommendation, will ensure that the Commission has in place appropriate training for staff to enable them to translate the RAF into the more proportionate regulation sought, leading to the development of a more responsive and enabling regulator. To do this the Risk Assessment Framework needs to be fully operational and evidence of its effect gathered and monitored on an ongoing basis.</p>

No	Recommendation	Strategic Theme	Accept; Partially accept; Accept in principle; Requires further consideration; Reject	DfC Comment
9	The Department should review its funding model for the Commission with a view to better understanding the full extent of what is required for regular ongoing support of the regulator and examining whether greater baseline funding is required (or not) in light of the type of regulation the Department expects the Commission to deliver over the short to medium term. This should happen within 4 months of this Report and result in the required appropriate funding for the implementation of the recommendations in this Report.	Relationship between the Department and the Charity Commission	Partially Accept	Whilst the Department accepts this recommendation, it is not deliverable within the timeframe suggested by the Panel. The Department will of course conduct such a review at an appropriate time when the new processes have been embedded should any Scheme of Delegation be introduced and the introduction of the registration threshold which will change how the Commission operates.
10	The Department should examine the need for short term, interim resources to be provided to the Commission before legislation has completed. This should form an aspect of the funding required for the implementation of the recommendations in this Report.	Relationship between the Department and the Charity Commission	Accept	On the receipt of the Panel's report the Department provided immediate additional funds to the Commission to implement a registration pilot to accelerate the rate of registration decisions before year end, to enable the Commission to start to fulfil recommendation 22. The Department is committed to working with the Commission to implement the delivery of the work falling out of this review.
11	The Department, should, as a matter of priority, explore, with the Commission how skills exchange can happen whether from the civil service to the Commission or from other sources, particularly in the area of legal services to supplement legal capacity within the Commission.	Relationship between the Department and the Charity Commission	Accept	The Department will take into account experiences from other jurisdictions to identify needs and explore possibilities of skills exchange. The Department understands that the Commission has struggled with retaining legal staff in recent years due to more attractive salaries being available elsewhere and will liaise with Departmental Solicitor's Office (DSO) to establish if gaps can be filled in CCNI's legal team via secondments from DSO as and when the need arises. The Department will also explore with the Commission skills exchange in other areas outside of legal services.
12	The Department should critically review how legally trained staff are provided to the Commission, including grading and salary levels for retention of same.	Relationship between the Department and the Charity Commission	Accept	The Commission recruit their own legal staff. As well as exploring secondments to the legal team, the Department will work with the Commission to review the grading and salary levels for the legal posts in the Commission.

No	Recommendation	Strategic Theme	Accept; Partially accept; Accept in principle; Requires further consideration; Reject	DfC Comment
13	The Board should take the lead in setting tone and direction for taking full advantage of every relationship building opportunity (e.g., registration, annual reporting etc.) and develop a plan for collaborating with Commission staff to achieve this. In all forms of engagement, tone matters.	Communication & Engagement	Accept	The implementation of this recommendation features in the Commission's 2022-23 Business Plan and the Department is aware of the Commission's ongoing work in this regard through its Stakeholder Forum. The Department will monitor progress of the implementation of this recommendation to help reset the tone of the Commission in all of its interactions with the public and stakeholders, including the tone of correspondence and timeliness of replies.
14	Board members should play an active role in the Stakeholder Forum.	Communication & Engagement	Accept in Principle	The Stakeholder Forum has been in operation since September 2021 and was set up by the Commission with the aim of supporting and improving communications on issues around charity law, regulation and trends. As currently set up, the Deputy Chief Commissioner is the main link between the Forum and the Board. Whilst the Department sees the value in other Commissioners being engaged with the Forum to improve their individual relationships with and knowledge of the sector, current pressures on the Commissioners' time may prevent them playing an active role. Other mechanisms are in place, however, to ensure the Commissioners are sighted on Forum issues, such as regular reports from Forum meetings as being quarterly standing Board items and circulation of Forum minutes and notes. This recommendation will be considered within a review of Commissioner Terms and Conditions.
15	The Commission should build into its values and planning a commitment to proportionate enforcement that allows sufficient resources to be directed towards supporting charities to achieve compliance (see further Chapter 7) and takes steps to ensure that this commitment is central to staff approaches.	Proportionality - annual reporting, compliance & enforcement	Accept	The Department is aware that the Commission has already taken steps in this regard in respect to independent scrutiny of accounts in a number of specific cases. The Department will consider with the Commission opportunities to extend this approach to other areas of the Commission's work which we both see as crucial in moving towards a more responsive, enabling regulator.

No	Recommendation	Strategic Theme	Accept; Partially accept; Accept in principle; Requires further consideration; Reject	DfC Comment
16	<p>The Commission should develop action plans to embed a commitment to supporting charities to achieve compliance. In this respect the Commission should at least consider:</p> <ul style="list-style-type: none"> • Resourcing or delivering trustee training, both initial and refresher sessions; • Improving the website (see recommendation 19); • Reviewing how guidance is pitched and communicated to charities. This may involve simplifying guidance or going beyond the posting of technical guides on the Commission’s website. • Increasing roadshows and attendance at them by using the emergence of virtual platforms (e.g. Zoom, YouTube) to provide low-cost, wide-reaching, recordable (and re-playable) sessions; • More front facing engagement by Commission staff (see recommendation 18); • How communications by letter or email are signed, either by a staff member or the Chief Executive. 	Communication & Engagement	Accept	<p>The Department is aware that the Commission has already taken steps to address a number of these issues. The Department will review any action plans already developed by the Commission to ensure that they deliver on this recommendation and will explore further opportunities to support and enable the sector to achieve compliance in respect of its statutory duties.</p>
17	<p>The Commission should review its communications strategy as part of the bigger recalibration of its engagement. Such a review should include:</p> <ul style="list-style-type: none"> • The website; • A review of standardised letters, particularly in relation to compliance matters, to improve tone and clarity of content; • A review of how the submission of annual reports and accounts is acknowledged and the level of feedback provided to charities; • A review of how internal review procedures operate and are communicated; • The use of virtual technology for engagement, training, clinics, roadshows and other methods of engagement. 	Communication & Engagement	Accept	<p>As with recommendation 16, the Department is aware that the Commission has already taken steps to address a number of these issues. The Department will review any action plans already developed by the Commission to ensure that they deliver on this recommendation and will explore further opportunities to enable the Commission to recalibrate its engagement with the sector.</p>

No	Recommendation	Strategic Theme	Accept; Partially accept; Accept in principle; Requires further consideration; Reject	DfC Comment
18	<p>The Commission should ensure that its phone service helpline (whether operated by NI Direct or otherwise) allows escalation of a call directly to a Commission staff member if there is not an immediate connection to a staff member.</p> <p>The Panel understands the resourcing issue related to answering calls. While it would be preferable to connect directly to a staff member other mechanisms to manage the resource required could be considered: for example, an option to triage calls; default referral to existing online resources in the first instance; and limited hours service with an out-of-hours answering service that is responded to in a timely way.</p>	Communication & Engagement	Accept	The Department acknowledges there is a balance to be struck in enabling the public to speak to a member of Commission staff when required and the time required of Commission staff to deliver this service. The Department appreciates the suggestions provided by the Panel and are aware that the Commission have commenced trialling some of these options and will closely monitor progress.
19	<p>The Commission should draw up a plan to improve and update the website in light of recommendations in this report:</p> <ul style="list-style-type: none"> • The website should be re-designed so that material and guidance is easier to find • Online guidance should be updated so that important information is conveyed at a level that is understandable to the average charity trustee who will not be well versed in charity law or charity accounting procedures. <p>The Panel notes that all stakeholders, the Commission included, have expressed dissatisfaction with the unwieldy nature of the Commission’s website.</p>	Communication & Engagement	Accept	The plan for improvement and updating of the Commission’s website will be considered by the Department along with recommendations 16 and 17.
20	<p>The Commission should set up a learning opportunity, for both the Board and staff, with CCEW to better understand both the importance of a language shift to authoritative and engaging and how that shift can be achieved.</p>	Communication & Engagement	Accept	The Department endorses the mutual learning opportunities that can come from good working relationships with the Commission’s counterparts in England and Wales. The Department understands the Commission has undertaken to deliver this recommendation in its 2022/23 Business Plan and has taken steps to facilitate the required language shift at all levels of the Commission, through an initial meeting with CCEW, which will help to develop how Commission staff communicate with the sector. The Department will monitor the outcome of this engagement through its regular meetings with Commission staff.

No	Recommendation	Strategic Theme	Accept; Partially accept; Accept in principle; Requires further consideration; Reject	DfC Comment
21	<p>The Commission should set up a learning opportunity, for both the Board and staff, with OSCR to better understand what is meant by becoming an ‘enabling’ regulator.</p>	Communication & Engagement	Accept	<p>The Department also endorses this recommendation and understands the Commission has included the implementation of this recommendation in its 2022/23 Business Plan and has already taken action through an initial meeting with OSCR. As with recommendation 20, the Department will monitor the outcome of this engagement through its regular meetings with Commission staff.</p>
22	<p>With regard to registration generally - (see recommendations 22-25): The Commission should make the completion of the Charities Register a priority.</p> <p>In respect of this recommendation the Panel notes the importance that registration plays in the regulatory framework.</p> <p>Clearing the backlog of organisations awaiting registration will require the Commission to manage its staff and resources so that registration is front and centre in terms of staged priorities. No charity should be waiting prolonged periods of time – in the Commission’s current regime, years – for its registration application to be processed. The Panel therefore makes recommendations about the Combined List to assist with the registration process.</p>	Registration	Accept	<p>The Department agrees with this recommendation and will examine how the Commission can focus on the absolute prioritisation of registration for those charities required to register or wishing to register voluntarily following the introduction of the registration threshold. The Department will consult on a proposed Scheme of Delegation, which could permit delegation of registration decisions to staff. There are however issues with certain types of charities that may require legislation to allow them to register, which may hinder the completion of the register. The Department, together with the Commission will fully explore all matters concerning registration with a view to completing the register as soon as is practicable.</p> <p>Completion of the register will remain the primary focus of the regulator, whilst work proceeds on the introduction of a registration threshold (see recommendation 26).</p>
23	<p>The Commission should separate those charities on the Combined List who are awaiting registration call forward from those which are dormant or closed and those who have failed to come forward for registration.</p> <p>In respect of this recommendation it is important to note that the “unfinished business” nature of the Combined List can become a tool of disempowerment for both the Commission and the sector. With this in mind, the Panel further recommends:</p>	Registration	Accept	<p>The Department agrees that removing those organisations which have closed or who have failed to come forward from the combined list will be beneficial as it will reduce the combined list by almost half, meaning it will require less maintenance and cause less confusion for the sector. This work has been completed by the Commission.</p>

No	Recommendation	Strategic Theme	Accept; Partially accept; Accept in principle; Requires further consideration; Reject	DfC Comment
24	<p>The Commission should not list charities that fail to come forward when called as actively applying for registration and once removed, the onus should be on the charity trustees to reapply.</p> <p>In respect of this recommendation the Panel notes the Commission’s view that the current Combined list “is an asset.” The Panel appreciates that this is the Commission’s view but finds it is not a view shared by the sector.</p>	Registration	Accept	The Department fully supports this recommendation. The Commission has completed this work.
25	<p>The Commission should, given the ‘resource-intensive’ nature of maintaining the Combined List, review the purpose of the list.</p> <p>In respect of this recommendation, the Panel believes that adapting the Combined List to indicate current call forwards and estimated waiting times for the next tranche of applicants would be of greater service to the sector in the registration process and of greater service to the Commission allowing staff to focus on delivering registrations without further delay.</p>	Registration	Accept	<p>The Department has heard the views of the sector through the Panel and agrees with the Panel that the combined list could be more usefully deployed. The Department is already aware of the steps taken by the Commission in respect to the combined list and how it might be better employed to provide a more useful tool to the sector and other stakeholders.</p> <p>The Project will review progress on this matter to date and any further changes which may be required.</p>

No	Recommendation	Strategic Theme	Accept; Partially accept; Accept in principle; Requires further consideration; Reject	DfC Comment
26	<p>With regard to whether all charities should be registered the Panel notes that this is ultimately a decision for the Minister and recommends - (Recommendations 26 and 27):</p> <p>The requirement to register all charities, regardless of size, should remain.</p> <p>In respect of this recommendation, the Panel believes that the statutory requirement to register all charities serves a valuable purpose to society as it makes visible the significant work charities carry out and the crucial contribution they make to the fabric of society.</p>	Registration	Reject	<p>The Department appreciates the Panel’s reasoning in this area and for noting that this is a decision for the Minister. A registration threshold has long been called for by the sector in NI, which is why the Minister made provision in the Charities Act (Northern Ireland) 2022 (the 2022 Act) to take the power to effect a registration threshold through subordinate legislation at some future point. The Communities Committee, in their scrutiny of the Bill also heard further evidence from the sector of a need for a threshold to be introduced.</p> <p>The Department is rejecting this recommendation. Sectoral representatives, on publication of the Report, expressed strong opposition to the Panel’s recommendation that all charities should be required to register, citing the effect the regulatory framework is having on the ability of charities to attract volunteers. The Department is persuaded by this argument and sees the introduction of a registration threshold as necessary to ensure the continued vibrancy of the sector. The Department will develop policy and begin to draft legislation that would see the introduction of a £20k threshold.</p>
27	<p>(If 26 is accepted) The Commission should simplify and streamline the process of registration and make it proportionate to the size of charity applicant.</p> <p>In respect of this recommendation, the Panel commends the Commission on the changes that it is introducing to its registration process via its Transformation project. This will streamline and simplify registration and the Panel would encourage greater efforts along this vein. Finding the right balance between facilitating charities to deliver their charitable missions and ensuring that they do so in compliance with charity and other legal requirements is critical.</p>	Registration	Accept	<p>Although recommendation 26 has been rejected, the Department believes that the registration process should be as simple and straightforward as possible for all charities. The Department is aware that the Commission has already taken steps to streamline the registration process. The Department will build on this work as a matter of priority by overseeing that the Commission has undertaken simplification of the registration process, continues to streamline where possible and consults with the sector, where appropriate.</p>

No	Recommendation	Strategic Theme	Accept; Partially accept; Accept in principle; Requires further consideration; Reject	DfC Comment
28	<p>With regard to supporting charities to register (Recommendations 28 and 29):</p> <p>The Commission should prioritise the provision of guidance and education of prospective applicant charities, in conjunction with helper groups and the Department, to ensure that non-profit organisations seeking guidance about charity registration are aware there may be other options for them (see chapter 1).</p> <p>In this context the Panel believes that the regulatory approach of the Commission should clearly delineate the charity sphere from the broader non-profit sphere and that only charities or those truly wishing to apply for charitable status are channelled towards the registration process</p>	Communication & Engagement	Accept	The Department accepts that there is some misunderstanding within the sector on whether a group seeking to do good work in the community needs to be established as a charity. The Department, together with the Commission will develop a communication and education piece to be made available on the Commission's website and other platforms as soon as practicable. This will ensure that only those organisations needing to register make themselves known to the Commission.
29	The Commission works with its helper group organisations and with its Stakeholder Forum to better understand charity trustee's existing knowledge of regulatory requirements and engage in an ongoing education programme to raise charity trustee awareness of their statutory responsibilities.	Communication & Engagement	Accept	The Department will monitor the work of the Commission in developing appropriate education materials to ensure they provide the help necessary for the sector to be compliant with its requirements under the legislation.
30	<p>With regard to progressing registration (Recommendations 30-32):</p> <p>The Commission's main focus should be on registering those charities which have come forward and are actively awaiting registration and that this focus should frame how the Commission sets its priorities at this time.</p>	Registration	Accept	The Commission has already acted on this recommendation by no longer publishing or chasing those organisations that fail to apply for charity registration when called forward. The Department will ensure registration remains the main focus of the Commission for those charities required to register or wishing to register voluntarily following the introduction of the registration threshold, building on the work completed by the Commission during the registration pilot. To facilitate more expedient registrations, the Department commits to consult on the potential introduction of a Scheme of Delegation, which may permit staff of the Commission to make registration decisions and thereby accelerate registrations.

No	Recommendation	Strategic Theme	Accept; Partially accept; Accept in principle; Requires further consideration; Reject	DfC Comment
31	<p>The Commission should prioritise registration of the remaining deemed charities on the Combined List. The Panel recognises that separate issues arise with regards to deemed s.167 institutions (see further recommendations in section 6.5 below). In the case of deemed schools, the Panel recommends that the Department and Department of Education liaise on resolving matters relating to how these bodies operate that lie beyond the competence of the Commission.</p>	Registration	Accept	<p>The Department is aware that the Commission has sought to register deemed organisations, except in groups where unintended consequences of the 2008 Act arise. The Department recognises that there are issues with the registration of some schools and FE colleges in NI and we will examine this issue in more detail liaising with the Department of Education and the Department for the Economy as required. The Department endorses the Panel's recommendation that the Commission should prioritise any other deemed organisation for registration and will monitor progress through agreed mechanisms as set out in the Management Statement and Financial Memorandum / Partnership Agreement.</p>
32	<p>The Commission should develop a list of potentially dormant charities from the Combined List to form the basis of a pilot revitalising trust project for NI once the Commission has reduced its backlog of charities actively awaiting registration.</p>	Policy development	Accept	<p>The Department acknowledges the value that this type of scheme can bring to the sector and the enthusiasm from sectoral representatives for such a scheme to exist in NI. The Commission will be asked to scope out and prioritise this recommendation which would clearly be of benefit to the sector, taking into account the implementation of other more pressing recommendations.</p>
33	<p>With regard to s.167 charities (Recommendations 33-37): The Commission should prioritise the agreement of an MoU with the Irish CRA in the interests of furthering a consistent regulatory approach. The Panel notes existing MoUs with OSCR and CCEW and believes completing this task would provide the Commission with formalised contact across these Islands in support of learning and development.</p>	Communication & Engagement	Accept	<p>The MoU between the Commission and the Irish CRA has been agreed and published.</p>
34	<p>The Department, in conjunction with the Commission, should review and amend the wording of s.167 prior to commencement to clarify the organisations that fall within its remit and the scope of activities that may trigger a requirement to register. The Panel will speak further to the required changes in Chapter 10.</p>	Possible Primary & Secondary Legislation	Accept	<p>The Department is aware of the issues with the current drafting of s.167 and will examine the potential legislation required as a result of recommendations from this review, and will also consider changes required following developments in charity law in other jurisdictions since 2016.</p>

No	Recommendation	Strategic Theme	Accept; Partially accept; Accept in principle; Requires further consideration; Reject	DfC Comment
35	<p>The Department should consider making prior registration with a charity regulator in another jurisdiction a pre-condition to applying for registration under s. 167.</p> <p>The compromise offered by s.167 in accepting a ‘foreign’ charity’s constitution without requiring further amendment to the charitable objects clause to align with the wording of the 2008 Act should be dependent upon the Commission’s relationships of trust and confidence in other charity regulators with whom it enjoys good working relationships. These regulators would remain the lead regulators for problems arising with these charities, thereby reducing the workload of the Commission in their regulation but still providing it with the necessary powers to step in, either at the request of the lead regulator, or should there be a fear of loss or damage to NI beneficiaries or society more generally. The Panel notes that this approach would currently rule out the automatic registration of English and Welsh exempt charities operating in NI, but it would provide a more reasonable registration route for all other foreign charities.</p>	Possible Primary & Secondary Legislation	Accept	The Department will explore this recommendation with the intention of primary legislation being introduced in the current mandate.
36	<p>In any regulations passed to give effect to s.167, the Department should name the regulators with whom the Commission enjoys mutual cooperation relationships, whereby the s.167 registration process might be simplified as a result of this respect for the lead regulator.</p> <p>In instances of applications from charities regulated by charity regulators from another jurisdiction not mentioned in the regulations, the Charity Commission should be given leeway to carry out greater due diligence on a case-by-case basis before admitting institutions primarily regulated by these other regulators to the s.167 Register</p>	Possible Primary & Secondary Legislation	Requires further consideration	The Department will consider this along with other recommendations concerning s167.

No	Recommendation	Strategic Theme	Accept; Partially accept; Accept in principle; Requires further consideration; Reject	DfC Comment
37	<p>Upon the commencement of s.167, greater legislative clarity should be provided by the Department regarding the operation of the provision. To this end, further technical consideration is given to s.167 in Chapter 10 and further recommendations relating to s.167 will be made there.</p>	Possible Primary & Secondary Legislation	Requires further consideration	The Department will consider this along with other recommendations concerning s167.
38	<p>In relation to the red-flagging of accounts, the Review Panel recommends:</p> <p>The Commission should introduce a traffic light system that allows greater differentiation between filing defaulters.</p> <ul style="list-style-type: none"> • green flag for on-time submission • yellow flag for ‘slightly late’ (which at the Commission’s discretion could be one week or one month after the due date), and • red flag for all other defaulters. <p>The Panel recognises that the Commission may need to work with the CCEW which provides its registration system to enable this bespoke alteration to occur since this would need to be an ‘automatic’ setting in the reporting portal triggered by the filing date and not dependent upon manual changes. The Panel also recognises that such a system change is likely to give rise to cost and therefore recommends:</p>	Proportionality - annual reporting, compliance & enforcement	Accept	The Department appreciates that the implementation of this recommendation will signal a more proportionate approach to identifying the lateness of accounts being submitted. The Department concurs with the Panel in respect to this recommendation and understands the Commission has commenced scoping work to introduce a traffic light system. The Department will work with the Commission to prioritise and oversee implementation of this recommendation.
39	<p>In relation to lack of Commission feedback on submitted reports, the Panel recommends that:</p> <p>The Commission should provide greater feedback to charities through the completion of an increased rate of basic compliance checks.</p> <p>In respect of this recommendation the Panel recognises that its implementation is contingent upon the Department’s acceptance of Panel recommendations relating to reporting thresholds, discussed below. If the Panel’s recommendations regarding reporting thresholds were not to be adopted, then the Panel considers that the Commission would not have the capacity to give effect to this recommendation.</p>	Communication & Engagement	Accept in Principle	The Department will work with the Commission to develop potential options to improve feedback to charities.

No	Recommendation	Strategic Theme	Accept; Partially accept; Accept in principle; Requires further consideration; Reject	DfC Comment
40	<p>In relation to reporting regulations, the Review Panel recommends:</p> <p>The Department review the 2015 regulations and in addition to the existing power upon application to grant dispensation from audit, also give the Commission the power upon application to grant a dispensation from the requirement of preparing accrual accounts in favour of receipts and payments account when a charity experiences an exceptional year of income.</p> <p>The Panel believes the implementation of this recommendation would have a significant outcome for charities in that a charity experiencing an exceptional year of income (as a result of an unprecedented legacy, for example) which pushes it over its normal income threshold of less than £250,000 per annum could apply to the Commission for dispensation from the requirement to prepare accrual accounts in compliance with the Charity SORP.</p>	Possible Primary & Secondary Legislation	Requires further consideration	The Department will explore this recommendation further to ensure there would be no unintended consequences in implementing this recommendation before agreeing any necessary legislative changes that may be required either through Primary or Secondary legislation.
41	<p>In relation to reporting the Panel recommends - (Recommendations 41 and 42):</p> <p>The Commission should implement a proportionate approach to reporting. To achieve this the Review Panel recommends:</p>	Proportionality - annual reporting, compliance & enforcement	Accept	The Department supports and will undertake to ensure that a proportionate reporting framework exists for charities.
42	<p>The Minister bring forward amendments to the Charities Act 2008 and The Charities (Accounts and Reports) Regulations (NI) 2015 to enable the Commission to adopt a more proportionate, tiered approach to reporting for small charities to reduce their reporting burden. This should include:</p> <ul style="list-style-type: none"> • The removal of the requirement to file an annual statement of account and of the requirement for independent examination, • Charities in this bracket being required to complete an annual monitoring return and to complete an online financial template setting out basic financial information. 	Possible Primary & Secondary Legislation	Accept in Principle	<p>The Department will explore this recommendation and will report on findings, with the intention of Primary and Secondary legislation being introduced as required in the current mandate to reduce the reporting burden.</p> <p>This work will be undertaken in conjunction with work to introduce a registration threshold. It is likely that such relaxations will be required in any event as some charities which would fall below the threshold would still wish to be registered to avail of the benefits of registration. Such an eventuality is allowed for in the 2022 Act.</p>

No	Recommendation	Strategic Theme	Accept; Partially accept; Accept in principle; Requires further consideration; Reject	DfC Comment
43	<p>In relation to the financial threshold for reduced reporting requirements, the Panel recommends that:</p> <p>The Minister consult key stakeholders on whether the proposed threshold should be defined solely in terms of gross annual income or whether a combined income and assets threshold is required.</p> <ul style="list-style-type: none"> In terms of setting a possible income threshold (aside from the separate policy question of whether assets should also be considered), the income threshold should relate to a gross annual income of £25,000 or less. 	Possible Primary & Secondary Legislation	Requires further consideration	<p>The Department will include this recommendation in its considerations and will further examine the gross annual income of £25,000 or less threshold.</p> <p>This work will be undertaken in parallel with the work to introduce a registration threshold which will take priority.</p>
44	<p>To assist the Commission to apply proportionate reporting standards the Panel recommends that (Recommendations 44-46):</p> <p>The Department amend s.64 of the 2008 Act and the Charities (Accounts and Reports) Regulations (NI) 2015 to include content requirements as to the format of receipts and payments accounts and the statement of assets and liabilities.</p> <p>Note: This recommendation should not apply to those charities with annual income less than £25k as set out in recommendation 43 above.</p>	Possible Primary & Secondary Legislation	Requires further consideration	<p>The Department will include this recommendation in its considerations and reach a determination on implementation. It is likely an amendment of s64 of the 2008 Act would require Primary legislation. Any changes to the Accounts and Reports Regulations (Northern Ireland) 2015 could possibly be effected through Secondary legislation, however these are matters for further exploration by the Project Team.</p> <p>This work will be undertaken in parallel to work to introduce a registration threshold, which will take priority.</p>
45	The Department amend the definition of 'gross income' in s. 180 of the 2008 Act to provide greater clarity to charities as to its meaning.	Possible Primary & Secondary Legislation	Requires further consideration	<p>The Department will include this recommendation in its considerations. Such a change is likely to require Primary legislation.</p> <p>This work will be undertaken in parallel to work to introduce a registration threshold, which will take priority.</p>
46	The Department should prioritise the commencement of Part 11 of the Charities Act, and the associated regulations to introduce CIOs as a legal form option for charities.	Possible Primary & Secondary Legislation	Accept	<p>The Department will as a priority scope out the nature of the complex regulations which would need to be brought forward with the commencement of Part 11 of the 2008 Act. It is hoped that this legislation would be enacted in the current mandate, subject to the work required to introduce the registration threshold (see recommendation 26), in which case the regulations provided for in the 2022 Act would likely take priority. Work is already underway to understand the different approaches adopted in England and Wales and Scotland. This work will feed in to the Department's deliberations.</p>

No	Recommendation	Strategic Theme	Accept; Partially accept; Accept in principle; Requires further consideration; Reject	DfC Comment
47	<p>In relation to Commission Oversight of Charitable Accounts and Reports - (Recommendations 47-49):</p> <p>In light of Panel recommendations 41-46 which, if accepted will result in charities submitting and the Commission receiving less but better-quality financial data on an annual basis, allowing for more proportionate charity oversight and reducing the regulatory burden on charities, the Review Panel recommends that:</p> <p>The Commission develop an API (Application Programming Interface) to enable charities (or their third-party providers), particularly those in the £25,000 - £250,000 category, more easily to file their annual monitoring return (AMR) and ultimately their financial statements in the correct format.</p>	Proportionality - annual reporting, compliance & enforcement	Accept in Principle	The Department, working with the Commission, will scope the work required to implement this recommendation, which would likely require mandating a form of tagged spreadsheet as the format for every charity to submit accounts.
48	The Commission actively apply its Risk Assessment Framework to concentrate on protecting charitable assets at risk of mismanagement or misconduct where most risk exists to public trust and confidence.	Proportionality - annual reporting, compliance & enforcement	Accept	Work is progressing on the RAF and this is the intention behind its development.
49	The Commission should review how it communicates its existing written guidance and best practice on financial accounting and reporting to charity trustees to raise the level of charity trustee awareness of their responsibilities in this sphere and their general competence to deliver on those responsibilities.	Communication & Engagement	Accept	The Commission has included the implementation of this recommendation in its 2022/23 Business Plan. The Department will monitor the work of the Commission in developing appropriate education materials to ensure they provide the help needed for the sector to be compliant with its requirements under the legislation.
50	<p>In respect of Group Accounts - (Recommendations 50 and 51):</p> <p>The Department review Section 6(1)(b) of Schedule 6 of the 2008 Act with a view to amendment if it considers that the reference to asset threshold was in error.</p>	Possible Primary & Secondary Legislation	Accept in Principle	The Department will review Section 6(1)(b) of Schedule 6 of the 2008 Act and will make recommendations on whether amendment is necessary. Such an amendment will likely require Primary legislation.

No	Recommendation	Strategic Theme	Accept; Partially accept; Accept in principle; Requires further consideration; Reject	DfC Comment
51	<p>The Department review and amend the current audit threshold for group accounts.</p> <p>In this respect, Panel believes that the Scottish approach to the audit requirement for connected charities is an interesting approach and recommends that the Department, in consultation with the Commission, consider its adoption.</p>	<p>Proportionality - annual reporting, compliance & enforcement / Possible Primary & Secondary Legislation</p>	<p>Accept</p>	<p>The Department will examine the Scottish approach to audit and will make recommendations on any legislative amendments required and the suitable legislative vehicle for making such amendments.</p>
52	<p>The Commission should review the information requested of charities during the registration process with the aim of speeding up registrations and ensuring only required information is sought from charities.</p>	<p>Registration</p>	<p>Accept</p>	<p>The Department is aware that the Commission has taken steps to streamline the process as part of the registration pilot. The Department will seek to build on this work with the Commission to ensure that only what is strictly necessary is requested during the registration process. The Commission may need a 2-tier registration system depending on the size of the charity to balance speed and ease of registration, and receiving the appropriate risk information to allow for proportionate regulation. This work will be undertaken in parallel to work to introduce a registration threshold. The Project will oversee this work.</p>
53	<p>The Commission should review and improve its communications about compliance to ensure -</p> <ul style="list-style-type: none"> • That there is clarity about the types of concerns that the Commission can pursue and those that it cannot and in cases where concerns have been raised, the Commission provides direct feedback with assurance they have been followed through, and • That there is clarity in communications with charities about the nature of a compliance issue, definition of the nature of the problem and clearly set out steps that could be taken to resolve the situation. <p>In respect of this recommendation the Panel is conscious of the anxiety that can be caused to trustees and others when concerns are being responded to by the Commission. Having clear information should assist them.</p>	<p>Communication & Engagement</p>	<p>Accept</p>	<p>The Commission has included this recommendation as work to be taken forward in their 2022-23 Business Plan. The Department will monitor the work of the Commission in developing appropriate communication tools to explain the Commission's approach to their investigation of concerns.</p>

No	Recommendation	Strategic Theme	Accept; Partially accept; Accept in principle; Requires further consideration; Reject	DfC Comment
54	<p>The Commission should use its Risk Assessment Framework to move towards a truly risk-based assessment system in which proportionate regulation is manifested through a reduction in Commission scrutiny of compliant charities, particularly smaller charities, that continue to meet the basic required registration and annual reporting benchmarks.</p> <p>In respect of this recommendation the Panel believes that by adopting this approach the Commission will free up its limited resources to focus on charities where the Risk Assessment Framework indicates greater risk exists</p>	Proportionality - annual reporting, compliance & enforcement	Accept	Work is progressing on the RAF and this is the intention behind its development. The Department will work with the Commission to consider work to date and any future development required to maximise the potential of the RAF.
55	The Commission should view a warning power, should it be agreed, as the final opportunity for a charity to choose to comply and therefore should approach the warning as an enabling tool.	Possible Primary & Secondary Legislation	Requires further consideration	The Department will work with the Commission and the sector to consider the inclusion of a statutory warning power in any proposed Primary legislation.
56	<p>The Commission reviews communications specifically with reference to anonymising letters, emails etc. to ensure:</p> <p>a. that correspondence is issued in the name of a relevant case worker or line manager where there is no security issue. The Panel further recommends that this policy should be reviewed annually and practice amended accordingly; and</p> <p>b. that where security issues are of concern, that correspondence indicates a named or clear point of contact at senior management level for those in receipt of communications.</p>	Communication & Engagement	Accept	The Commission has assured the Department that the implementation of this recommendation is already in train. Any further necessary steps will be considered by the Department.
57	The Commission review and improve written records of the decision-making process in relation to statutory inquiries, record keeping and file management to ensure best practice standards apply and that manuals are updated on an ongoing basis as experience grows.	Proportionality - annual reporting, compliance & enforcement	Accept	The Department concurs with this recommendation and appreciates that the Commission have adopted a learning approach which is evidenced by updating manuals and processes over recent years. The Department will monitor the Commission's implementation of this recommendation.

No	Recommendation	Strategic Theme	Accept; Partially accept; Accept in principle; Requires further consideration; Reject	DfC Comment
58	<p>The Commission should review long running inquiries with a view to reaching the necessary decisions to close them out in a timely and effective fashion.</p>	<p>Proportionality - annual reporting, compliance & enforcement</p>	<p>Accept</p>	<p>The Department understands that the Commission have closed all long running inquiries in the months since the completion of the review.</p>
59	<p>That the Commission explores new, more streamlined ways of sharing learning from compliance cases, outside of the traditional thematic report format, for example through social media and other virtual learning platforms to widen outreach for its compliance learnings.</p> <p>In this respect, the Panel draws attention to the IT aspect of the Transformation Project which is still being developed and the opportunity that may exist to build-in learning that can be reproduced with ease and without significant resource being applied.</p>	<p>Communication & Engagement</p>	<p>Accept</p>	<p>The Department will monitor the work of the Commission in implementing this recommendation in a timely manner.</p>
60	<p>The Commission review its operating procedures to ensure that staff are fully briefed on the nature and format of material that Commissioners need to exercise the full scope of their powers effectively.</p> <p>In respect of this recommendation, the Panel emphasises that for the Commissioners to exercise their responsibilities they should be fully informed and able to engage in deliberative decision-making in a manner that properly records the procedures followed and the reasons for the decisions reached.</p>	<p>Proportionality - annual reporting, compliance & enforcement</p>	<p>Accept</p>	<p>The Department agrees with this recommendation and the Commission should therefore examine the current arrangements for ensuring staff are aware of the nature and format of material required by Commissioners to exercise their powers. The Department will monitor the implementation of this recommendation.</p>

No	Recommendation	Strategic Theme	Accept; Partially accept; Accept in principle; Requires further consideration; Reject	DfC Comment
61	<p>The Schedule 1 process continue with regards to Commissioners’ exercise of reserved powers post the passage of the Charities Bill 2021 and its proposed scheme of delegation.</p> <p>In respect of this recommendation, the Panel is conscious that when a Scheme of Delegation has been put in place some powers will be reserved to Commissioners. To facilitate the deliberative space needed to fully interrogate cases that come before the Commissioners for decision it is important that the Schedule 1 Committee process remains in place for the exercise of these reserved powers.</p>	The Board	Accept	The 2022 Act requires that some decisions will always be taken by the Commission or a Committee established under Schedule 1 of the 2008 Act. The Department is supportive of the current Schedule 1 Committee process continuing for those decisions reserved for the Commission.
62	The Commission should report on the implementation of its Action Plan arising out of Independent Counsel’s final report in its published Annual Report. The Panel also recommends that the Department seeks ongoing assurance from the Commission on progress on the implementation of the Action Plan as part of its quarterly accountability meetings with the Commission.	Relationship between the Department and the Charity Commission	Accept	The Department agrees that in the interest of openness and transparency it is only right that the Commission reports on the implementation of its action plan arising from the report by Independent Counsel. The Department therefore appreciates that the Commission has published the action plan on its website, which is updated quarterly as progress is made against actions and reported to the Board. An update on progress on the implementation of the Action Plan is also a standing agenda item for the quarterly accountability meetings between the Department and Commission.
63	<p>To assist the Commission to regulate in an effective and proportionate manner the Review Panel recommends:</p> <ul style="list-style-type: none"> • In line with best practice elsewhere, the Commission should revise its approach of automatically naming charity trustees in its statutory inquiry reports. • Expanding the scope of the power to remove trustees to include those trustees who have resigned from office. This power should be reserved to Commissioners. • A power granted to the Commission to issue directions to trustees not to undertake certain actions. This power should be delegated to staff. 	Proportionality - annual reporting, compliance & enforcement	Accept	<p>The recommendation to revise the approach to automatically naming trustees in statutory inquiry reports is being determined by the Board.</p> <p>The Department will include the power to remove trustees who have resigned from office and also to issue directions to trustees not to undertake certain actions in any Primary legislation to be taken forward in the current mandate.</p>

No	Recommendation	Strategic Theme	Accept; Partially accept; Accept in principle; Requires further consideration; Reject	DfC Comment
64	<p>The Department consult appropriately on the possible introduction of an official warning power and whether it should be treated as a reserve power of the Commissioners or exercisable by Commission staff.</p>	Possible Primary & Secondary Legislation	Accept	The Department will consider the inclusion of a statutory warning power in any proposed Primary legislation.
65	<p>The Commission should, when reviewing its internal review process, mirror the flexibility provided by OSCR’s approach to who reviews what decisions within the Commission.</p> <p>The Panel is aware that OSCR’s approach enables peer and superior review of decisions right up to Board level, providing greater opportunities for dispute resolution without the additional time and cost associated with a tribunal appeal. The Panel will return to the powers of Commissioners in Chapter 10.</p>	Proportionality - annual reporting, compliance & enforcement	Accept	The Department concurs with this recommendation and believes the implementation of this recommendation will help to reduce the number of appeals to the Tribunal and lead to a more proportionate response from the Commission for charity trustees. The Department is aware of ongoing work within the Commission in this regard and will monitor progress.
66	<p>The Department should collaborate with the Department of Justice with a view to amending Charity Tribunal Rules (NI) 2010 to allow a stay to be sought when a Commission decision review is underway.</p> <p>In respect of this recommendation, the Panel is concerned that there should be speedy access to justice.</p>	Possible Primary & Secondary Legislation	Accept	Officials have met with the Department of Justice (DoJ) officials who have agreed to raise this recommendation with an incoming Minister, with a view to consulting on its implementation in the current mandate. The Department will make early contact with DoJ officials in this regard.
67	<p>The Commission should extend the time limit for initiating a Commission decision review to a period longer than three months.</p> <p>In respect of this recommendation the Panel believes the current time limit for bringing cases is considered to be too short (42 days). It gives trustees limited time to make decisions and fails to reflect the reality that many trustee meeting cycles operate on a monthly or quarterly basis. It would allow for many charities’ quarterly trustee meeting cycles, allow decisions on taking action to be made after due reflection and allow charities without the benefit of staff a longer period to prepare their case, thereby facilitating access to justice.</p>	Proportionality - annual reporting, compliance & enforcement	Accept	The Department supports this recommendation and the Project will consider it in conjunction with recommendations 65 and 66 to ensure that the appeal and review process is as simple and timely for charities and trustees.

No	Recommendation	Strategic Theme	Accept; Partially accept; Accept in principle; Requires further consideration; Reject	DfC Comment
68	There be no change to the Tribunal's jurisdiction as defined in Schedule 3 of the Charities Act (NI) 2008.	Proportionality - annual reporting, compliance & enforcement	Accept	The Department agrees with this recommendation, however it will investigate any implications arising from the introduction of a registration threshold.
69	The Commission improve communication with the Courts Service of NI, the Law Society of NI and the Bar Council of NI to bring the existence of s.54(2) of the 2008 Act to the wider attention of these various stakeholders to enable its effective application.	Communication & Engagement	Accept	This recommendation stemmed from an observance by the Charity Commission that the Courts had heard cases which had impacts on an organisation's status as a charity but where the Commission had not been made aware by the Courts of the case. S.54(2) provides that no charity proceedings relating to a charity shall be entertained or proceeded with in any court unless the taking of the proceedings is authorised by order of the Commission. The Department will monitor implementation of this recommendation.
70	The Minister should make provision for staggered appointments, where possible, to the Charity Commission. In respect of this recommendation the Panel is conscious of the loss of institutional knowledge that can occur on a Board when all appointments expire simultaneously.	Relationship between the Department and the Charity Commission	Accept	The Department will ensure appointments to the Board are staggered over future years to ensure loss of institutional knowledge is minimised.
71	Commissioners review the Terms of Reference for Schedule 1 Committees with a view to making them as effective and efficient as possible. In respect of this recommendation the Panel is conscious of the length of time likely to be required for legislation to effect practice on the ground and even when such legislation is agreed.	The Board	Accept	The Department is committed to consulting on the first Scheme of Delegation as required in the 2022 Act. Any Scheme of Delegation and the introduction of a registration threshold will likely have implications on the time commitment of Commissioners on Schedule 1 Committees. The Department is aware that the Commission has already reviewed its procedures in this regard and the Department, together with the Commission will revisit this issue should a Scheme of Delegation be introduced and once the registration threshold is operational.
72	The Panel is also conscious of staff required to attend Schedule 1 Committee meetings and further recommends that (see 72-80): Commissioners should consider, when reviewing Terms of Reference for Schedule 1 Committees, the staff attendance requirement for such meetings.	The Board	Accept	Whilst the Commission has already made changes which limit the numbers of staff tending to Schedule 1 Committees, this recommendation is linked to recommendation 71 and will also be reviewed.

No	Recommendation	Strategic Theme	Accept; Partially accept; Accept in principle; Requires further consideration; Reject	DfC Comment
73	The annual strategic meeting between the Minister and the Board should recommence as soon as possible.	Relationship between the Department and the Charity Commission	Accept	The strategic direction of the Minister is paramount to how the Commission plans its work over the coming months and years. The Department agrees with this recommendation and will make arrangements as soon as is practicable.
74	The Commission’s Board Effectiveness Review exercise be completed on three-yearly cycles in line with the UK Corporate Governance code (2018).	The Board	Accept	The Department acknowledges the value externally facilitated Board Effectiveness Reviews add to help a Board to reflect, grow and improve. The next external Board Effectiveness Review is due to be undertaken in March 2024.
75	The Commission should keep the composition of the Stakeholder Forum under review to ensure a diverse body of stakeholders have an opportunity to be heard, including those awaiting registration and those newly registered.	Communication & Engagement	Accept	The Department wholeheartedly endorses this recommendation. The Department is aware that the Commission has already established the Stakeholder Forum and keeps membership constantly under review, with the latest meeting scheduled to consider its first year of operation and broadening its membership.
76	The Commission, in tandem with the Department should document the new partnership arrangements, roles and responsibilities for future relationships with the Department in a new Partnership Agreement.	Relationship between the Department and the Charity Commission	Accept	The new Partnership Agreement between the Department and the Commission is at an advanced stage and is anticipated to be signed off in the current financial year.
77	The Minister, in conjunction with the Commission, review the composition of, skills required for, and size of the Board to ensure proper resourcing for the tasks flowing from this report, and any amended legislation or standards.	The Board / Possible Primary & Secondary legislation	Accept	Changes to the size and composition of the Board may require Primary legislation as s6 of the 2008 Act is quite specific as to the requirements. The Department will consider this matter in detail which will include a skills review with a view to making recommendations to the Minister.
78	The Commission and Department implement the practice of the CRA in co-opting external experts to Board committees as an effective option for enhancing Board skills and proceed to make provision for this to commence as soon as possible.	The Board / Policy Development	Accept in Principle	The Department is committed to working with the Commission to conduct a full skills audit of the Board and its Committees with a view to plugging any gaps and exploring as appropriate the co-opting of individuals with required skills to increase the Commission’s capacity.

No	Recommendation	Strategic Theme	Accept; Partially accept; Accept in principle; Requires further consideration; Reject	DfC Comment
79	<p>The Department should formally review the metrics by which it measures the Commission’s performance so that there is greater focus on outcomes rather than simply outputs and greater discussion of how the actions of the Commission in a given year have contributed substantively to the achievement of its statutory objectives.</p>	<p>Relationship between the Department and the Charity Commission</p>	<p>Accept</p>	<p>The Department acknowledges that it needs to look wider and outwards in respect to how it assesses the performance of the Commission and not to rely solely on the Commission's reporting of its performance in its Annual Report. The Department has established a Planning and Partnership Strategic group consisting of departmental officials, Commissioners, Commission staff and sectoral representatives, which will meet throughout the year and will permit the Department and the Commission to hear directly from sectoral representatives how they perceive the Commission to be performing. The Department will also work with the Commission to move to an outcomes focus to reporting in its Annual Report rather than an outputs approach. We will also benchmark against other regulators in other jurisdictions, whilst acknowledging the legal and operating contexts are different.</p>
80	<p>The Department should review and revise the legislative provisions relating to information sharing between the Department and the Commission to enable Commission staff to share information with the Department in the spirit of s.8 without the need for a Schedule 1 Committee to meet.</p>	<p>Relationship between the Department and the Charity Commission</p>	<p>Accept</p>	<p>This matter will be considered in respect of the prospective introduction of a Scheme of Delegation. A consequence of the findings in the McBride High Court ruling was that the staff of the Commission did not have the delegated power to routinely share regulatory information with the Department, requiring any sharing to be agreed by a Schedule 1 Committee.</p>
81	<p>The Panel is conscious of the significant role the Department plays in providing a policy framework for the Commission and ensuring legislation is fit for purpose. This leadership role is critical for good regulation and so we recommend that (see 81-83) :</p> <p>The Department should consider and plan for how it can provide greater, visible leadership in, and ownership of, the policy and regulatory framework for charities.</p> <p>In respect of this recommendation the Panel is concerned that the Department be able to demonstrate to all stakeholders including the Commission that it has the skills and expertise to ensure that policy is developed and kept up to date against best practice.</p>	<p>Policy development</p>	<p>Accept</p>	<p>A skills audit and development plan for staff working in the charities policy and legislation team will be undertaken. Following this staff will undertake the necessary training required to ensure that their skills remain up to date and fit for purpose.</p>

No	Recommendation	Strategic Theme	Accept; Partially accept; Accept in principle; Requires further consideration; Reject	DfC Comment
82	<p>The Department should examine flexible options to significantly enhance its own expertise regarding charity law and policy including knowledge of developments in the Republic of Ireland, Scotland and England and Wales.</p> <p>In respect of this recommendation the Department should extend its engagement to include other representatives in the charity sector and relevant government and regulatory peers in neighbouring jurisdictions.</p>	Policy development	Accept	The Department recognises the value of learning from other jurisdictions and commits to re-engaging with its counterparts in England & Wales, Scotland and Ireland in order to ensure policy is developed and kept up to date with developments elsewhere. The Department is conscious of legislation progressing in other jurisdictions and the Department will explore ways to close these gaps.
83	The Department should monitor the implementation by the Commission of the agreed recommendations of the Review Panel's Report.	Policy development	Accept	The Department sees this recommendation as key to ensure the delivery of the Panel's recommendations in an open and accountable way. The Department will work closely with the Commission to ensure delivery on these recommendations. The Commission will report progress regularly through the normal Commission / Departmental reporting framework.

No	Recommendation	Strategic Theme	Accept; Partially accept; Accept in principle; Requires further consideration; Reject	DfC Comment
84	<p>The Department should advance, as a matter of priority, the necessary regulations to give effect to Part 11 of the Charities Act (NI) 2008. The Panel also recommends that staggering the availability of this legal form so that priority is given firstly to those unincorporated charities on the combined list awaiting charity registration, then to unincorporated registered charities who wish to convert to a CIO before extending consideration to incorporated charities who wish to convert to a CIO (and again, prioritising those incorporated entities on the combined list awaiting call forward for registration).</p> <p>The Panel is mindful that the introduction of the CIO form will require the Commission to devote some time and energy to setting out registration and conversion procedures and a reallocation of tasks between Commission staff may be required to accommodate the processing of this new legal form. Notwithstanding this observation, the Panel is reassured by the experiences of both OSCR and CCEW that the introduction of the CIO should not overwhelm the capacity of the Regulator to deliver on its statutory functions.</p>	Possible Primary & Secondary Legislation	Accept	<p>This recommendation is linked to recommendation 46. The Department will as a priority scope out the nature of the complex regulations which would need to be brought forward with the commencement of Part 11 of the 2008 Act. In doing so it will take into consideration the Panel's recommendation on staggering. It is hoped that this legislation would be enacted in the current mandate, subject to the work required to introduce the registration threshold (see recommendation 26), in which case the regulations provided for in the 2022 Act would take priority. Work is already underway to understand the different approaches adopted in England and Wales and Scotland. This work will feed in to the Project's deliberations.</p>
85	<p>The Panel further recommends: The Department and the Commission take up the offers of assistance from both CCEW and OSCR to share experience on drafting CIO regulations as well as operational insights in managing their registration and regulatory oversight.</p>	Possible Primary & Secondary Legislation	Accept	<p>The Department welcomes this recommendation and the offer of assistance from CCEW and OSCR. The Department will seek early engagement in the current mandate to gain knowledge of both CCEW and OSCR's experiences of introducing CIO's.</p>

No	Recommendation	Strategic Theme	Accept; Partially accept; Accept in principle; Requires further consideration; Reject	DfC Comment
86	<p>Recommendations about S167 (see 86-89) : The Department should commence s.167 when it has completed the following tasks -</p> <ul style="list-style-type: none"> • reviewed and amended the language of s.167 to clarify the organisations that fall within its remit and the scope of activities that may trigger a requirement to register. • make prior registration with a charity regulator in another jurisdiction a precondition to applying for registration under s.167. • amend the regulations to s.167 to name the regulators to whom the amended regulation applies. • consider how the regulations can give leeway to the Commission to carry out greater due diligence, on a case-by-case basis, to consider applications from foreign charities primarily regulated by regulators not named in the legislation before admitting these charities to the s.167 register. • consider how to revise the wording so there is a better definition of the issues s.167 is intended to prevent. 	Possible Primary & Secondary Legislation	Requires further consideration	<p>For recommendations 86-89: The issues with the drafting of s.167 have been known for a number of years and the Project will explore a potential amendment to the 2008 Act before commencing this section of the legislation. The Panel's in depth exploration of this area is welcomed and provides a solid evidence base to consider additional changes that could be considered to improve the functioning of this provision before it is enacted.</p>
87	The Department should consult with the Commission on whether there should be a de minimis threshold of operations below which either the Commission should be able to refuse a s.167 registration request, or a prospective applicant would know that registration was not legally required (but might be optionally sought) because of its limited activity in NI.	Possible Primary & Secondary Legislation	Accept	
88	The Department should consult with stakeholders regarding revision of language in s.167 and the regulations to ensure reporting requirements and enforcement powers are clearly articulated.	Possible Primary & Secondary Legislation	Accept	
89	The Department should consider further and clarify the purpose of regulation under s.167 and, in conjunction with stakeholders, assess necessary and proportionate reporting requirements, clear articulation of policy regarding regulation of s.167 charities in terms of powers available to the Commission to maintain public confidence in the operation of the sector as a whole.	Possible Primary & Secondary Legislation	Accept	

No	Recommendation	Strategic Theme	Accept; Partially accept; Accept in principle; Requires further consideration; Reject	DfC Comment
90	<p>Recommendations about Delegation (see 90-93):</p> <p>In line with best international practice, the Department legislate for and develop a Scheme of Delegation allowing Commissioners to be more strategic in their involvement in Commission decisions.</p>	Policy development	Accept	The Department has already legislated for a potential Scheme of Delegation to be introduced through the 2022 Act. Whilst the Department accepts this recommendation the first Scheme is subject to public consultation and will only be developed should that consultation support it.
91	<p>The Department consider an approach similar to that for CCEW when drafting a Scheme of Delegation. In respect of this recommendation, the Panel sees value in the English regulatory approach whereby CCEW can reserve to itself regulatory decisions, and decisions on policy guidance where these are considered to be high risk, high profile, or precedent setting.</p>	Communication & Engagement	Accept	The Department has considered the CCEW approach in developing consultation materials for a prospective Scheme of Delegation.
92	<p>The following matters be reserved to the Commission:</p> <ul style="list-style-type: none"> • decisions relating to suspension or removal of trustees • decisions relating to the appointment of an interim manager, and decisions relating to the initiation of statutory inquiries (whether to be conducted by Commission staff or externally appointed investigators) <p>In respect of this recommendation the Panel believes that, given the knowledge and expertise of staff within the Commission, in all matters reserved to the Commission, Commissioners should enjoy the advice and guidance of staff.</p>	Proportionality - annual reporting, compliance & enforcement	Accept	The Department agrees with this recommendation. These matters have been reserved to the Commission in the 2022 Act.
93	<p>The Department should take note of powers reserved to the Commission and fulfils its statutory responsibility to ensure that suitably qualified individuals are appointed to the Board of the Commission who will have the necessary skill sets and time to properly make the decisions required of them.</p>	The Board	Accept	Officials will work collaboratively with the Commission, and the Central Appointments Team within the Department to ensure the right individuals with the right skill sets are recruited to the Commission as the next vacancies arise.

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