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Scheme of Delegation for The Charity Commission for Northern Ireland

February 2025

1. Introduction

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

2. Definitions

2.1 The following definitions are applicable for this document:

- “The Commission” - as defined by section 6 of the 2008 Act or a decision making Committee established in accordance with Paragraph 9, Schedule 1 of the 2008 Act.
- “CEO” – the Chief Executive of the Commission.
- “SMT” – any member of the **Senior Management Team** of the Commission.
- “Staff” – as defined by section 1(11) of the 2022 Act.
- “the Department” – the Department for Communities.

3. Operation of the Scheme

- 3.1 Commission staff may take any decision in the furtherance of the Commission's objectives, functions and duties as stipulated at sections 7, 8 and 9 of the Charities Act (Northern Ireland) 2008, except where a decision is proscribed by paragraph 9A(2) of Schedule 1 to the 2008 Act or is otherwise reserved for the Commission or its Senior Management Team in Annexes A and B of this Scheme of Delegation.
- 3.2 Where the Scheme does not allow for delegation of a regulatory decision to staff, they may conduct all the research and other administrative acts required before bringing a recommendation to the decision maker.
- 3.3 Where the Scheme allows delegation of a regulatory decision to staff, all the administrative actions and decisions associated with that decision may also be conducted by staff.
- 3.4 Decisions cannot be delegated below the specified level as set out in this Scheme. Decisions, however, can be escalated above the specified level of delegation in this Scheme. The Commission may take any decision whether delegated or not.
- 3.5 A person appointed by the Commission to either conduct a statutory inquiry and make a report to the Commission under s22(2) of the 2008 Act may be a member of Commission staff. However, the regulatory decisions falling out of that inquiry must be taken by the Commission in accordance with paragraph 9A(2) of Schedule 1 to the 2008 Act.
- 3.6 Where the Commission institutes an inquiry under s22(1), and does not appoint a person to conduct the inquiry under s22(2) but determines to conduct the inquiry itself, the decision to issue directions under s22(3) may be delegated by the Commission to a staff member. Where the Commission conducts an inquiry under s22(1) it may delegate the administering of the oath or the power to require a person to make and subscribe a declaration of the truth under s22(4) to a Commissioner.
- 3.7 The Annexes to this Scheme of Delegation indicate which decisions are reviewable and appealable to the Charity Tribunal, in accordance with Schedule 3 to the 2008 Act. However, all decisions may be subject to the Commission's internal review process, which can be found **here**.
- 3.8 The first Scheme will be formally reviewed two years after being made and every five years thereafter, but can be reviewed at any time should the Minister for Communities determine that a significant change is proposed or at any other time should they believe it to be in the public interest.

DECISIONS, ORDERS & DIRECTIONS OF THE COMMISSION WHICH HAVE BEEN COMMENCED

Section	Decision (D), Order (O), Direction (DR) or Other (OR)	Authority delegated to:	Charity Tribunal - Appeal rights (A) or Review (R) or Not Appealable (NA) in accordance with Schedule 3 of the 2008 Act
1(4)	(DR) Direction that for all or any purposes of the 2008 Act an institution established for any special purposes of or in connection with a charity (being charitable purposes) shall be treated as forming part of that charity or as forming a distinct charity	Staff	A – decision not to give such a direction
1(5)	(DR) Direction that two or more charities having the same trustees shall be treated as a single charity	Staff	A – decision not to give such a direction
4	(OR) Must issue guidance in respect of public benefit, revise any such guidance, carry out consultation and publish any such guidance	The Commission	NA
10	(OR) The power to do anything which is calculated to facilitate, or is conducive or incidental to, the performance of any of its functions or general duties	Staff	NA
16	(D) To enter or not to enter an institution on the register or remove or not remove an institution from the register	Staff	A – decision to enter or not to enter an institution on the register or remove or not remove an institution from the register
16(9)	(D) To make or not to make a determination under s16(9) that certain information contained on the register as specified in the determination, shall not be open to public inspection (as s16(7) will not apply to that information)	Staff	A – decision not to make a determination under section 16(9) in relation to particular information contained in the register
20	(DR) Requiring a name change of a charity	Staff	A – direction requiring the name of charity to be changed
22(2)	(D) To conduct an inquiry or appoint a person to conduct it and make a report to the Commission	The Commission	NA
22(3)	(DR) Direction to (a) produce accounts/statements and verify by statutory declaration (b) produce copies of documents and verify by statutory declaration (c) attend to give evidence or produce documents	The person appointed by the Commission under s22(2)	NA
22(4)	(OR) For the purpose of an inquiry, may administer oaths, or require a person to make, and subscribe to, a declaration of truth of the matters about which the person has been examined	The person appointed by the Commission under s22(2)	NA

23	(O) For production of information or documentation	SMT	A – order requiring a person to supply information or documents
24	(D) Disclosure of information to any public body or office-holder insofar as it relates to the exercise of the Commission's functions and enabling the performance of the public body/office-holders functions	SMT	NA
26(4)	(OR) Cy-près powers to alter the purposes for which property is to be applied or alter the provisions and conditions governing the application of property comprised in a charitable gift	SMT	NA
27(4)	(O) To direct that certain property is to be treated as belonging to donors who cannot be identified	SMT	NA
27(6)	(DR) To direct donor entitlement in specified instances where donors make claims on property applied cy-près	SMT	NA
29	(D) To make schemes to apply property cy-près and (D) Make schemes in respect of gifts for mixed purposes	SMT	NA
31(1)	(O) Exercising powers as are exercisable by the High Court in respect of schemes of administration, removing, appointing etc. a trustee or employee, vesting or transferring property etc.	The Commission	A – order made under section 31
32(1)	(D) Settling a scheme for the administration of a charity (altering a provision made by an Act of Parliament etc.)	The Commission	NA
32(8)	(O) To authorise trustees to apply accrued income at their discretion where the accrued income cannot be applied effectively for the purposes of the charity	SMT	NA
39(4)	(D) Make a determination that the publicity requirement in 39(2) does not apply in relation to a scheme if compliance with the requirement is unnecessary	Staff	NA
46	(O) To sanction action taken in the administration of a charity that is deemed to be in the interests of that charity e.g. enter into a transaction, apply property etc.	Staff	R – not to make such an order
47	(O) To exercise the same power as the Attorney General with regard to the application of charity property	The Commission	NA
48	(DR) Transfer of monies in respect of dormant charity bank accounts	Staff	A – direction given under section 48
49	(D) Provide advice or guidance to trustees	Staff	NA
50	(D) To determine the membership of a charity	SMT	NA
52(1)	(OR) For the purpose of a section 22 inquiry, obtain a warrant from a lay magistrate to authorise a staff member to carry out actions in accordance with s52(3)	The Commission	NA
53	(OR) Decision to take legal proceedings in respect of charities or the compromise of claims with a view to avoiding or ending such proceedings	The Commission	NA
54	(O) Authorising the decision by other persons to take legal proceedings with reference to a charity	The Commission	NA
55	(OR) Issue a certificate to prove that a copy of a section 22 report is a true copy for admittance in court	SMT	NA
56	(OR) Application to the court in respect of moveable property relating to a charity registered in England, Wales or Scotland	Staff	NA
63(4)	(D) Consenting to the destruction of accounting records	Staff	NA
65(2)	Linked to 65(2): 'The Charities (Accounts and Reports) Regulations (Northern Ireland) 2015' Regulation 27: (OR) Dispense of the requirement to have an audit carried out on the charity accounts or charity group accounts where they exceed the audit threshold in the case of a particular charity or a particular year	SMT	NA
65(6)	(O) Requiring the accounts of a charity to be audited	SMT	A – order made under section 65(6)

65(9)	(OR) Give guidance to trustees in connection with the selection of independent examiner or (DR) Give directions relating to an independent examination	Staff	NA
66(2)	(O) Giving directions to the facilities to be provided to an auditor or independent examiner to ensure a default is made good	SMT	A – the making of an order or not making the order
68(3)(b)	(D) Allowing an extension of time for the submission of annual reports	SMT	NA
69(2)	(DR) In relation to the public inspection or not of an annual report and accompanying documents	Staff	NA
69(4)	(DR) In relation to a request by any person to be provided with charity documentation such as annual reports	Staff	NA
70(3)	(D) To dispense with the requirement to prepare an annual return in the case of a particular charity or a particular class of charities, or in the case of a particular financial year of a charity or of any class of charities	SMT	A – decision to dispense or not to dispense of the requirement to prepare an Annual Monitoring Return
86(4)	(D) To waive or not waive a person's disqualification for being a charity trustee	The Commission	A – decision to waive or not to waive, a person's disqualification
87(4)	(O) To repay any expenses or remuneration received when automatically disqualified under section 86	Staff	A – making of an order to repay remuneration received
90(5) or (6)	(O) Requiring a trustee or connected person to repay or not receive remuneration	Staff	A – making of an order requiring a trustee or connected person to repay, or not to receive remuneration
91(2)	(O) To relieve trustees, auditors, reporting accountant or independent examiners from liability for breach of trust or duty	SMT	NA
96(2)	(D) To give or not to give prior written consent to any regulated alteration by a company	Staff	A – decision to give or withhold consent
98(1)	(D) Provide prior written consent required for approval etc. by members of charitable companies	Staff	A – decision to give or withhold consent
99	(D) Provide prior written consent for specified acts of a charitable company	Staff	NA
104(1)	(O) Investigation and audit of accounts of a charitable company	Staff	R – making of order under s104(1)
104(5)	(O) Requiring facilities for an auditor	Staff	NA
123(6)	(DR) To give public notice of a trustee resolution	Staff	NA
123(7)	(DR) To direct trustees to provide more information in respect of a trustee resolution	Staff	NA
123(11)	(O) To vest property of the transferor charity in the transferee charity, in its charity trustees or in any trustee for that charity, or in any other person nominated by charity trustees to hold property in trust for that charity at the request of the trustees	Staff	NA
124(2)	(D) Objecting to a resolution made by charity trustees under sections 123(2) or 126(2)	Staff	A – decision to notify charity trustees that it objects to the resolution under sections 123(2) or 126(2)
125(10)	(D) Guidance in respect of the operation of s123 where a charity within s123(1) has a permanent endowment	Staff	NA
126(7)	(DR) That charity trustees give public notice of a resolution	Staff	NA
126(8)	(DR) That trustees provide additional information or explanations in respect to a resolution	Staff	NA
129	(D) Not to concur with a trustee resolution made under sections 129(3) or 130(2)	Staff	A – decision not to concur with a resolution of charity trustees under sections 129(3) or 130(2)
129(6)	(DR) Charity trustees to give public notice of a resolution	Staff	NA

129(7)	(DR) Charity trustees to provide more information in respect of larger incorporated charities spending capital given for a particular purpose	Staff	NA
129(10)	(D) In respect of the powers of larger unincorporated charities to spend capital given for a particular purpose - to concur or not concur with a resolution	The Commission	NA
161	(D) The establishment and maintenance of a register of charity mergers	Staff	NA
166(1)	(D) Whether to make designation as a religious charity	The Commission	A – decision to refuse designation as a religious charity
166(4)	(D) To determine that the condition in section 166(3)(c) (has been established in NI for at least 5 years) need not be satisfied	The Commission	NA
166(5)	(D) To withdraw designated religious charity status	The Commission	A – decision to withdraw the designation of a charity as a designated religious charity
172(4)	(OR) Impose charges of such amounts as it considers reasonable in respect of the supply of any publications produced by it	SMT	NA
173(1)	(O) To give directions to a person who has failed to comply with any requirement imposed by or under the 2008 Act, such directions being designed to make good the default	SMT, except where the original order was made by the Commission	NA
174	(OR) Where a person guilty of disobedience of orders of the Commission, may by application to the High Court by the Commission be dealt with as for disobedience to an order of the High Court	The Commission	NA
175(3)	(OR) To discharge an order, in whole or in part, within 12 months of making it if satisfied the order was made by mistake, on misrepresentation or not in conformity with the 2008 Act	SMT, except where the original order was made by the Commission	NA
175(5)	(O) Any order made by the Commission may be varied or revoked	SMT, except where the original order was made by the Commission	NA
176(1)	(DR) To vary or revoke a direction given by the Commission by further direction	The same group, staff, SMT, or the Commission that issued the first direction	NA
Sch 1 para 4(1)	(OR) Staffing Structure - The Commission may with the approval of the Department for Communities (DfC) and the Department of Finance (DoF) as to numbers and as to remuneration and other terms and conditions of employment (a) employ such staff as the Commission considers necessary (b) employ the services of such other person as the Commission considers expedient for any particular purpose	SMT within a structure agreed by the Commission	NA
Sch 1 para 4(2)	(OR) The Commission may, in the case of such of its staff as may be determined by it with the approval of the DfC and the DoF, pay such pensions, allowances or gratuities, or provide and maintain such pension schemes, as may be so determined	The Commission	NA
Sch 1 para 5	(OR) The Commission may make arrangements with the DfC for persons employed in the Northern Ireland Civil Service to be seconded to the Commission	SMT within a structure agreed by the Commission	NA
Sch 1 para 9	(OR) In determining its own procedure the Commission may, in particular, make provision about (a) the discharge of its functions by committees (which may include persons who are not members of the Commission); (b) a quorum for meetings of the Commission or a committee	The Commission	NA

Sch 4 para 1(2)	(OR) The Commission may make reference to the Charity Tribunal only with the consent of the Attorney General	The Commission	NA
Sch 4 para 5(2)	(OR) In relation to matters referred to the Charity Tribunal - the power for the Commission to act whilst a reference is in progress	The Commission	NA
Sch 6 para 6(5)	(O) To make an order requiring group accounts to be audited if they have not been audited within ten months from the end of the financial year	Staff	NA
Charities (Accounts and Reports) Regulations (Northern Ireland) 2015	(OR) Reg 3(7) - Financial year of a charity which is not a company 'A charity must not specify a new accounting reference date more than once in any three year period without the consent of the Commission.'	Staff	NA
Charities (Accounts and Reports) Regulations (Northern Ireland) 2015	<p>(OR) Reg 32(4)</p> <p>(a) Dispense with requirement to disclose the name of any person whose name is required by any of sub-paragraphs (d), (e), (f) and (i) of paragraph (3) to be contained in the annual report of a charity if this could lead to that person being placed in any personal danger</p> <p>(b) Dispense with requirement to disclose the principal address of the charity in accordance with paragraph (3)(c) if this could lead to any such person being placed in any personal danger</p>	Staff	NA

DECISIONS, ORDERS & DIRECTIONS OF THE COMMISSION WHICH HAVE NOT BEEN COMMENCED

Section	Decision (D), Order (O), Direction (DR) or Other (OR)	Authority delegated to:	Charity Tribunal - Appeal rights (A) or Review (R) or Not Appealable (NA) in accordance with Schedule 3 of the 2008 Act
11(2) and (3)	(OR) Designation of Official Custodian and specification of duties by directions	The Commission	NA
11(9)	(OR) Publishing and laying before the Assembly of certified accounts and report of Official Custodian	The Commission	NA
16(5A)	(D) To remove a charity from the register which falls below the registration threshold and requests removal	Staff	NA
42(3)	(O) To make an order to authorise a transaction affecting land by charity trustees where land is vested in the Official Custodian by section 33	SMT	NA
43	(O) To make a common investment scheme	The Commission	R – not to make such an order
44	(O) To make a common deposit scheme	The Commission	R – not to make such an order
51(1)	(OR) To provide books in which any deed, will or other document relating to a charity may be enrolled	Staff	NA
51(2)	(OR) To preserve charity documents	Staff	NA
57(1)	(O) To dispose of land held by or in trust for a charity	SMT	R – not to make such an order
57(9)	(DR) To direct that the publicity requirement is not to apply in relation to an order for the disposition of land	SMT	NA
60(1)	(O) Granting a mortgage of land held by or in trust for a charity	SMT	R – not to make such an order
73(1)	(D) To grant or not grant a certificate of incorporation	SMT	A – decision to grant or not to grant a certificate of incorporation
79(4)	(O) or (D) To amend a certificate of incorporation either (a) by making an order specifying the amendment; or (b) by issuing a new certificate of incorporation taking account of the amendment	SMT	A – decision to amend or not to amend a certificate of incorporation
84(1) or (2)	(O) To dissolve an incorporated body	SMT	A – making of an order dissolving an incorporated body
95(2)	(OR) Petition to the High Court to wind up a charity for insolvency	The Commission	NA
110	(D) To grant or not to grant an application for the constitution of a CIO and its registration as a charity	Staff	A – decision to grant or not to grant an application for the constitution of a CIO and its registration as a charity
113	(D) To refuse the conversion of a charitable company or registered society into a CIO and its registration as a charity	Staff	A – decision not to grant application for the conversion and the CIO's registration as a charity

116	(D) To grant or refuse the amalgamation of two or more CIOs and the incorporation and registration of the successor CIO	Staff	A – decision to grant or not to grant an application for the amalgamation of two or more CIOs and the incorporation and registration as a charity of a new CIO
118	(D) To confirm or refuse a resolution passed by a CIO	Staff	A – decision to confirm or not to confirm a resolution passed by a CIO
136(4)	(D) In relation to the exemption for local short term public charitable collections	Staff	Appeal under s147(3) to a court of summary jurisdiction
137(2)(b)	(D) In relation to the application for a public collection certificate	Staff	NA
138(2)	(D) After making inquiries as it thinks fit, determining the application for a public collections certificate by either (a) issuing a public collections certificate, or (b) refusing the application	Staff	A – decision to refuse to issue a public collections certificate
138(4)	(D) To attach to a public collections certificate such conditions as it thinks fit	Staff	A – decision to attach any condition to such a certificate
141(3)	(DR) To direct transfer of a public collections certificate between trustees of unincorporated charity	Staff	NA
141(4)	(D) To direct that a public collections certificate not be transferred	Staff	A – decision to direct that a public collections certificate not be transferred
142(1)	(D) To withdraw or suspend a public collections certificate, attach a condition to a certificate or vary an existing one	Staff	A – decision to withdraw or suspend a public collections certificate, attach a condition to a certificate or vary an existing one
144	(D) Determination of applications and issue of permits in relation to public charitable collections	Staff	Appeal under s147(3) to a court of summary jurisdiction
146	(D) Withdrawal or variation of permits in relation to public charitable collections	Staff	Appeal under s147(3) to a court of summary jurisdiction
167(6)(a)	(D) Registering of s167 institutions	Staff	NA
Sch 7 para 15	(D) To refuse to register an amendment to the constitution of a CIO	Staff	A – decision to refuse to register an amendment to the constitution of a CIO

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