

Publishing our decisions

The Commission's policy on how we determine which decisions to publish

The Charity Commission for Northern Ireland

The Charity Commission for Northern Ireland is the regulator of charities in Northern Ireland, a non-departmental public body sponsored by the Department for Social Development.

Our vision

To deliver in partnership with other key stakeholders in the charitable sector “a dynamic and well governed charities sector in which the public has confidence, underpinned by the Commission’s effective delivery of its regulatory and advisory role.”

Further information about our aims and activities is available on our website www.charitycommissionni.org.uk

Equality

The Charity Commission for Northern Ireland is committed to equality and diversity in all that we do.

Accessibility

If you have any accessibility requirements please contact us.

Online or in print

If you are viewing this document online, you will be able to navigate your way around by clicking on links either within the contents page or text.

We have produced a glossary that provides further information, definitions and descriptions of some key terms. The words in **bold green type** indicate words that are found in the glossary towards the end of this document. If you are reading the document online you can click on the word and it will link you to the definition in the glossary.

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Section 1: Overview

Through publishing the decisions we make, the Charity Commission for Northern Ireland (the Commission) aims to increase openness, transparency and levels of public trust and confidence in the charity sector. Additionally, publishing decisions gives individuals and organisations that are affected by a decision an opportunity to find out more about it and, if necessary, to provide comments or make representations.

There is no statutory requirement for the Commission to publish every decision it makes, however the **Charities Act (Northern Ireland) 2008** (as amended) does set out certain circumstances where the Commission should publish its decisions or intentions. In addition, we intend to publish decisions where there is sufficient justification, it would be in the best interests of the charity, and is in the public interest.

This policy document details the Commission's approach to publishing decisions. For further information on the approach taken for specific programmes, refer to the relevant programme specific guidance available on our website.

Section 2: About this policy

What does this policy cover?

This policy sets out the Commission's approach to publishing decisions. It takes into account the requirements of the Charities Act (Northern Ireland) 2008 as well as the Commission's own commitment to openness and transparency and sets out how and when the Commission will decide what decisions to publish.

The term decision refers to all types of regulatory activity namely decisions, consents, refusals, **directions**, **orders** and **schemes**. Additionally, we may publish the intention to make a decision or a draft decision.

What does this policy not cover?

This policy does not refer to the publication of:

- information received from charities, such as governing documents or accounts
- the Commission's own information, such as its corporate plan or annual report, as these types of documents are covered by our *Publications scheme* which is available on our website.

This policy does not provide the specific details of what we will publish in every case, as this information is contained within the guidance published for each programme. Rather, the policy sets out our general programme approaches and the factors we consider on a case by case basis.

Who does this policy apply to?

This policy is aimed at anyone with an interest in the decisions which the Commission takes in relation to charities and **charity trustees**.

You may refer to it for a number of reasons, for example:

- if you are a charity trustee or member of the public who wishes to know when and how decisions will be published by the Commission
- if you are a **person affected** by a decision of the Commission who wishes to comment or make representations
- if your charity is subject to a decision of the Commission and wishes to know whether reports or information on the charity will be published and, if so, how.

What are legal requirements and best practice?

In this policy, where we use the word 'must' we are referring to a specific legal or regulatory requirement. We use the word 'should' for what we regard as best practice, but where there is no specific legal requirement.

Where can you find definitions of key terms?

You will find definitions of key terms in the glossary towards the end of this guidance. If you are viewing the guidance online, you can click on a word highlighted in **green and bold** and you will be brought straight to the definition in the glossary.

Charity legislation

References in this document to 'the Charities Act' are to the **Charities Act (Northern Ireland) 2008** as amended by the **Charities Act (Northern Ireland) 2013**.

Please check our website www.charitycommissionni.org.uk to make sure you are viewing the latest version of this policy.

Section 3: The Commission's policy on publishing decisions

3.1 Programme specific approach

The Commission does not have a statutory requirement to publish every decision it makes. There are, however, certain provisions in the Charities Act where publication of a decision is required unless the Commission is satisfied that there are good reasons not to do so. Additionally, in promoting transparency and providing learning for the charity sector, the Commission has considered other programmes where publication is not expressly required but will be considered.

We are therefore taking a programme-by-programme approach to publishing decisions:

1. Programmes where decisions must be published in accordance with the Charities Act unless there is justification not to do so, for example **cy-près schemes**.
2. Programmes where decisions will be published, even though there is no legal requirement to do so, unless there is justification not to do so, for example the outcome of a statutory inquiry or decision to authorise a transaction.
3. Programmes where some decisions will not be published, unless there is justification to do so, for example the decision to not register a charity.

Decisions which we must publish unless there are clear reasons not to

Decisions which we will publish unless there are clear reasons not to

Decisions which we will not publish unless there are clear reasons to

The specific approach for each programme is published in the relevant programme guidance. Section 4 of this policy sets out examples of programmes which follow each approach, and what is typically published in each case.

3.2 Factors considered on a case by case basis

Individual cases will be considered to determine whether there are any mitigating factors that would lead us to diverge from the general programme approach. This allows for publication of a decision to be appropriate to the individual circumstances of each case. Additionally, on consideration of these factors, we may identify that a decision will be published, but that the publication should be delayed.

The following are some of the factors that are considered:

- the nature of the decision
- the profile of the charity concerned
- whether the decision is likely to set a precedent or to provide learning for the sector
- whether publication is in the public interest
- the extent of media, parliamentary or public interest in the charity or in the decision
- the potential impact on public trust and confidence in the charity, or the charity sector, whether positively or negatively
- the range of stakeholders likely to be affected by the decision
- whether publication is an efficient and effective use of the Commission's resources
- whether publication could pose a risk to personal safety, contravene requirements for confidentiality, or pose a risk to national security
- whether publication could have an adverse impact on the beneficiaries of the charity
- whether publication could **prejudice** ongoing or pending legal proceedings, or the operations or investigations of a law enforcement agency or other regulator
- whether publication could impact adversely on the ability of the charity's trustees to complete certain actions required by the Commission within a specified timeframe
- whether publication is connected with the ability to appeal against a decision to the Charity Tribunal.

3.3 How decisions are published

The manner in which the Commission will publish a decision will vary depending on the type of decision and the reason for publication. For example, a scheme made by the Commission may first be published in draft, inviting comments, while the decision to remove a charity trustee may be published to the register of removed trustees.

If the intention of publication is to provide lessons learned and inform the sector, then the format may be a decision or thematic report.

When we do publish decisions, we will normally publish them to the [decisions of the Commission](#) page on our website. This page provides links to decisions that are open for comment, recent decisions and archived decisions.

Additionally, where we identify that wider notice is required, we may use other means, for example:

- publication in the media, for example a local newspaper
- posting a hard copy on a noticeboard of, for example, a Church, library or school
- using twitter or social media
- direct contact with potentially **affected persons**.

3.4 Commenting on a decision

The Commission publishes some decisions or draft decisions in order to let the public know about them and to invite comments, for example, a draft scheme, decision to grant a consent, or intention to remove a trustee.

We take comments and representations into consideration, provided they are received within the specified notice period, and may decide as a result that proposals need to be changed or publication extended.

Anyone can comment, but you should let us know if you have a particular interest or involvement in the charity, for example as:

- a beneficiary of the charity
- a trustee, volunteer or employee of the charity
- a funder of the charity
- a local authority in whose area the charity operates
- a resident living in the area in which the charity operates.

Comments must be received in writing unless you have particular accessibility requirements, in which case please contact the Commission to discuss these. Where an online comment form is available, please use that to submit your comments or representations.

We may approach individuals or organisations who have made comments in order to discuss and understand them further.

3.5 Challenging a decision

If you disagree with a decision we have made, there are a range of options available to challenge that decision. For further information on the options available, depending on the particular decisions, refer to our guidance *Challenging a decision of the Commission*.

Section 4: Programme specific examples

The following tables set out some examples of the approach taken to publishing decisions made under particular programmes. For further information on each programme refer to the specific programme guidance which available on our website.

4.1 Decisions the Commission must publish unless there is justification not to do so

Decision	What will be published	Possible justification for diverging from the policy
Intention to make a cy-près scheme	Public notice of intention to make a scheme, the draft scheme itself and an invitation for representations to be made. Publication will always be to the Commission's website. In addition there may be further publication in the media or through a hard copy posted on a noticeboard or elsewhere.	The nature of the scheme or the particulars of those involved would pose a risk to an individual's security.
Removal of a trustee by the Commission	Name and previous position of the trustee to be added to the register of removed trustees on the Commission's website.	Where it could prejudice an ongoing investigation, or where a risk is posed to an individual's security.

4.2 Decisions the Commission will publish unless there is justification not to do so

Decision	What will be published	Possible justification for diverging from the policy
The outcome of a statutory inquiry	A statutory inquiry report will be published on the Commission's website. Statutory inquiry reports provide information on the inquiry process, the issue that was investigated, and any actions taken by the Commission.	If the publication may be detrimental to public trust or confidence in the charity, if an individual's security would be put at risk, or where publication may prejudice ongoing or pending legal proceedings.
To authorise an ex gratia payment	A copy of the S47 order authorising the transaction will be published on the Commission's website.	If the publication may be detrimental to public trust or confidence in the charity or if an individual's security would be put at risk.

4.3 Decisions the Commission will not publish unless there is justification to do so

Decision	What will be published	Possible justification for diverging from the policy
Not to register a charity	Not applicable	If the decision establishes an important precedent that may impact on other organisations for example registration decisions which are novel, significant or otherwise of wider interest.

Appendix 3: Glossary

Term	Definition
Affected person	An individual or other entity who is not a direct party to an agreement or other interaction but who somehow has an interest in or is affected by it.
Charities Act (Northern Ireland) 2008	<p>References to 'the Charities Act' are to the Charities Act (Northern Ireland) 2008 (as amended). The full content of the 2008 Charities Act can be found at www.legislation.gov.uk</p> <p>Not all of the sections of the Charities Act are in force yet. Details of those sections that are in force are available on the Commission's website www.charitycommissionni.org.uk</p>
Charities Act (Northern Ireland) 2013	<p>The Charities Act (Northern Ireland) 2008 is the main piece of legislation establishing the Charity Commission for Northern Ireland, setting out its functions and powers.</p> <p>The Charities Act (Northern Ireland) 2013 is a much shorter act and was primarily brought in to amend the definition of a charity in the Charities Act (Northern Ireland) 2008.</p> <p>The full content of the 2013 Charities Act can be found at www.legislation.gov.uk</p>
Charity trustees	<p>These are the people who are legally responsible for the control and management of the administration of the charity. In the charity's governing document they may be called trustees, managing trustees, committee members, governors or directors or they may be referred to by some other title.</p> <p>Some people are disqualified by law from acting as charity trustees. These disqualifications are set out in the Charities Act and broadly include but are not limited to anyone who:</p> <ul style="list-style-type: none"> • has been convicted of an offence involving deception or dishonesty, unless the conviction is a spent conviction under the Rehabilitation of Offenders (NI) Order 1978 • is an undischarged bankrupt or has made an arrangement with creditors

Term	Definition
	<ul style="list-style-type: none"> • has previously been removed as a trustee by the Commission or by the courts • is subject to disqualification under company legislation.
Cy-près	<p>Cy-près is a term drawn from Norman French and means "as near as possible". Cy-près is used in charity law because sometimes the circumstances of charities change so that it is impossible or impracticable for their original purposes to be met.</p> <p>A cy-près scheme is the legal document which provides for the transfer of an asset intended for one charitable object to another. Section 26 of the Charities Act (Northern Ireland) 2008 sets out the circumstances in which the purposes of a charitable gift can be altered so that it may be applied cy-près.</p>
Direction	<p>Directions are actions required of charity trustees and others in the administration of a charity. They may be used to ensure the proper administration of a charity.</p>
Order	<p>An order is a legal document which can be used in many circumstances; it can authorise trustees to do something that their trusts don't otherwise allow or to do something which is in the interest of the charity (such as transfer property to the Official Custodian). It can also be used to protect charities and their property, such as by suspension or removal of a trustee.</p>
Prejudice	<p>To cause harm or delay.</p>
Scheme	<p>In this document the term 'scheme' refers to a scheme made by the Commission under the Charities Act. It is a legal document that changes, replaces or extends the trusts of a charity.</p> <p>It may be a fully regulating scheme, covering all aspects of a charity's administration and purposes and replacing the previous governing document, or it may be a scheme that adds to or alters some part of the governing document.</p>

Useful contacts

Below is a list of contacts which you may find useful.

Charity Commission for
England and Wales (CCEW)

PO BOX 1227
Liverpool
L69 3UG

Telephone: 0845 300 0218

Website: www.charitycommission.gov.uk

Companies House

Second Floor
The Linenhall
32-38 Linenhall Street
Belfast
Northern Ireland
BT2 8BG

Telephone: 0303 1234 500

Website: www.companieshouse.gov.uk

Department of Enterprise,
Trade and Investment

Netherleigh House
Massey Avenue
Belfast
BT4 2JP

Telephone: 028 9052 9900

Website: www.nidirect.gov.uk

Department for Social
Development

Lighthouse Building
1 Cromac Place
Gasworks Business Park
Ormeau Road
Belfast
BT7 2JB

Telephone: 028 9082 9000

Website: <http://www.dsdni.gov.uk/>

Equality Commission for
Northern Ireland

Equality House
7-9 Shaftesbury Square
Belfast
BT2 7DP

Telephone: 028 9050 0600

Website: www.equalityni.org

HM Revenue and Customs
(HMRC)

HM Revenue & Customs
Charities Correspondence S0708
PO Box 205
Bootle
L69 9AZ

Telephone: 0845 302 0203

Website: www.hmrc.gov.uk/charities

Human Rights Commission
for Northern Ireland

Temple Court
39 North Street
Belfast
BT1 1NA

Telephone: 028 9024 7844

Website: www.nihrc.org

Institute of Fundraising

Institute of Fundraising
Park Place
12 Lawn Lane
London
SW8 1UD

Telephone: 020 7840 1000

Website: www.institute-of-fundraising.org.uk

Northern Ireland Council
for Voluntary Action

61 Duncairn Gardens
Belfast
BT15 2GB

Telephone: 028 9087 7777

Website: www.nicva.org

If you disagree with our decision

If you disagree with one of our decisions, we would like to reconsider it ourselves in the first instance. Our decision review procedure offers a genuine opportunity for our decisions to be looked at afresh. If you ask us to review a decision, where possible we will refer the matter to someone who did not make the original decision. You can also seek a review from the Charity Tribunal.

If you are dissatisfied with our service

The Commission is committed to delivering a quality service at all times. However, we know that sometimes things can go wrong. If you are dissatisfied with the service you have received, we would like to hear from you, and have a procedure that you can use. You will find further information on these processes in our guidance, *Making a complaint about our services*, which is on our website www.charitycommissionni.org.uk

Freedom of information and data protection

Data Protection

Any information you give us will be held securely and in accordance with the rules on data protection. Your personal details will be treated as private and confidential and safeguarded, and will not be disclosed to anyone not connected to the Charity Commission for Northern Ireland unless you have agreed to its release, or in certain circumstances where:

- we are legally obliged to do so
- it is necessary for the proper discharge of our statutory functions
- it is necessary to disclose this information in compliance with our function as regulator of charities where it is in the public interest to do so.

We will ensure that any disclosure made for this purpose is proportionate, considers your right to privacy and is dealt with fairly and lawfully in accordance with the Data Protection Principles of the Data Protection Act.

The Data Protection Act 1998 regulates the use of “personal data”, which is essentially any information, whether kept in computer or paper files, about identifiable individuals. As a “data controller” under the Act, the Charity Commission for Northern Ireland must comply with its requirements.

Freedom of Information

The Freedom of Information Act 2000 gives members of the public the right to know about and request information that we hold. This includes information received from third parties.

If information is requested under the Freedom of Information Act we will release it, unless there are relevant exemptions. We may choose to consult with you first if this relates to your consultation or application. If you think that information you are providing may be exempt from release if requested, please let us know.

Further information on our activities is available from:

Charity Commission for Northern Ireland
257 Lough Road
Lurgan
BT66 6NQ

www.charitycommissionni.org.uk

Email: admin@charitycommissionni.org.uk
Tel: 028 3832 0220
Fax: 028 3834 5943
Text Phone: 028 3834 7639

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