

CHARITY COMMISSION FOR NORTHERN IRELAND

The Consequences of the High Court Decision into the Delegation of Decision Making in CCNI

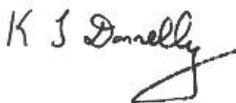
In May 2019 the High Court ruled that CCNI could not delegate decision making activities to its staff acting alone. These decisions must be undertaken by the Commission or a decision making committee established by them under Schedule 1 of the Charities Act (Northern Ireland) 2008. This ruling (the McBride ruling) was further upheld, on appeal, in February 2020.

I attached a report to the 19-20 financial statements setting out the possible implications of this ruling. This included the fact that the status of the charities register was no longer valid. At the time, a number of options to rectify the situation, had been identified and provided to the Minister for her consideration. I updated this position in 20-21 but said I would keep developments in this area under review.

Since this time the following has occurred:

- In March 2022 the Charities Act (Northern Ireland) 2022 received Royal Assent. This Act gave retrospective approval to most of the decisions taken by staff of the Charity Commission prior to 16th May 2019 (the date of the original McBride ruling). This included the reinstatement of the charities register. There are, however, some types of decisions which are not covered by this retrospective approval and these are set out in the legislation.
- This legislation also amends Schedule 1 of the Charities Act (Northern Ireland) 2008 to provide for the Commission to delegate some functions to staff going forward, provided they are set out in a Scheme of Delegation made by the Department for Communities, following a public consultation. It also sets out those decisions which cannot be delegated.
- CCNI had also appointed independent counsel to review two early statutory inquiries which had been the subject of complaints. The Report of the Independent Counsel was produced on 1st October 2021. A summary of the Report, including recommendations for CCNI's consideration, together with CCNI's action plan to implement those recommendations can be found on CCNI's website at www.charitycommissionni.org.uk/concerns-and-decisions/regulatory-decisions-and-orders/
- The Minister for Communities also appointed an independent panel to carry out a review of charity regulation in Northern Ireland. The review considered the regulatory framework and the role of CCNI within it. The panel reported in January 2022 and a copy can be obtained from the Department for Communities website at <https://www.communities-ni.gov.uk/articles/independent-review-charity-regulation>. At this point in time the Department is still preparing its response to the Report's recommendations and hope to bring this to the Minister for a decision in the near future.

I will continue to keep developments in this area under review as part of my annual audit.



K J Donnelly

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