

Draft equality guidance for charities

Consultation report



June 2015

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 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

The Commission’s website has been designed to **W3C standards** of accessibility and includes a number of features to enhance accessibility for a wide range of individuals. These include colour contrast and resize options. Materials may be made available in alternative formats on request. 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. The words in *pink* italics indicate other guidance or databases, and these are also listed on the *Useful supporting documents* page.

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Foreword

The Charity Commission for Northern Ireland undertook a consultation on our draft *Equality guidance for charities* with a view to improving this guidance with feedback from stakeholders and end-users.

The purpose of this report is to reflect on the feedback we received and to set out our response to them, including any changes to the finalised guidance which we have made. If we cannot respond to or accommodate suggestions we try to explain why.

We were very pleased with the high quality of the feedback which we received. We believe that the resulting final guidance has been improved. It was clear to us throughout that those participating also learned a great deal and, in some cases, only appreciated the need for the guidance when they participated in the consultation.

The final version of the *Equality guidance for charities* will be available from the summer of 2015 and will incorporate many of the comments and suggestions made to us. As charities strive to ensure that they comply with all their legal obligations this guidance will be a useful signpost to them, as well as a source of information for members of the public and other stakeholders.

We would like to thank all of those who took the time to attend events or to provide us with written comments. We acknowledge that many of those who involved themselves in the consultation were acting on behalf of charities in a voluntary capacity and were using their own time to engage with us. We appreciate this and we intend this report to be a way of demonstrating that we have heard what was said and will respond and make changes where we can.

Finally, we would also like to thank the Equality Commission for Northern Ireland for their extensive help in the preparation of this guidance.

Thank you



Frances McCandless
Chief Executive
Charity Commission for Northern Ireland

2. Introduction

The Charity Commission for Northern Ireland (the Commission) is committed to providing guidance for charity trustees to assist them in complying with their legal obligations and with good practice. On Tuesday 3 February 2015 the Commission opened a 12 week consultation into the clarity and usefulness of its draft *Equality guidance for charities*.

The consultation closed on Tuesday 28 April. We received feedback from 17 organisations. This report provides an analysis of the feedback received and outlines subsequent changes that were made to the guidance.

A list of respondents to the draft *Equality guidance for charities* consultation is attached at **Appendix 1**.

Background

As service providers, and often as employers, charities are subject to a range of legislation including equality legislation. Equality legislation in Northern Ireland has identified nine equality characteristics which are protected from discrimination unless certain conditions are met. Information about these conditions, including exceptions for charities, is found in seven major pieces of Northern Ireland legislation. These conditions may impact on charities when, for example, a charity's purposes restrict benefits to a section of the public on the basis of one or more of the equality characteristics.

The Commission does not regulate or monitor organisations on their equality obligations, that role are carried out by the Equality Commission for Northern Ireland (the Equality Commission). However, the Commission does offer guidance to charity trustees on ensuring that their charity complies with all the legislation that is relevant to it. This guidance is intended to highlight for charity trustees issues that may arise at the intersection between equality law and charity law. The Commission identified the need to produce guidance that would act as a signpost for charity trustees to these pieces of legislation.

Thank you

The Commission would like to thank everyone who took part in this consultation. We would particularly like to thank those network organisations who encouraged others to respond to the consultation. We have considered all comments and submissions and our responses to them are noted within this report. Through this consultation, the clarity and usefulness of the *Equality guidance for charities* has been improved.

3. Consultation aims

While there is no statutory duty to consult on this type of guidance the Commission, in keeping with its *Participation Strategy*, is committed to consulting stakeholders and the public where possible and useful. The aim of this consultation was to enable the Commission to publish equality guidance for the charity sector that meets the needs of a wide range of stakeholders.

To do this we wanted to gather in-depth feedback from stakeholders on the draft guidance to ensure it is:

- Practical
- Relevant
- Clear
- Able to answer any questions stakeholders may have
- Specific to Northern Ireland.

Feedback enables us to produce guidance that meets the needs of stakeholders and ensure the examples used are helpful to the reader.

Consultation methodology

A consultation document on the draft *Equality guidance for charities* was published and information disseminated to stakeholders using email, twitter and the Commission's website. We also asked network and umbrella organisations to bring the consultation to the attention of their members. Four focus groups were arranged in Derry/Londonderry, Belfast, Cookstown and Lurgan.

There were 5 ways to respond to the consultation:

1. Online survey
2. Download a copy of the questionnaire and return by email
3. Attend a focus group
4. Telephone interview
5. Face to face interview.

4. Consultation analysis

The Commission received 17 separate responses to the consultation. These included five written submissions, two online questionnaires and the responses of 10 attendees at two panel events. Responses were submitted either by organisations or a working group. No individual submitted a response. The charitable purposes which these organisations represented included: age, community development, religious belief, disability, the arts and relief of those in need. We also received the views of legal professionals.

Despite the relatively small number of respondents to this consultation the Commission received invaluable and in-depth feedback which has helped improve the final guidance.

4.1 What we asked

A statistical analysis of such a small sample would be unlikely to yield meaningful information, so a largely narrative analysis has been undertaken. This analysis has been drawn from the key questions asked of respondents to the consultation:

- Do you think there is a need for this guidance?
- Are the format and content of the guidance helpful or unhelpful?
- What did you find most helpful in the guidance?
- What did you find least helpful in the guidance?
- Are the examples helpful or unhelpful in assisting charity trustees in understanding equality obligations of charities?
- Are there any gaps, would you add anything?

4.2 What you told us

Question: Do you think there is a need for this guidance?

100% of respondents who replied to this question agreed that there is a need for this guidance.

Question: Are the format and content of the guidance helpful or unhelpful?

Likewise, 100% of respondents found the format and content of the guidance to be helpful. Acknowledging that the issues covered in the guidance are very complex, respondents commented that the guidance

was clear, straightforward and accessible for those without a background in law.

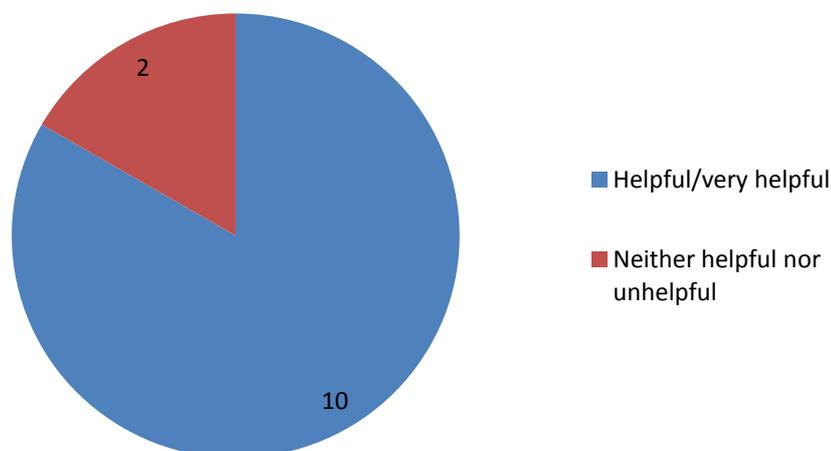
Question: What was most helpful or least helpful in the guidance?

Consultees who responded to this question identified the most helpful elements of the guidance as the lack of jargon, which enabled it to be easily and quickly read and digested, the section on disability and reasonable adjustments, and the examples of the law in practice. Few respondents indicated what, if anything, they found least helpful in the guidance. This range of responses reflected the difficulties in producing a generic, signposting guide that cannot address the needs the specific circumstances of charities in every context. For example, while one respondent found the guidance to be brief another found it to be too long. The accessibility statement at the start of the guidance has been enhanced and will be incorporated into the Commission’s guidance in the future.

Question: Are the examples helpful or unhelpful in assisting charity trustees understanding equality obligations of charities?

Of those who answered this question 10 found the examples to be helpful or very helpful, while 2 found the examples neither helpful nor unhelpful. No respondent found them to be unhelpful.

Figure 1 Are the examples helpful or unhelpful?



A number of examples in the guidance have, however, been improved in the light of feedback from consultees. These include structuring the examples to address equality in the context of charitable purposes, as well as activities and then providing details to illustrate the exception being discussed. Examples have also been added or adapted to include minority groups such as Jews, Sikhs, Muslims and transgendered people.

One respondent thought some of the examples provided a narrow interpretation of the law. Interpretations of the law can only be drawn from case law, which can also change over time. The examples used in the guidance have, as far as possible, drawn on principles established by case law, for example, in identifying factors that *may* influence a court's interpretation of what constitutes a 'reasonable' adjustment. The Commission has reworded some of the text in the guidance to clarify this.

Question: Are there any gaps, would you add anything?

Two comments were received in answer to this question which were related to the use of examples or the format of the guidance.

Other comments

One respondent suggested that the Commission should provide the legal underpinning of this guidance and articulate its detailed understanding of the law. The Commission acknowledges that such a document would be a very useful resource. We are not currently in a position to do this and are keen to maintain the readability of the document for all stakeholders, including those from a non-legal background. We will however, consider this in the future. As stated in the guidance, this document is designed as a sign post for charity trustees and their advisers. In the meantime, detailed technical advice should be sought from Equality Commission for Northern Ireland or from a charity's own independent advisers.

5.0 Next steps

Feedback received during the draft *Equality guidance for charities* consultation has been reviewed by the Commission. The feedback has been used to amend and update the final version of the guidance. This finalised guidance will now be published on the Commission's website and consultees will be informed by email that the finalised version of the guidance is available.

Appendix 1: Consultation participants

Below is a list of participating organisations and individuals. Note that a number of respondents chose to remain anonymous therefore their details are not listed below.

AgeNI

Association of Caribbean Nationals

Disability Action

Helm Housing

Miriam Foundation

New Thought Movement

Northern Ireland Council for Voluntary Action

Northern Ireland Evangelical Alliance

Northern Ireland Muslim Family Association

Parents and Teachers Association (NI)

Resource Centre Derry

TADA Rural Support Network

The Christian Institute

The members of the Charity Law Association Working Party on 'Equality guidance for charities'

Waterside Area Partnership

Waterside Theatre Company Ltd