

Refused entry to the register: understanding why

**A thematic report from the Charity Commission
for Northern Ireland**



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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 Communities.

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

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Introduction

Just over three years ago, in December 2013, the Charity Commission for Northern Ireland began the process of compiling a [*register of charities*](#).

Charity registration is compulsory for every institution which is a charity under the law of Northern Ireland. Charity trustees are required by law to apply to the Commission for their charity to be registered in the *register of charities* and to supply the Commission with the required documents and information with their application.

It is the role of the Commission to determine whether institutions are or are not charities. The Commission is also required to establish and maintain an accurate and up-to date *register of charities*.

This means the public, for the first time, can identify and have confidence that any institution that appears in the *register of charities* is or was a charity in Northern Ireland. The accountability and transparency of the charity sector is at the very core of charity registration.

Charity registration continues to grow. There are now over 5,500 registered charities in Northern Ireland. The Commission estimates that there are approximately 11,000 – 17,500 charities in Northern Ireland.

In the course of registering *so far*, the Commission has encountered a number of organisations which have failed to satisfy the definition of charity as set out in the Charities Act (Northern Ireland) 2008 (the Act).

While these organisations constitute a small minority (0.7% of decisions taken), the lessons learned are important to the sector.

This report sets out some of the reasons and provides a number of case studies which illustrate why some applicants do not meet the definition of charity. Not all good causes are charitable. We hope that it will assist charity trustees who have still to apply to register and inform the public why institutions are not considered charitable, in accordance with the Act.

Punam McGookin
Head of Charity Services

Reasons for refusal

Determining charitable status

Below you will see text in blue and green boxes in each section of the report. The blue boxes (figures 1-14) provide underpinning legal information at the end of each section and the green boxes provide case studies.

The Commission, over the course of the last three years, has received upwards of 6,000 registration applications; to date only 39 of those have been refused.

There are three issues that the Commission considers when determining the charitable status of an applicant (*fig 1*):

1. Is it an institution?
2. Is it established for charitable purposes only?
3. Is it subject to the control of the Court in Northern Ireland?

If an applicant cannot demonstrate to the Commission that it satisfies all three conditions then it will be refused.



Figure 1

The legal framework for the determination of charitable status is governed by sections 1-3 of the Charities Act (Northern Ireland) 2008.

Section 1 of the Act defines "charity" as:

"an institution which-

- (a) is established for charitable purposes only, and*
- (b) falls subject to the control of the Court in the exercise of its jurisdiction with respect to charities."*

1. Is it an institution?

Evaluating whether or not it is an institution requires the Commission to establish the nature of the institution. An institution is an independent body, the hallmarks of which include having control and direction over its governance and resources. There are two broad types of institution: incorporated and unincorporated (*fig 2*).

An incorporated institution is one which has a separate legal identity from its owners. There are many types of incorporated institution which may form the legal structure of a charity, for example:

- A company
- Incorporated by an act of Parliament or the Assembly
- Incorporated by Royal Charter
- Industrial and Provident societies
- Grant of letters of patent
- Royal licence
- By prescription
- By charter.

An institution which is not incorporated is known as an unincorporated institution and will either take the legal form of a trust deed or a constitution (*fig 3 and 4*).

The following case studies illustrate refusal based on the applicant not being an 'institution' within the meaning of the Act.

Case studies

A project is not an 'institution'.

Charity Trustees embarking on new projects do not necessarily have to create new structures.

A centre was refused registration for not having autonomy over its governance and resources. The centre's governing document demonstrated, in practice, the property and resources were controlled by a parent institution. The centre was a project delivered by the parent institution and not an institution in its own. The evidence demonstrated that the centre did not have autonomy over its governance and resources and was therefore not an institution in its own right.

A governing document should define whether constituent parts of the same body have governance powers.

A Theological College was refused registration as, according to its governing document, it is *under control of the parent institution*. The governing document said the Committee, which supervises the College, is *appointed by the parent institution*. In addition the financial plans of the College are *approved by the parent institution*.

A governing document should set out clearly who is in charge and what authority a parent body has over it.

A benevolent fund in Northern Ireland was refused registration as it did not have autonomy over its governance and resources. The fund's governing document demonstrated, in practice, the property and resources were controlled by the parent institution. The fund is an integral part of parent institution and not an institution in its own right.

Legal considerations

Figure 2

Section 180 of the 2008 Act defines 'institution' as:

"any institution whether incorporated or not and includes a trust or undertaking"

Figure 3

Lawton LJ in **Conservative and Unionist Central Office v Burrell (Inspector of Taxes) [1982] 1 WLR 522 (CA)** defined an unincorporated association as:

"two or more persons bound together for one or more common purposes, not being business purposes, by mutual undertakings. Each having duties and obligations, in an organisation which has rules which identify in whom control of it and its funds rests and upon what terms and which can be joined or left at will."

Trusts are defined by the 2008 Act as *"the provisions establishing it as a charity and regulating its purposes and administration, whether those provisions take effect by way of a trust or not, and in relation to other institutions has a corresponding meaning."*

Figure 4

Special trusts are defined as:

"property which is held and administered by or on behalf of charity for any special purposes of the charity, and so held and administered on separate trusts relating only to that property."

2. Is it established for charitable purposes only?

A charity's purposes set out what the charity seeks to achieve and are usually detailed at the beginning of its **governing document**, sometimes in the **objects** section.

According to the Act, all the organisation's purposes **must**:

- fall under one or more of the list of 12 descriptions of charitable purposes in the Charities Act; **and**
- be for the public benefit.

To be *established* for charitable purposes both aspects must be satisfied for every purpose. It only takes one purpose within an institution's governing document not to fall within one of the 12 descriptions of charitable purpose for an institution to be determined not to be a charity.

In addition, a purpose is not charitable if it:

- is political; that is, to make a change in law or policy in a jurisdiction, or
- is unlawful.

Does the purpose fall within one of the 12 descriptions of charitable purposes?

The Act sets out a list of 12 descriptions of charitable purposes. An institution's purposes must fit within one or more of the descriptions for it to be charitable. Where any of the terms used in the description of charitable purposes has a particular meaning under case law, it retains the same meaning. The 12 descriptions of charitable purpose are:

1. The prevention or relief of poverty
2. The advancement of education
3. The advancement of religion
4. The advancement of health or the saving of lives
5. The advancement of citizenship or community development
6. The advancement of the arts, culture, heritage or science
7. The advancement of amateur sport
8. The advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity
9. The advancement of environmental protection or improvement
10. The relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantage

11. The advancement of animal welfare
12. Any other charitable purposes.

The Act does not define what each of these descriptions of purposes means. The Commission has produced a suite of [supporting documents](#) on these charitable purposes to help support applicants in understanding these descriptions. However, it does provide some definitions, or partial definitions, for some of the descriptions. These are set out in section 2(3) of the 2008 Act (*fig 5*).

Where an institution's purposes are not clear and certain or it does not have a governing document, or it has been lost, the Commission will consider relevant factual background information and activities to assist in assessing whether the implementation of the purposes would achieve a charitable outcome (*fig 8*).

The following case studies illustrate refusals based on the applicant purposes not falling within one of the 12 descriptions of charitable purposes set out in section 2(2) of the 2008 Act.

Case studies

An institution cannot be a charity if it has a political purpose (*fig 9*).

The Commission determined on the evidence presented that the purposes of a company did not fall within any of the descriptions of purposes set out in section 2(2) of the 2008 Act. The purpose is to "*To promote, support or oppose proposed legislation, subordinate legislation, decisions by any Government Department or Local Authority affecting the Area and to make representations and submissions to any person or body on any matter which may, either directly or indirectly, have bearing upon the Area or any person, business, property or body therein.*" It is established in case law that purposes categorised as "political" are generally not charitable. This is a political purpose.

The Commission determined on the evidence presented that the purposes of an institution established by legislation did not fall within any of the descriptions of purposes set out in section 2(2) of the 2008 Act. The institution's purposes included "(c) *to advise the Department and other government Departments, district councils and other bodies on matters relating to the arts; and (d) such other functions as are conferred on it by any other statutory provision.*" The governing documents, which established the institution, displayed a degree of government control and stressed the institution's objectives being consistent with and promoting government's strategic objectives. Such was the control that in the Commission's opinion the institution had an unwritten non-charitable purpose to undertake its main activities in accordance with policies of government; a political purpose.

The purposes of a charitable institution must be clear and certain or unambiguous.

The Commission determined on the evidence presented that the purposes of a civil liberties institution did not fall within any of the descriptions of purposes set out in section 2(2) of the 2008 Act. "*To promote the benefit of traditional civil and religious rights and liberties in the exercise of the law in Northern Ireland and Great Britain*" was vague and uncertain as it was not clearly tied to any particular set of rights and liberties, and the use of the word "traditional" is subjective and open to interpretation.

A company whose dissolution clause allows its assets to be used for non-charitable purposes is not charitable.

The Commission determined on the evidence presented that the purposes of a company did not fall within any of the descriptions of purposes set out in section 2(2) of the 2008 Act. The purpose to "*Carry on the business of garden maintenance and improvement, cleaning, equipment hire and related services*" did not fall within one of the descriptions of charitable purposes set out in section 2(2) 2008 Act. Furthermore, if the institution were to dissolve, any remaining assets were to be transferred to "*social or charitable purposes*". The term '*social*' is vague and uncertain and does not necessarily limit the purposes of the institution to charitable purposes only. The word '*or*' allows an alternative. The institution could direct that the remaining assets be applied to non-charitable purposes. It cannot therefore be said that the institution was established for '*charitable purposes only*', due to the lack of exclusivity.

A fundraising purpose is not charitable.

The Commission determined on the evidence presented that the purposes of an institution did not fall within any of the descriptions of purposes set out in section 2(2) of the 2008 Act. The primary purpose of the institution is to "*support projects in Cornhill, Lima and Peru*". The evidence demonstrated that the institution had no control and direction over how the funds it raised to support the projects was being spent. The institution is a fundraising group. It can be distinguished from a grant making institution. A grant making institution has sufficient control and direction of its own affairs and gives grants to institutions for charitable purposes in line with its purposes and grant making policies. A fundraising institution's sole purpose is to raise funds for one or more particular institutions.

Legal considerations

Figure 5

Section 2(3)

- (a) in paragraph (c) "religion" includes—
 - (i) a religion which involves belief in one god or more than one god, and*
 - (ii) any analogous philosophical belief (whether or not involving belief in a god);**

- (b) in paragraph (d) "the advancement of health" includes the prevention or relief of sickness, disease or human suffering;*

- (c) paragraph (e) includes—
 - (i) rural or urban regeneration, and*
 - (ii) the promotion of civic responsibility, volunteering, the voluntary sector or the effectiveness or efficiency of charities;**

- (d) in paragraph (g) "sport" means sports or games which promote health by involving physical or mental skill or exertion;*

- (e) paragraph (h) includes the advancement of peace and good community relations; and*

- (f) paragraph (j) includes relief given by the provision of accommodation or care to the persons mentioned in that paragraph."*

Subsection (4) defines other purposes which are recognised as charitable under the law of Northern Ireland.

Figure 6

- "(a) any purposes not within paragraphs (a) to (k) of subsection (2) but recognised as charitable purposes under existing charity law or by virtue of section 1 of the Recreational Charities Act (Northern Ireland) 1958 (c. 16);*
- (b) any purposes that may reasonably be regarded as analogous to, or within the spirit of, any purposes falling within any of those paragraphs or paragraph (a) above; and*
- (c) any purposes that may reasonably be regarded as analogous to, or within the spirit of, any purposes which have been recognised under charity law as falling within paragraph (b) above or this paragraph."*

The Commission interprets the wording of the purposes of each particular institution to ensure that they are clear and certain or unambiguous. This is the approach taken by the Court.

Figure 7

In **R (Independent Schools Council) v The Charity Commission for England and Wales [2011] UKUT 421 (TCC)**. The Upper Tribunal stated *"the question of whether an institution is "established" for charitable purposes only is to be answered by deciding, as a matter of construction, whether its purposes (a) fall within one of the descriptions of purposes listed in section 2(2) and (b) satisfy the public benefit test. The ordinary meaning, and we would suggest generally the most natural meaning of the word "established" is directed to what the institution was set up to do not how it would achieve its objects or whether its subsequent activities are in accordance with what it was set up to do."* Deeny J also confirmed the approach of construing an institution's governing document in **The Charity Commission for Northern Ireland v Bangor Provident Trust [2014] NICh 19 at paragraph [11]** *"It is clear in law that the subjective intention of the instigators of the corporate body concerned is irrelevant to the issue of construction which presented itself to the court. It was not in dispute that consistent with the modern dicta on the construction of documents this court should look at Rule 2 in the round and at the rules of Bangor generally in order to establish the correct interpretation of the objects and rules as set out originally"*.

Figure 8

Helena Partnerships Limited v Revenue and Customs

Commissioners [2011] UKUT 271 (TCC). This case identifies principles established by the court in determining when extrinsic evidence and relevant factual background information may be taken into account in ascertaining purposes of an institution and whether those purposes are charitable.

Figure 9

Bowman v Secular Society Ltd [1917] A.C. at paragraph 442.

"The abolition of religious tests, the disestablishment of the Church, the secularization of education, the alteration of the law touching religion or marriage, or the observation of the Sabbath, are purely political objects. Equity has always refused to recognize such objects as charitable. It is true that a gift to an association formed for their attainment may, if the association be unincorporated, be upheld as an absolute gift to its members, or, if the association be incorporated, as an absolute gift to the corporate body; but a trust for the attainment of political objects has always been held invalid, not because it is illegal, for every one is at liberty to advocate or promote by any lawful means a change in the law, but because the Court has no means of judging whether a proposed change in the law will or will not be for the public benefit, and therefore cannot say that a gift to secure the change is a charitable gift."

Is the purpose for the public benefit?

Not only do the applicant's purposes have to fall into one or more of these charitable descriptions but it must also satisfy [the public benefit requirement](#).

The public benefit requirement is set out in section 3 of the Act (*fig 10 and 11*).

The public benefit requirement is to be judged against the law of Northern Ireland as it is currently understood. The pre 2008 law is not static, a purpose that was for the public benefit may no longer be for the public benefit (*fig 12*).

The Commission has produced [Public benefit requirement: Statutory guidance](#); all trustees must have regard to this guidance through all stages of a charity's life.

Public benefit has two distinct elements:

1. There must be a benefit
2. It must be for the public

For an institution's purposes to satisfy the benefit element of the public benefit requirement, that benefit must have three key features:

- benefit must flow from the purpose
- benefit must be capable of being demonstrated; and
- benefit must be beneficial, not harmful.

For an institution's purposes to satisfy the public element of the public benefit requirement, an institution must know who the intended beneficiaries are and how they might benefit. The benefit which may flow from the purposes must:

- be to the public or to a section of the public; and
- not provide a private benefit to individuals unless the benefit is incidental.

The following case studies illustrate refusals based on the applicant's purposes not satisfying the public benefit requirement, even though the general public might well assume these organisations were charitable.

Case studies

Private or personal benefit flowing from purposes must be incidental and necessary.

The Commission determined on the evidence presented that the purposes of a company were capable of falling into two of the 12 descriptions of charitable purposes as set out in section 2(2) of the 2008 Act namely, 'the advancement of the arts, culture, heritage or science' and 'the advancement of education'. The purpose of the institution was the advancement of education of the public in fine literature by all means but especially by the publication of works of high literary merit in certain work edited by two named editors. One of the editors also retained ownership of a journal (one of the key works) and granted a licence to the company for its use. As the purpose of the institution was specifically linked to the work of two individuals and private rights to the journal were retained, the potential of individual profit for a non-charitable beneficiary was inherent in the purposes of the institution, therefore the company was not a charity.

An institution established to protect historical trees, which were already protected by a tree preservation order was refused registration as its purposes did not satisfy the public benefit requirement. The Commission determined on the evidence presented that the purposes of the institution provided a level of private benefit to the landowners, which was more than incidental and necessary. The purposes of the institution added nothing to the tree preservation order, which already conferred benefit to the public. The institution simply relieved the landowners of the expenses associated with their obligations as landowners and under the tree preservation order. As a result, private benefit was inherent in the purposes of the institution.

A gift simply for the benefit of widows is not charitable.

An institution for the benefit of widows was refused registration as its purposes did not satisfy the public benefit requirement. The Commission determined on the evidence presented that the purpose '*to afford assistance to widows of deceased [...] by grants of money*' did not evidence a charitable need. Northern Ireland case-law has determined the term '*widow*' does not imply '*poverty*', unlike case-law authorities in England and Wales. It is established in law that, except in the case of charities for the prevention or relief of poverty (the poverty exception), beneficiaries cannot be identified on the basis of their link to a particular employer, society or person. If they are identified in this way they will be regarded as constituting a private body of individuals or private class, rather than a section of the public. As the beneficiaries were defined by a private class and the poverty exception did not apply, the purpose did not satisfy the '*public*' element of the public benefit requirement.

An institution established to benefit a private class, regardless of the size of that class, cannot be regarded as benefitting a section of the public.

The Commission determined on the evidence presented that, although the purposes of a company to support prison officers and their dependents were capable of falling into one of the 12 descriptions of charitable purposes as set out in section 2(2) of the 2008 Act, namely '*the relief of those in need by reason of youth, age, ill health, disability, financial hardship or other disadvantage*', the purposes failed to satisfy the public element of the public benefit requirement. It is established in law that, except in the case of charities for the prevention or relief of poverty ('the poverty exception'), beneficiaries cannot be identified on the basis of their link to a particular employer, society or person. If they are identified in this way they will be regarded as constituting a private body of individuals or private class, rather than a section of the public (*fig 13 and 14*). As the beneficiaries were defined by a private class and the poverty exception did not apply, the purpose did not satisfy the '*public*' element of the public benefit requirement.

The Commission determined on the evidence presented that although the purposes of a society to support orphans were capable of falling into two of the 12 descriptions of charitable purposes as set out in section 2(2) of the 2008 Act, namely *'the relief of those in need by reason of youth, age, ill health, disability, financial hardship or other disadvantage'* and *'the advancement of education'*, the purposes failed to satisfy the public element of the public benefit requirement. This is because its beneficiaries were defined by reference to their connection to a society with restricted membership, making them a private rather than a public class. The provision of *'affording support'*, in the trust's purposes, to the identified beneficiaries went beyond *'the prevention or relief of poverty'*. The institution could therefore not rely on the *'poverty exemption'* in relation to its restricted class of beneficiaries.

Legal considerations

Figure 10

Section 3(2) of the 2008 Act provides:

"In determining whether the public benefit requirement is satisfied in relation to any purpose falling within section 2(2), it is not to be presumed that a purpose of a particular description is for the public benefit."

Figure 11

Section 3(3) of the Act requires that *"any reference to the public benefit is a reference to the public benefit as that term is understood for the purposes of the law relating to charities in Northern Ireland"*.

Figure 12

The Upper Tribunal in **R (Independent Schools Council) v The Charity Commission for England and Wales [2011] UKUT 421 (TCC)** considered the nature of the public benefit requirement and stated that:

"...it must be remembered that the concept of what is and is not for the public benefit (as seen by society generally, and as reflected in judicial recognition of the views of society) changes over time. As we will see, changing social perceptions have, in the past, resulted in changes in what is seen as for the benefit of society and, accordingly, of what is properly to be accorded charitable status."

Figure 13

Oppenheim v Tobacco Securities Trust [1951] A.C. 297 at page 305

"It is a clearly established principle of the law of charity that a trust is not charitable unless it is directed to the public benefit. This is sometimes stated in the proposition that it must benefit the community or a section of the community. Negatively it is said that a trust is not charitable if it confers only private benefits.... These words "section of the community" have no special sanctity, but they conveniently indicate first, that the possible (I emphasize the word "possible") beneficiaries must not be numerically negligible, and secondly, that the quality which distinguishes them from other members of the community, so that they form by themselves a section of it, must be a quality which does not depend on their relationship to a particular individual. It is for this reason that a trust for the education of members of a family or, as in **In re Compton ([1945] Ch. 123)**, of a number of families cannot be regarded as charitable. A group of persons may be numerous but, if the nexus between them is their personal relationship to a single propositus or to several propositi, they are neither the community nor a section of the community for charitable purposes."

Figure 14

Dingle v Turner [1972] A.C. 601 held that a trust for “poor employees” was capable of being a valid charitable trust.

In **Attorney General v Charity Commission etc (poverty Reference) [2012] UKUT 420** the Upper Tribunal summarised the poverty exception as applying to beneficiaries identified by reference to:

- i) their relationship to one or more individuals
- ii) their or a member of their family’s employment or former employment
- iii) their membership of an unincorporated association

3. Is the applicant subject to the control of the High Court?

The final component which is an essential requirement of charitable status is that the institution must be subject to the jurisdiction of the "Court" in the exercise of its jurisdiction with respect to charities. This means that the High Court of Northern Ireland must have the power to make decisions about the administration and purposes of an institution. An institution will not be a charity if the Court has no means to control it (*fig 15*).

An institution must have a governing law. If no express choice is made in an institution's governing document, the institution is governed by the law with which it is most closely connected (*fig 16 and 17*).

The following factors indicate if an institution falls under the jurisdiction of the High Court of Northern Ireland:

- it was established in Northern Ireland
- it is a company registered in Northern Ireland
- it is an unincorporated organisation which was constituted in Northern Ireland
- the governing document says that the organisation is governed by the law of Northern Ireland
- a majority of the charity trustees are resident in Northern Ireland and there is no reference to any other legal framework in the governing document
- it operates in Northern Ireland for charitable purposes.

The following case studies illustrate refusals based on the applicant not satisfying that it is *subject to the "control of the Court in the exercise of its jurisdiction with respect to charities."*

Case studies

Assets, trustees, beneficiaries and activities located in another jurisdiction.

The refusal of one institution was based on examination of its governing document and information provided in its registration application. The governing document gave no indication as to the institution's governing law, its assets were held outside Northern Ireland, the majority of the trustees were resident outside Northern Ireland, the beneficiaries were based in Britain and its activities were conducted in England and the Republic of Ireland. The institution was established in England and was not subject to the control of the High Court in Northern Ireland in the exercise of its jurisdiction with respect to charities, therefore it was not a charity.

Governed by the law of another jurisdiction

A Foundation applying for registration operated under a Deed of Trust. Having examined the Deed of Trust and information provided in its application, the Commission determined the charity trustees had elected that the trust was governed by the law of England and Wales. The Trust was therefore not subject to the control of the High Court in Northern Ireland in the exercise of its jurisdiction with respect to charities and was refused registration.

Legal considerations

Figure 15

Section 180(1) of the 2008 Act defines "the Court" for the purposes of the 2008 Act and "*subject to Article 14(b) of the County Courts (Northern Ireland) Order 1980 (NI 3), means the High Court*".

Figure 16

The Hague Trusts Convention 1984 article 7 explains the concept of 'closely connected'.

"Where no applicable law has been chosen, a trust shall be governed by the law with which it is more closely connected.

In ascertaining the law with which a trust is most closely connected reference shall be made in particular to –

- (a) The place of administration of the trust designated by the settler*
- (b) The situs of the assets of the trust*
- (c) The place of residence or business of the trustee*
- (d) The object of the trust and the places where they are to be fulfilled."*

Figure 17

The same principle applies at Common law as demonstrated by the cases of **Chellaram v Chellarm [1985] 1Ch 409 at 431** and **Chellaram v Chellarm (No 2) [2002] 3 All Er 17 at 166**. **Chellaram v Chellarm [1985] 1Ch 409 at 431** confirmed the principle that in the absence of a choice of governing law a trust is usually governed by the law where its trustees are located. *"It is well established in English Law that the essential validity of a testamentary trust of moveables is governed by the law of the testators domicile. But there is no reason why a testator should not by will establish a trust to be governed by some other law other than the law of his domicile. His ability to create the trust may be subject to the law of his domicile, but subject thereto he is, in my view, as able by will to make a foreign settlement as he is able to do so inter vivos."*

Chellaram v Chellarm (No 2) [2002] 3 All Er 17 at 166 applied the principles of the Hague Convention *"By Article 7 of the Hague Convention, in the absence of a choice of the applicable law, a trust is governed by the law with which it is most closely connected. In ascertaining that law reference is to be made "in particular" to (a) the place of administration designated by the settlor — no such place was designated; (b) the situs of the assets of the trust(c) the place of residence or business of the trustees.....(d) the objects of the trust and the places where they were to be fulfilled.... In the light of the paucity of authority at common law, I doubt if there is any significant difference between the Article 7 and the likely approach at the common law."*

Conclusion

The purpose of registration is to increase public trust and confidence in charities by creating a more transparent and accountable charitable sector. To this end the public need to be sure that any organisation promoting itself as a charity is in fact a charity, as defined by law.

Refusals are not common but they occur because the applicant does not meet the legal criteria outlined in this report. It is essential, therefore, that charity trustees, of both registered and unregistered charities, understand what defines a charity in charity law.

The three key areas to consider are: not being an institution, not being established for charitable purposes and not being subject to the jurisdiction of the Court in Northern Ireland. Just because something may meet the general understanding of being charitable does not mean it is actually a charity in law.

We hope the case studies referred to in this thematic report will help the public and applicants to better understand why not all good causes are charities in the eyes of the law.

Further Reading

Registration support page – Commission’s website

Registering as a charity in Northern Ireland CCNI EG016

Statutory guidance on the public benefit requirement PBR1

The prevention or relief of poverty supporting document PBS01

The advancement of education supporting document PBS02

The advancement of religion supporting document PBS03

The advancement of health or the saving of lives supporting document PBS04

The advancement of citizenship or community development supporting document PBS05

The advancement of the arts, culture, heritage or science supporting document PBS06

The advancement of amateur sport supporting document PBS07

The advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity supporting document PBS08

The advancement of environmental protection or improvement supporting document PBS09

The relief of those in need supporting document PBS10

The advancement of animal welfare supporting document PBS11

Any other charitable purpose supporting document PBS12

Public benefit glossary PBG

Frequently asked questions (FAQs)

Running your charity

Equality guidance for charities in Northern Ireland

Community Amateur Sports Clubs: HMRC Guidance notes

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