

Version	Author	Date approved
8.0	PDM	23.03.2026

Publishing our decisions

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



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Contents

Section 1:	Overview	3
Section 2:	About this policy	4
Section 3:	The Commission’s policy on publishing decisions	7
	3.1 What is the Commission’s general approach to publishing decisions	
	3.2 Factors considered on a case-by-case basis	
	3.3 How decisions are published	
	3.4 Commenting on a decision	
	3.5 Challenging a decision	
	3.6 Making a complaint	
Section 4:	Examples of when we do and do not publish decisions	11
	4.1 Decisions the Commission must publish unless there is justification not to do so	
	4.2 Decisions the Commission will publish unless there is justification not to do so	
	4.3 Decisions the Commission will not publish unless there is justification to do so	
	Glossary	15
	If you disagree with our decision	17
	If you are dissatisfied with our service	17
	Freedom of information and data protection	18
	Contact details	19

Section 1: Overview

The Charity Commission for Northern Ireland is responsible for registering, regulating, and reporting on the charity sector in Northern Ireland.

Our vision:

Well run and trusted charities making a difference in peoples' lives.

Our purpose:

enabling charities to do things right through proportionate regulation, best practice, and advice.

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. Publishing decisions also 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, and publication is, in the majority of cases, at the Commission's discretion. The **Charities Act (Northern Ireland) 2008** does, however, set out certain circumstances where the Commission is required to publish its decisions or intentions unless there is good reason not to. In addition, we intend to publish decisions where there is sufficient justification that it would be in the best interests of the charity, and in the public interest.

This document sets out 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.

In this document the term decision refers to all types of regulatory activity namely decisions, consents, refusals, statutory inquiry reports, **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 relevant guidance published for each programme, for example, registration, monitoring, compliance and enquiries. The following policy sets out our general approach 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 several 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.

Charity legislation

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

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 *blue italics* indicate other guidance or databases.

Key terms

Below are a number of key terms that may assist you as you read this policy. They, and other terms, can be found in a glossary at the end of this document.

Affected person: An individual or other entity who is not a direct party to an agreement or other interaction but who is affected by it or has an interest in it that is materially greater than, or different from, the interest of the ordinary member of the public.

Direction: This is a legal document issued by the Commission which requires particular action(s) to be taken to ensure the proper administration of a charity. Failure to comply with a direction from the Commission may result in an enforcement action from the High Court.

Order: Orders can be used in many circumstances; they can authorise trustees to do something that their trusts do not otherwise allow, or to do something which is in the interest of the charity. They can also be used to protect charities and their property. Failure to comply with an Order from the Commission may result in an enforcement action from the High Court.

Scheme: A scheme is a legal document that changes, replaces or extends the trusts of a charity. 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.

Section 3: The Commission’s policy on publishing decisions

3.1 What is the Commission’s general approach to publishing decisions?

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 circumstances where publication of a decision taken is not expressly required but will be considered.

We therefore take the following general approach to publishing our decisions:

1. Decisions which must be published in accordance with the Charities Act unless there is justification not to do so, for example, **schemes** for the administration of a charity.
2. Decisions that will be published, even though there is no legal requirement to do so, unless there is justification not to, for example, the outcome of a statutory inquiry or decision to authorise a transaction.
3. Decisions which will not be published, unless there is justification to do so, for example, a decision to issue self-regulatory or regulatory guidance.

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 do so

The approach that we will take to publishing specific decisions is outlined in the relevant external guidance, for example, information on how we publish a decision regarding a consent to a regulated alteration is available in our [Consents for charitable companies](#).

Section 4 of this policy sets out examples of the type of decisions which follow each approach, and what is typically published in each case.

3.2 Factors considered on a case-by-case basis.

Individual decisions may be considered on a case-by-case basis to determine whether there are any mitigating factors that would lead us to diverge from the general approach, outlined above. 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 or that the details of the decision will not be published.

The following are some of the factors that may be considered.

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

3.3 How decisions are published and archived.

The way 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 an outline of the decision, or it may take the form of a thematic report.

When we do publish decisions, we will normally publish them on either the [Regulatory decisions and orders](#) or [Casework decisions](#) sections of our website. These pages provide links to regulatory decisions which have been taken by the Commission, orders issued due to concerns or enquiries and a table for archived casework decisions, such as consents.

Draft schemes that are open for comment are also published on the [Casework decisions](#) page of the website. Where we identify that wider notice of a proposed scheme is required, we may use other means, for example:

- publication in the media, such as a local newspaper
- directing the applicant to post a hard copy on a noticeboard of, for example, a Church, library or school
- using twitter or other social media
- direct contact with potentially **affected persons** or others who may have a material interest in the decision.

Published decisions, orders and directions are normally removed after 12 months and archived. A table showing Casework decisions which have been archived will be published on the [Archived decisions, orders, directions and reports](#) page of the website. Copies of archived decisions, orders and sealed schemes are available on request.

Other decisions are also available on the website, for example, a charity's entry on the [register of mergers](#), while a decision to register an organisation as a charity is published on the [Charity register](#) and remains there until the charity ceases to exist.

Statutory inquiry reports are one mechanism used by the Commission to share learning with the sector. They also serve to inform the public about matters of concern to the Commission and how the Commission uses its powers to protect charitable assets. For this reason, statutory inquiry

reports remain on the [Statutory inquiry reports](#) page of the Commission's website for a maximum of five years. After this time the report will be archived but available on request from the Commission.

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 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 certain decisions we have made, there are a range of options available to challenge these decisions. For further information on the options available, depending on the particular decision, refer to our guidance [Challenging a decision of the Commission](#).

3.6 Making a complaint.

If you are dissatisfied with the service you have received, or you wish to complain that the Commission has not followed its own processes in publishing or not publishing a decision, we would like to hear from you. You will find further information on the process you can use to do this in our guidance, [Making a complaint about our services](#).

Section 4: Examples of when we do and do not publish decisions.

The following tables set out some examples of the approach taken to publishing specific types of decisions. For further information refer to the relevant external guidance which is 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 scheme for the administration of a charity	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 directing an applicant to post a hard copy 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 charity trustee by the Commission	Name of the charity 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	<p>A statutory inquiry report will normally be published on the Commission’s website. We may also alert charity stakeholders. Statutory inquiry reports provide information on the inquiry process, the issue that was investigated, and any actions taken by the Commission.</p> <p>We will name individuals where it is necessary or desirable to identify them. For example, we may wish to name an individual where it would be unfair not to do so.</p> <p>Additionally, we may publish names where the case has attracted media attention and the names are already in the public domain. We will also name individuals who appear to us to pose a continuing risk to the sector or the public. This will include individuals whom we remove from office as a trustee. When appropriate the individual concerned will have an opportunity to comment on the factual accuracy of the report before publication.</p>	<p>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. The Commission may also diverge from this policy where no misconduct or mismanagement has been found and, on balance, detriment may outweigh public interest.</p>
To authorise an ex gratia payment	<p>A copy of the section 47 order authorising the payment will be published on the Commission’s website.</p>	<p>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.</p>

Decision not to register a charity	We will not publish decisions not to register.	The details of a decision to refuse registration may be published 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.
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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
Decision to issue a direction under section 22(3)	Directions issued as part of a statutory inquiry under section 22(3), are not published at the time of issue but may be published as part of the concluding statutory inquiry report.	There may be occasions when the Commission decides not to publish a statutory inquiry report if it were considered to 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. The Commission may also diverge from this policy where no misconduct or mismanagement has been found and, on balance, detriment may outweigh public interest.
Decision to issue self-regulatory or regulatory guidance	We will not publish a decision to issue self-regulatory or regulatory guidance to a charity.	We may publish such a decision in certain circumstances where, for example, a named charity is the subject of media attention. It may be in the public interest to know that the Commission is working with the charity and has issued regulatory or self-regulatory guidance.

<p>Decision to share information under Section 24</p>	<p>We will not publish a decision to share information with another public body or office holder.</p>	<p>We may publish such a decision in certain circumstances where, for example, it may be in the public interest to know that the Commission is working with another public body or office holder.</p>
<p>Decision to issue an order under Section 37</p>	<p>We will not publish a decision to issue an order on the application of charity property unless there are reasons to do so.</p>	<p>We may publish such a decision in certain circumstances where, for example, it may be in the public interest to know that the Commission is working to ensure that charity property is being applied for the purposes of the charity.</p>

Appendix 3: Glossary

Term	Definition
Affected person	A person who is entitled to appeal the decision on the basis that his legal rights are, or have the potential to be, affected by it.
Charities Act (Northern Ireland) 2008	<p>The Charities Act (Northern Ireland) 2008 is the main piece of legislation establishing the Charity Commission for Northern Ireland and setting out its functions and powers.</p> <p>References to 'the Charities Act' are to the Charities Act (Northern Ireland) 2008. The full content of the 2008 Charities Act and subsequent amendments can be found at Charities Act (Northern Ireland) 2008</p> <p>Not all of the sections of the Charities Act are in operation yet. Details of the sections that are in operation are available on the Commission's website.</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 • has previously been removed as a trustee by the Commission or by the courts • is subject to disqualification under company legislation.

Term	Definition
Direction	This is a legal document issued by the Commission which requires particular action(s) to be taken to ensure the proper administration of a charity. Failure to comply with a Direction from the Commission may result in an enforcement action from the High Court.
Order	An order is a legal document which can authorise charity trustees to carry out an act which otherwise they have no power to do or to do something which is in the interest of the charity. They can also be used to protect charities and their property. Failure to comply with an Order from the Commission may result in an enforcement action from the High Court
Prejudice	To cause harm or delay.
Scheme	A legal document that changes, replaces or extends the trusts of a charity. 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.
Undischarged bankrupt	This is someone who has been declared bankrupt, and is not yet discharged from bankruptcy.
W3C Standards	W3C accessibility standards consist of a set of guidelines for making content accessible especially to those web users who have a disability. This standard is recognised internationally.

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

The Charity Commission for Northern Ireland is responsible for registering, regulating and reporting on the charity sector in Northern Ireland. As part of its work the Commission is lawfully required to collect and process personal data. Your personal details will be treated as private and confidential, and will only be retained for as long as is necessary in line with our [retention policy and in compliance with the Data Protection Act 2018](#). You may want to read the Commission's [Privacy notice](#) which explains what we do with personal data and your rights in relation to that processing.

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 you think that information you are providing may be exempt from release if requested, please let us know.

More information

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