

Peter McGrath  
Clerk to the Local Government and Communities Committee  
T3.60  
The Scottish  
Parliament  
Edinburgh  
EH99 1SP

9 July 2019

Dear Mr McGrath

### **Stage 1 scrutiny of the Non-Domestic Rates (Scotland) Bill**

Thank you for your letter of 20 June following my evidence on behalf of OSCR to the committee's session on 19 June. We are grateful for the opportunity to provide further information on some of the issues discussed.

#### **Charities requesting removal from the Scottish Charity Register**

The committee discussed the possibility of independent school charities requesting to be removed from the Scottish Charity Register and relinquishing their charitable status, and it may be helpful to provide further information on this.

Scotland has a comprehensive regulatory system of charities. This means that all charities registered in Scotland are on the Scottish Charity Register, and bodies not entered on the Register cannot claim to be charities. Under section 18 of the Charities and Trustee Investment (Scotland) Act 2005 a charity can request that OSCR removes it from the Scottish Charity Register, and we must then do so within 28 days. However, as a precaution to ensure that charities cannot simply remove assets from charitable uses, section 19 of the 2005 Act provides for a 'lock' on the assets the organisation has at the point of removal from the register. The assets must continue to be used for the charitable purposes the body had when it was on the Register.

In short, it prevents someone acquiring assets (including cash, property, equipment, vehicles) during the lifetime of a charity from then de-registering and using those assets for other purposes. Some of OSCR's regulatory powers continue to apply to the assets for as long as the body has them – in the case of heritable property this may be a prolonged period.

While this 'lock' ensures the assets must continue to be used for charitable purposes, the other requirements for charitable status no longer apply. This includes the requirement that the fees and charges a body makes should not unduly restrict access to the services it provides. As our submission noted, this raises the possibility that independent schools charities removed from the register would no longer be required to consider fee levels, means-tested assistance or wider community benefit as they do now.

This issue with section 19 of the 2005 Act was raised in [Scottish Government's recent consultation on Scottish charity law](#).

### **Contact from the Barclay Review team in 2016**

Mr Barclay stated at the committee's meeting on 26 June 2019 that OSCR had been contacted to submit information to the review in 2016. OSCR has no record or recollection of receiving any communications from the Review. We understand that OSCR may have been on a general stakeholder distribution list that asked for views on recommendations to enhance and reform the business rates system in Scotland to better support business growth and long term investment. Specifically the question posed was:

*How would you re-design the business rates system to better support business and incentivise investment?<sup>1</sup>*

In light of the generic, business-focused nature of the communication it is unlikely that OSCR would have considered this to be an appropriate call for information for us to respond to. We would reiterate that we have no record of this contact and we were not directly contacted for any comment on the potential changes to rates relief for independent schools, ALEOs or sports clubs that were being recommended by the Review.

Thank you for the opportunity to contribute evidence to the Committee. We will of course be happy to provide further information if required.

Yours sincerely

Martin Tyson  
Head of Casework

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<sup>1</sup> <https://www.gov.scot/publications/barclay-review-business-rates-scotland-call-submissions/>