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An t-Ionad Fiosrachaidh

Social Justice and Social Security Committee

6th Meeting, 2023 (Session 6), Thursday, 9
March 2023

Charities (Regulation and Administration) (Scotland) Bill

The [Charities \(Regulation and Administration\)\(Scotland\) Bill](#) was introduced in the Scottish Parliament on 15 November 2022. [SPICe has published a briefing on the Bill.](#)

The Committee issued a [written call for evidence](#) on the Bill which ran from 8 December 2022 to 3 February 2023, with the option for respondents to complete either the main call for views, or a shorter survey. There were 55 responses to the short survey and 35 responses to the detailed consultation. [SPICe has prepared a summary of responses to both of these consultation exercises.](#)

The Committee will have its second formal evidence session on the Bill on 9 March when it will hear from the following organisations.

Panel 1: Proposals for Bill and comparable framework

- **Office of the Scottish Charity Regulator (OSCR):** The Scottish Charity Regulator (OSCR) is a non-ministerial office and part of the Scottish Administration following commencement of the Charities and Trustee Investment (Scotland) Act 2005. They are the independent regulator and registrar for over 25,000 charities in Scotland, reporting directly to the Scottish Parliament every year. OSCR is comprised of board members appointed by Scottish Ministers, along with a chief executive and staff of around 45-full time equivalents. They have various powers to regulate the sector, with a core aim of increasing transparency within charities. Many of the Bill provisions reflect proposals put forward by OSCR.
- **Law Society of Scotland (Charity Law sub-committee):** The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors. They are a regulator that sets and enforces standards for the solicitor profession. They also seek to influence changes to legislation as

part of their work towards a fairer and more just society. Their Charity Law sub-committee has engaged at each stage of the consultation process on the Bill.

- **Charity Commission for England and Wales:** The Charity Commission for England and Wales regulates charities in England and Wales and maintains the [charity register](#). They are an independent, non-ministerial government department accountable to parliament. Their stated core aim is “to ensure charity can thrive and inspire trust so that people can improve lives and strengthen society”. They employ approximately 350 people. Some of the Bill provisions are aimed at bringing Scottish charity law in line with that of England and Wales.

Panel 2: Legal, academic and accountancy/audit

- **ICAS:** ICAS is a professional body for more than 23,300 businesspeople who work in the UK and in more than 100 countries around the world. Their members have all achieved the internationally recognised Chartered Accountant qualification. They regulate their members and represent them on a wide range of issues in accountancy, finance, and business and seek to influence policy in the UK, acting in the public interest.
- **Gavin McEwan, Charity Law Association (also of Turcan Connell):** The Charity Law Association (CLA) is concerned with all aspects of the law relating to charities and has established a working party to consider the Bill. They have approximately 1,050 members, mostly made up of lawyers as well as accountants and other charity professionals. It should be noted that, as highlighted in their submission, members of the working party serve in a personal capacity and the views expressed should not be taken to be the formal opinion of CLA members as a whole.
- **Faculty of Advocates:** The Faculty of Advocates is the independent professional body to which all lawyers who have been admitted to practise as advocates before the courts of Scotland belong. A constituent part of the College of Justice, it is based in Edinburgh and led by elected office-bearers and by an elected Faculty Council.
- **University of Liverpool (Charity Law and Policy Unit) -** The Charity Law and Policy Unit, based at the University of Liverpool, is focused on legal and policy change relating to charities. It carries out research into legal issues facing charities and third sector organisations, often with an empirical element and focusing on proposals for legal and regulatory reform.

This paper provides background and suggested areas of questioning both generally for both panels and on specific technical points that certain witnesses may be more able to pick up on. Further detail as to the Bill’s provisions can be found in the [SPICe briefing](#) and in the Bill documents.

Introduction

The Bill aims to strengthen and update the current legislative framework for charities by:

- increasing transparency and accountability in charities
- making improvements to OSCR's powers
- bringing Scottish charity legislation up to date with certain key aspects of charity regulation in England, Wales and Northern Ireland.

The Scottish Government considers the Bill proposals to be "generally regulatory in nature as opposed to anything more fundamental about charities". Acknowledging that there have been calls for a more fundamental review of the charitable sector, the Scottish Government intends to consult further with the sector following the passage of this Bill.

If passed, the Bill would:

- require OSCR to publish names of trustees on the public Scottish Charity Register
- require OSCR to maintain an internal database of trustee contact details
- update the range of offences and situations that result in disqualification of charity trustees
- extend the criteria for disqualification to apply to senior management positions as well as trustees
- require OSCR to create a searchable record of charity trustees who have been barred by the courts from acting as trustees
- allow OSCR to appoint interim trustees in specific circumstances
- require OSCR to publish annual accounts for all charities on the Register
- allow OSCR to remove charities from the Register if they fail to submit accounts and fails to respond to subsequent communication from OSCR
- require OSCR to keep a record of charity mergers to assist with the transfer of legacies
- allow OSCR to undertake inquiries into former charities and their trustees
- enable OSCR to issue positive directions to charities following inquiry work
- require charities to demonstrate a connection to Scotland if they are to be registered by OSCR.

This themes paper is structured around 9 themes:

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Previous evidence session

Members will be aware the committee took evidence from two panels in last week's session on 2 March 2023. Some key points of evidence have been highlighted below.

There was a broad consensus from witnesses across both panels that there is a need to update legislation governing the sector. There was also broad consensus that OSCR's powers would be bolstered by the Bill, leading to greater transparency within the sector.

However, witnesses stated that any use of OSCR's new powers must be proportionate. There were also a number of points raised that implementation of these new powers and changes to existing frameworks must be done in an effective and efficient way so as to avoid any additional, unforeseen burdens on charities – particularly smaller organisations. If this is to be achieved, there needs to be effective communication and guidance issued by OSCR or the Scottish Government before the legislation takes effect so that the sector can prepare for any change or additional cost or time commitment.

Another general theme to emerge from the session was a concern around lack of detail on how provisions would be implemented. While witnesses were generally supportive of the Bill provisions, they found it difficult to assess how much impact they would have on charities due to the lack of detail on how measures would be brought in. For example, witnesses noted lack of detail on how information would be gathered e.g. whether there would be digital platforms for providing information.

On the topic of disqualification, some concern was raised as to bankruptcy being a reason for disqualification as this could put off individuals trying to rebuild their lives through being a charity trustee, or indeed be a barrier for individuals with lived experience of poverty becoming a trustee. **Volunteer Scotland** stated the criteria was too punitive – particularly around bankruptcy. This was echoed by **SCVO**.

Alzheimer Scotland further stated that there is no point in bringing disqualification criteria in line with the rest of the UK just for the sake of it, and that Scotland could decide to take a different approach with the legislation. Some questions were also raised as to the appeals process and what this would look like in practice.

It should be noted, however, that bankruptcy is already a reason for trustee disqualification and is not a new reason for disqualification introduced by the Bill.

Some discussion was also had as to the exemption for designated religious charities (DRCs) from positive directions issued by OSCR. **The Church of Scotland** stated that this was appropriate as they have their own internal structures and disciplinary functions in place, and that OSCR recognise this (and this is the reason for the existing exemptions for DRCs). **The Methodist Church** echoed this while highlighting that though they are not a DRC, they also have their own legislation and subordinate legislation which govern their own discipline procedures. They also highlighted that they are a parent charity to other smaller, individual charities within the church. They therefore requested that, in cases where action is being taken against a subordinate charity, that the parent charity be kept informed of this process and inquiry.

In terms of what witnesses would like to see that is not currently contained within the Bill, **the Church of Scotland** stated they were disappointed the Bill does not contain provisions allowing for reorganisation of charities which have been established under Royal Charter enactment. This means that these bodies still need to go through the Court of Session, which they state is often a difficult and costly process. Changes in this area were part of the initial Scottish Government consultation, but were not included in the Bill.

The power for OSCR to appoint interim trustees was also identified as an area within the Bill lacking detail. Witnesses were keen to hear how this would work in practice, and how OSCR proposes to find these interim trustees given widespread difficulty within the sector of finding qualified prospective trustees in the first place. It was also highlighted that this could be a particularly pertinent issue for charities in more rural communities.

Theme 1: Consultation and plans for wider review

The Bill largely reflects proposals put forward by OSCR in a [2018 paper to Scottish Ministers](#). On 7 January 2019, the Scottish Government [launched a consultation based on OSCR's proposals](#), seeking views on potential improvements to the statutory charity regulation framework in Scotland. A further consultation was launched in 2020 with a further [consultation exercise](#) and targeted engagement sessions with stakeholders.

In their submission to the Call for Views, the **University of Liverpool** stated they had been able to access both the 2019 and 2021 consultation process. While noting it has been a lengthy process, they consider it to have been thorough.

On the planned wider review, they state there is the potential for Scotland to become a leading jurisdiction in the charity law field – with the regulator being ‘ahead of the game’ on issues such as the concept of public disbenefit of charities. They also state there is further scope for other leading initiatives, such as novel approaches to

technology. They also noted that if the intention is to merely keep in line with the rest of the UK, the Bill in its current form will not achieve this due to further advances over the period of consultation in the [Charities Act 2022 for England and Wales](#).

The Law Society have welcomed the opportunity to engage constructively throughout the consultation process, but stated in their written submission that they believe a more comprehensive review of charity law is needed. They identify specific areas including:

- Reforms to SCIOs to assist smaller unincorporated organisations converting to this legal form.
- Statutory clarification of obligations regarding [notifiable events](#).
- Clarification of provisions relating to winding up and dissolution.
- Amendments to address technical obstacles to reorganisation.
- Reforms relating to the treatment of royal charter/warrant and enactment charities.

The Charity Law Association have also engaged with both consultations and would welcome a wider review. While they are glad to see the Bill introduced, they state there are areas in which it could go further and there are areas where the regulatory system would benefit from wider reform.

ICAS have similarly engaged at both stages of consultation, as well as met with the Scottish Government's Charity Law Team and OSCRC in January 2023 to discuss the Bill. They welcome the Scottish Government's commitment to a wider review but are disappointed this is unlikely to happen until after elections in May 2026. They believe it is important for a review to recognise the changing third sector landscape.

The Faculty of Advocates note that the consultation process has been extensive and are sympathetic to a planned wider review. They identify numerous areas which may be addressed. For the sake of brevity, members can find these suggestions in full via their [response to question 10 in the call for evidence](#).

With that said, the **University of Liverpool** identified that the initial consultation proposals offered the potential for broader reform. They state there were provisions aimed at clarification of the legislation to make clear OSCRC can approve re-organisation schemes for certain charities that have been established by Royal charter, warrant or enactment – but that these proposals do not appear in the Bill.

Members therefore may wish to explore:

Both Panels –

1. **Are panel members satisfied with both the 2019 and 2021 consultation process? If they responded to both, are there any areas which could be improved upon in terms of questions asked or engagement events?**
2. **Are panel members able to identify any potential areas of regulation not addressed in the Bill, or areas where the Bill provisions could go further?**

3. **Witnesses have stated they would welcome a wider review of the charity sector following passing of the Bill. What should this wider review look like and what aspects of the charity sector should this cover? How can smaller charities be effectively engaged in the process?**

Panel 1 -

4. **Can the Charity Commission for England and Wales comment on how effectively the Bill aligns with the rest of the UK, and how important is such alignment? Also, in terms of a wider review, has any such review been undertaken in England and Wales and, if so, are they able to offer any insights as to the review process?**
5. **Has the Charity Commission for England and Wales encountered any challenges in implementing similar provisions in England and Wales?**

Theme 2: General principles of the Bill

Reform of charity law has been on the Scottish Government's agenda for some time. The Scottish Government considered that reform was needed, given that the legal framework had not been updated since the 2005 Act, and given that corresponding legislation in England and Wales had been updated since 2005.

The Scottish Government considers the Bill proposals to be "generally regulatory in nature as opposed to anything more fundamental about charities". The proposals are aimed at improving transparency and accountability in the charity sector and extending OSCR's powers to strengthen their regulatory role.

Witnesses who submitted evidence broadly agreed that the principles were in line with OSCR's initial proposals. **OSCR** themselves stated in their submission that the measures in the Bill accurately reflect the proposals. They also state they have been working with the Scottish Government to ensure the original proposals are reflected in the measures and are confident this has been achieved. However, in order to achieve maximum benefit for the public, they are keen to see relevant regulations implemented in the near future.

There was also broad agreement that the new powers for OSCR would allow for greater transparency and accountability within the charity sector. There was also broad agreement that this would lead to the public being better protected than at present, leading to greater trust from the public as to the sector itself.

Members therefore may wish to explore:

Both Panels –

6. **Do the provisions in the Bill accurately reflect the proposals put forward by OSCR in their 2018 paper?**

7. Do witnesses consider there are weaknesses in relation to transparency and accountability in the charity sector? How will the Bill address these weaknesses?
8. Do the proposals support OSCR's regulatory role and how effective is this at present?
9. Are the proposed extensions to OSCR's powers appropriate and proportionate?

Theme 3: Information about charity trustees

The Bill proposes that names of trustees are included on the public Scottish Charity Register. Charities and trustees will be able to request that names are withheld if there are safety or security concerns and OSCR will decide if such requests are accepted. If the charity or trustee disagrees with OSCR's decision, they will have the right to appeal the decision.

The Bill would also require OSCR to gather and keep up-to-date contact information on trustees for its own internal use. Charities will be required to inform OSCR when trustees change and provide updated details.

More detail on these provisions is available in the [SPICe briefing](#).

A number of respondents to the Call for Evidence stated the creation of a publicly searchable register of trustees would increase transparency and protect the public against "rogue trustees" who previously would be able to avoid scrutiny.

With that said, while agreeing that broadly speaking the Bill would lead to charity regulations being more transparent and the public better protected, **The Faculty of Advocates** noted in their response that this may impact recruitment of trustees in the future.

Again, while recognising that trustees will be able to apply to OSCR to preserve their anonymity (to the public, not OSCR) and that an appeals process would be implemented – prospective trustees may be put off by the uncertainty surrounding this process. They therefore stated:

"If there is to be a public register of charity trustees, care must be taken over the exemption procedure and reviews pertaining thereto."

ICAS stated in their response that trustees of smaller charities may feel daunted by the implementation of a register of trustees both in terms of complying with the requirement and securing disclosure exemptions on grounds of safety and security. However, they also state these concerns could be addressed by OSCR supporting charities through the implementation process and informing the sector well in advance of changes.

The Law Society of Scotland echoed this response. They also raised that consideration should be given to ensuring those who may not have access to the internet, or who are not confident using online processes, are not excluded.

Members therefore may wish to explore:

Both Panels –

- 10. Do witnesses have any concerns in relation to the proposals for OSCR to gather and maintain up-to-date information on charity trustees, and to include names of trustees on the public Scottish Charity Register?**
- 11. What do witnesses anticipate the implications will be for charities in relation to their administrative functions, particularly those charities who do not have paid staff or smaller charities?**

Panel 1 -

- 12. Can OSCR give some insight into how this register may operate from a public perspective? Is the expectation for this to be a fully digital register?**
- 13. Can the Charity Commission give any comment as to how such a register operates in England and Wales?**

Panel 2 -

- 14. ICAS highlighted in their submission that though some charities may feel daunted by the implementation of a register, these fears can be addressed through effective communication from OSCR. What would effective communication look like in their opinion?**

Theme 4: Publication of charity accounts

At present, all charities are required to submit annual accounts to OSCR. However, OSCR only publishes accounts on the Register for charities with annual income of £25,000 or more (and any personal information is redacted). [Note that if accounts are also published with Companies House, OSCR will link to these unredacted accounts]. Under the Bill's proposals, unredacted annual accounts would be published for all charities, regardless of size.

As with the publication of trustee names, there will be scope for charities to request that certain information is withheld from the published accounts where there might be security or safety concerns. Such requests will be considered by OSCR and charities will be able to request a review of these decisions if they are in disagreement.

If charities fail to submit annual accounts to OSCR and then subsequently fail to respond to subsequent communication from OSCR, the changes introduced by the Bill would mean that OSCR can remove them from the Scottish Charities Register.

More information on this aspect of the Bill can be found in the [relevant section of the SPICe briefing](#).

While there was broad consensus among those who made written submissions that this would meet the Bill's aim of increasing transparency, some identified that this may incur additional administrative costs and wider resource burdens associated with this new continuous obligation – particularly for smaller charities.

With that said, **the Charity Law Association** stated in their submission that they strongly support the provision to allow OSCR to publish (unredacted) annual accounts filed by charities – as well as for the Register to show trustees' names, stating:

“Both of these measures are normal in other jurisdictions, and lead to much greater transparency regarding charities and their governance.”

Members therefore may wish to explore:

Both Panels –

- 15. Do witnesses have any concerns around the proposal to publish unredacted accounts for all charities, regardless of size? Some respondents and previous witnesses have suggested a threshold could be implemented so that charities with smaller incomes would be exempt – would witnesses support such a measure?**
- 16. Do witnesses agree that removing charitable status from organisations that fail to submit accounts is an appropriate measure?**

Panel 1 -

- 17. Can OSCR outline what routes to appeal will be in place for charities who fail to publish their accounts on time?**
- 18. Can OSCR go into further detail as to the criteria for what constitutes a safety or security concern? How would a review of OSCR decisions work in practice?**

Theme 5: Disqualification from being a charity trustee or holding a senior management position

The Bill updates the criteria for disqualification of trustees to bring them in line with the criteria in place in England and Wales. It would also extend these criteria so that they also apply to those holding senior management positions in charities.

Under the Bill proposals, OSCR would also be required to maintain a record of those individuals who have been disqualified by the Court of Session from acting as a charity trustee. [Note, this record would not cover all disqualified trustees, just those who have been barred by the Court of Session.] This record would be searchable by name. It is not clear from the Bill and associated documents how the search function would operate and how, for example, any risk of misidentification might be handled. For example, there could be a risk that an individual is wrongly identified as having been disqualified because they have the same name as another individual who has been disqualified.

Further information on this aspect of the Bill can be found in the [relevant section of the SPICe briefing](#).

The Law Society of Scotland noted in its response that this step will increase parity between Scotland and the rest of the UK, as an individual disqualified from running a charity in one jurisdiction should not be free to participate in the running of a charity in another jurisdiction.

As highlighted, previous witnesses stated they believed some of the criteria for disqualification to be too punitive – particularly around bankruptcy. They state this may lead to issues in recruiting, for example, trustees with lived experience or from more deprived backgrounds.

It should be noted that bankruptcy is already a reason for disqualification under the current framework, and is not a new measure being introduced by the Bill. However, witnesses at the evidence session on 2 March suggested that this might be an area where Scotland could choose to take a different approach.

Members therefore may wish to explore:

Both Panels –

- 19. Do witnesses agree that it is sensible to have the same disqualification criteria in place across the UK? Are there any areas where Scotland could go further?**
- 20. Is it appropriate for OSCR to maintain a publicly searchable record of trustees who have been disqualified by the Court of Session? Does this present any issues with regard to the handling of sensitive personal data?**
- 21. Do witnesses agree with the proposal to extend the disqualification criteria to those in senior management positions, and do they anticipate this having any implications on recruitment for organisations?**
- 22. What are panel members' thoughts on comments made by previous witnesses that measures for disqualification are too**

punitive and restrictive on those wishing to act as trustees – particularly around bankruptcy?

23. Are there any concerns that the criteria for disqualification may disproportionately impact certain demographics and not others? How can this be addressed in order to promote diversity among charity trustees?

Panel 1 -

24. Charity Commission for England and Wales – are they able to offer insight into their own disqualification criteria and process, and how this aligns with Scotland? How does their register of disqualified individuals operate?
25. The Bill would give OSCR the power to create a database of people who have been removed from being involved in the administration of a charity by the courts. The consequences for individuals who are mistakenly thought to be in this position could be significant – for example, not being able to work in the sector. Can OSCR explain how the risk of mistaken identity will be minimised in relation to public searches of the database? How do other panel members think this issue should be approached?

Theme 6: OSCR inquiries

The ability to undertake inquiries is an important aspect of OSCR's regulatory and assurance role. Any individual can report a concern about a charity to OSCR. In 2021-22, a total of 563 concerns were raised with OSCR. Following assessment of the issues, OSCR determined that an inquiry was appropriate for 60 of these cases. The 2005 Act that created OSCR requires it to act in a manner which is "proportionate, accountable, consistent, transparent and targeted only at cases in which action is needed".

Inquiries into former charities

The changes proposed by this Bill would allow OSCR to investigate former charities and their trustees. Under the current legislation, this is not possible, and inquiries can only be undertaken where the charity still exists. This raises the risk that trustees of charities that no longer exist could go on to act as trustees of other charities.

Further information on this aspect of the Bill can be found in the [relevant section of the SPICe briefing](#).

Issuing positive directions following inquiries

At present, OSCR only has powers to issue *negative* directions following inquiries into charities. For example, OSCR can direct charities to stop doing certain

activities. However, it cannot issue *positive* directions to charities requiring them to take certain actions, for example to remedy non-compliance. As in all areas of its activities, OSCR will be required to act in a proportionate manner when issuing directions. As with certain other direction-giving powers, this provision will not apply to Designated Religious Charities. Directions can only be issued following an inquiry by OSCR.

Further information on this aspect of the Bill can be found in the [relevant section of the SPICe briefing](#).

Members therefore may wish to explore:

Both Panels –

- 26. Do you think it is appropriate for OSCR to be able to issue positive directions following inquiry work?**
- 27. Is it appropriate for Designated Religious Charities to be exempt from this provision?**

Panel 1 -

- 28. As highlighted by previous respondents, can OSCR outline the procedures in place where a smaller charity – overseen by a larger organisation – is under investigation. What level of engagement does the parent charity currently have in this process and does this present any challenges?**

Theme 7: Data protection

Many of the proposals within the Bill have implications around GDPR and privacy and respondents to the Call for Views highlighted a number of concerns around data protection issues.

The Scottish Government published a [Data Protection Impact Assessment](#) alongside the Bill. The purpose of this is to assess the potential GDPR and privacy impact, as well as evaluate how the protection of personal data has been considered and addressed in the proposals.

The DPIA highlights that OSCR has a statutory power to process, so processing is appropriate. However, no mention is made of the proportionality of the proposals and very little discussion on the different types of processing. The majority of the DPIA focuses on publishing accounts, rather than the databases of trustees or the database of individuals disqualified.

There is also a requirement for public sector organisations to consult with the Information Commissioner's Office (ICO) on any legislative measure which require processing of personal data. This process is set out in [Article 36\(4\)](#).

The ICO [responded to the Scottish Government's 2019 consultation](#) and raised a number of concerns around the proposals. The DPIA also refers to the Scottish Government having a meeting with the ICO on 12 February 2020, but there is no information on the outcome of this meeting. It is therefore unclear as to how the legislative proposals reflect the ICO's concerns. The DPIA should form the basis for consultation with the ICO, but the timing appears to be different in this case, with the consultation with ICO preceding the DPIA. So it is unclear whether the Scottish Government has gone through the process outlined in Article 36.

Members therefore may wish to explore:

Both Panels –

- 29. Are there any concerns around the data protection implications of the Bill? Have these been adequately addressed within the DPIA and the legislative proposals?**

Panel 1 -

- 30. The Bill would give OSCR the power to add the names of trustees to the Charity Register as well as hold their details in an internal database. Data protection legislation requires that personal data must be "accurate and, where necessary, kept up to date". What steps is OSCR taking to ensure information about trustees is up to date? And what is the practice among other regulators/What steps would other panel members think were appropriate?**

- 31. How will OSCR propose to meet their obligations under GDPR legislation for processing data? Also, who would be liable in the event of a data breach – OSCR, or the Scottish Government?**

Theme 8: Other miscellaneous issues

There are a number of further areas covered by the Bill and its accompanying documents, which include:

- Power for OSCR to appoint interim charity trustees
- Requirement for OSCR to maintain a record of charity mergers

Appointment of interim charity trustees

Under the existing legislation, OSCR can appoint an interim charity trustee where this is requested by the charity. If passed, the Bill would allow OSCR to appoint interim trustees in situations where this is not requested by the charity itself. This would include situations, for example, where there are no trustees, or where they cannot be located, or are unwilling to act. This would allow OSCR to avoid costly court action to appoint a judicial factor and provide an easier route to protect charity assets. There are no dispute mechanisms in the Bill around the proposed new power (for example, if the charity has any concerns or issues with an interim trustee appointed by OSCR).

Further information on this aspect of the Bill can be found in the [relevant section of the SPICe briefing](#).

Charity mergers

The Bill would require OSCR to keep a record of charity mergers, which would make it easier to ensure that legacies are preserved where these are made to a charity which subsequently merges with another charity and changes name.

Further information on this aspect of the Bill can be found in the [relevant section of the SPICe briefing](#).

Members therefore may wish to explore:

Both Panels –

- 32. Would a record of charity mergers be welcomed by the panel? What, if any, administrative barriers would this remove or help mitigate?**
- 33. Do the panel have any concerns regarding the appointment of interim charity trustees? Are they satisfied that there is enough clarity around this provision, and should there be a dispute mechanism associated with this power?**

- 34. Are there situations where the lack of a power to appoint interim trustees has been an issue? Is this a power that is available in England and Wales and has it been used?**
- 35. Can OSCR elaborate on how it intends to find interim charity trustees? Has any wider consideration been given for the geographical challenges of this - i.e, for charities in rural communities?**

Theme 9: Financial implications of the Bill

The Financial Memorandum (FM) for the Bill outlines estimated costs of between £0.6 million and £1 million across the first three years following implementation. Costs are expected to fall fully on the Scottish Administration (which includes OSCR), with no anticipated costs for local authorities.

The Scottish Government does not estimate that the Bill would require significant additional activity on the part of individual charities, so has not included any costs for these bodies in the Bill documents. However, as noted in the [SPICe briefing](#), even very minor additional costs could have an impact on smaller charities. Also, with over 25,000 charities in Scotland, even minor additional costs for each of these charities would imply a significant additional cost across the sector.

Further information on the Financial Memorandum can be found in the relevant section of the [SPICe briefing](#).

While witnesses who submitted responses to this question in the call for evidence highlighted they were not best placed to comment in detail on the financial memorandum, **the Faculty of Advocates** did note the following:

“Almost any legislation bearing on charities may require charities and charity trustees to consider how (if at all) the legislation bears on them, and if it does bear on them, how it so impacts. Such consideration may involve substantial initial costs and some costs arising from time to time.

The cost of the regulatory burden may also depend in part upon the sensitivity and “proportionality” with which the new regime is policed by OSCR and others. The Faculty’s impression is that OSCR is likely to adopt a sensible and proportionate approach.”

Members therefore may wish to explore:

Both Panels –

- 36. Do witnesses agree that the Bill proposals will not result in any additional costs for local authorities or charities?**

Panel 1 -

- 37. SCVO highlighted that OSCR has a responsibility to ensure charities understand the impacts of the Bill and noted that “there is a possibility that the need for communication, engagement, guidance, and clarification from OSCR to charities as a result of this Bill may have been underestimated to some extent”. Is OSCR confident they will be able to carry out their enhanced duties efficiently and effectively within current levels of funding, or will further resources be required?**
- 38. Can OSCR comment on their planned communications strategy should the Bill be passed?**

Scott Mackay, Researcher, SPICe Research

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