

Ms Sarah Cremin,
Committee Secretariat,
Committee of Public Accounts,
Leinster House,
Dublin 2,
D02 XR20.

Ref: S1196 PAC33

22 February 2023

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Response to Matters Raised by the Committee of Public Accounts

Dear Ms Cremin,

I refer to your letter of 10th February in relation to the Committee of Public Accounts' consideration of our correspondence to the Committee dated 20th January 2023.

I set out below an outline of how the application process for charity registration works at present.

Requirements to be considered a charity

The registration of organisations as charities in Ireland is a legal process whereby each application is carefully assessed to ensure that an applicant meets the requirements to be registered as a charity which are set out in the Charities Act, 2009 (the "Act"); this is called the 'charity test'. To pass the charity test and meet the statutory requirements for registration, an organisation must be able to demonstrate that –

- it is not an excluded body,
- it exists for one or more charitable purposes,
- it promotes these charitable purposes only,
- it carries out all activities to further these charitable purposes,
- its constitution (governing document) requires all its property (both real and personal) to be applied in furtherance of its charitable purpose(s),
- it operates in the Republic of Ireland, and exists to benefit the public or a section of the public in Ireland or elsewhere through its charitable purposes.

How to apply

The Charities Regulator requires applications for registration to be made using a dedicated form which is available on our online system, [MyAccount](#). To access this form, an applicant will need to create a customer account. The person who submits the application and receives communications on the application from the Charities Regulator is known as an ‘Authorised Filer’. This can often be a third party, such as a solicitor, who prepares and submits the application on behalf of an organisation.

Assessment of applications

The Charities Regulator operates a three step process when assessing applications, as follows:

Step 1: Document check: At this level, an application is checked to ensure that it includes all information and documentation which is required under section 39(5) of the Act to be submitted in the application. Where required information or documentation is missing, the application is incomplete. An incomplete application is returned to the applicant specifying which information and/or documentation is missing.

Step 2: Assessment by a case officer: Once an applicant has provided all required information and documentation, its application is assessed to determine whether the organisation meets the requirements to be registered in accordance with the charity test. The case officer may

return an application to an applicant at this stage seeking further detail or clarification. There can be extensive engagement with an applicant at this stage including a meeting, if necessary.

Step 3: Decision: Once any final details and clarifications have been provided, the application will be considered and a final decision will be made by the Charities Regulator to grant or refuse registration.

It is normal for an application to be returned to an applicant at some stage during the registration process. When this happens we recommend that the applicant carefully reviews the reasons given for the return, addresses any issues or problems that have been identified and returns the application in good time so that it can be progressed by our Registration team. Unfortunately, many applicants do not reply in a timely manner and as a result, applications can be delayed for months at a time. It is also not unusual to have to return an application more than once, which prolongs the process further.

A final decision on an application is only made when all of the information required to assess whether or not an applicant meets the charity test has been furnished to the Charities Regulator. The Act provides that the Charities Regulator must refuse an application unless it is satisfied that an applicant is a charitable organisation. For example, an organisation having non-charitable as well as charitable purposes would be a reason for refusing an application for registration.

As mentioned in my letter of 20th January, there is a lack of clarity in the Act in respect of how incomplete or otherwise deficient applications for registration can be dealt with in the first instance other than by way of refusal. An applicant who is refused registration on the grounds of an incomplete or otherwise deficient application could potentially seek to appeal that refusal to the Charity Appeals Tribunal under section 45 of the Act. For this reason, the Charities Regulator makes every effort to ensure that applicants are given ample opportunity to present a complete and comprehensive application for consideration. This necessarily involves a considerable time commitment on the part of staff of the Charities Regulator's Registration team.

Resolving deficient applications

The Charities Regulator appreciates the importance of assisting applicants who may find the application process for registration challenging. For this reason, we have devoted considerable time and resources to developing an extensive range of practical guidance and materials for applicants, which is available through our website, seminars and our contact centre. However, for operational reasons and in order to ensure that our limited resources are employed efficiently and deliver for our stakeholders, it should be possible for the Charities Regulator to decline to deal with an application where it is clear that the application does not comply with the requirements of section 39(5) of the Act, which details the information that must be provided by applicants.

An amendment to deal with the issue of incomplete applications was included in the General Scheme for the Charities (Amendment) Bill 2022. The amendment proposed is intended to address situations where an application for registration is deficient in some respect and sets out a clear and fair process for dealing with such applications. The proposed amendment would facilitate a more efficient and proportionate approach by the Charities Regulator to incomplete or otherwise deficient applications while still providing an applicant with an opportunity to address any outstanding issues within a fair time period. The process proposed in the amendment would also ensure that the formal appeals process provided for in the Act is limited to cases where an assessment of whether or not the applicant is a charitable organisation within the meaning of the Act has been possible as opposed to those applications where such an assessment cannot be carried out due to the application being incomplete or deficient in some way.

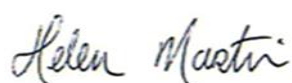
In the absence of a statutory process for declining incomplete and deficient applications, the Charities Regulator has endeavoured to address issues raised by applicants submitting incomplete or otherwise deficient applications, by ‘locking’ applications after 3 months of inactivity in cases where an application has been returned to an applicant and they have not responded to the Charities Regulator, despite reminders being issued. The ‘locking and reminders’ mechanism was introduced to prompt applicants to contact and speak to the Registration team about their application, at which point the

application can then be unlocked. In some cases, the period of inactivity may have been so long that the submission of a new application with up to date information may be necessary.

Unfortunately, while the above operational solution has worked well in most cases, it has resulted in a small number of applicants who have failed to respond in a timely manner when their application has been returned to them, submitting multiple applications rather than progressing their original application. This is an inefficient use of the Charities Regulator's limited resources and unduly prolongs the registration process in respect of the applicants concerned. A new application form for registration is due to be launched in the coming weeks which, along with other developments to the system, will eliminate this as an issue in the future.

As noted in my letter to the Committee dated 20th January, while it would not be appropriate to comment further on the individual entity which is the subject of the Committee's enquiries, I hope that the foregoing is of assistance in terms of understanding, more generally, the kinds of issues that can lead to some applications for registration taking longer than normal to progress.

Yours sincerely,



Helen Martin

Chief Executive

Cc: Geraldine McCarthy, Head of Communications & Stakeholder Engagement, Charities Regulator