

# The Scottish Charity Regulator

## Submission by The Scottish Charity Regulator (OSCR), 30 May 2024

Office of the Scottish Charity Regulator

Briefing for the 6 June 2024 meeting of the Social Justice and Social Security Committee of the Scottish Parliament

We are grateful for the Committee’s invitation to appear on 6 June and look forward to speaking to members. We hope the following briefing is helpful to members.

### OSCR’s purposes and activities

OSCR regulates and is the registrar for Scotland’s 25,000 charities. We are a non-ministerial office (NMO) working alongside the Scottish Government and are directly accountable to the Scottish Parliament. We work to ensure that the Scottish public have confidence that the country’s charities are well run.

- We provide information to the public about charities and their activities, through our Scottish Charity Register and reporting
- We offer a range of tools and guidance for charities and the people who run them, to support and encourage improvement in the sector
- We use our knowledge and intelligence of charities to positively influence and inform the development of national policy, legislation and practice that affects the charitable sector in Scotland
- We ensure that any wrongdoing in charities is identified, addressed and that the relevant parties are held to account
- We provide guidance and advice to ministers on aspects of charity law.

### How we are funded

As a Non-Ministerial Office, we are funded by the Scottish Government. The level of funding we receive is set out in the annual Budget (Scotland) Act, and our revenue budgets over recent years are as follows:

Year	2021-22	2022-23	2023-24	2024-25
OSCR Budget line (m)	£3.580	£3.430	£3.300	£3.639

OSCR experienced budget reductions during 2022-24. This meant challenges for OSCR in terms of sustaining our core regulatory functions and meeting our obligations as a public body, particularly in view of pay settlements over the period. However, we have been able to achieve clear efficiencies through better prioritisation, process improvements, expanding digital delivery of services and maximising the use and connectivity of existing technology. We are also early

adopters of efficiency measures under the Public Service Reform programme, sharing corporate services and premises with other public bodies.

We have received a slight uplift in our core funding for 2024-25 to accommodate the additional costs associated with planning for implementation of the 2023 Act, and this is being used to undertake digital work involved in this, and to bring in two short-term engagement managers and a project manager to support the digital transformation, stakeholder communication and engagement work we need to do.

## Our Data

We maintain the Scottish Charity Register and receive annual returns and accounts from Scottish charities every year. From this data, we produce our [Sector Overview](#), the key source of information about Scotland's charities. Some key facts from the latest edition are:

- **53%** of charities in Scotland have an income of less than £25,000
- **31%** of Scottish charities have an income below £5,000.
- There are **181,258** charity trustees across all Scottish charities.
- **69%** of charities employ no paid staff and are run entirely by volunteers, including the charity trustees.
- Just under half (**45%**) of charities are set up to benefit children or young people.
- Most charities in Scotland are focused on a local area, with **41%** operating in a specific local point, community or neighbourhood and a further **25%** operating within one local authority area.

## OSCR's Regulatory Priorities

These key facts about the sector shape the way we function as a proportionate regulator that targets its activity where it is most needed. To help us do this we have developed regulatory priorities to guide our work through our current corporate plan period:

- charities that fail to engage with the regulator and demonstrate to the public how they make a difference
- misuse of Scottish charities for private gain
- charity trustees' understanding of core governance matters and activities
- poor relationships and conflict within charities and between charities and communities
- charities' management of their reserves.

## Key activities in 2023-4

OSCR's Annual Report for 2023-4 will be laid in Parliament during July, but these were some of our key activities over the year (which was the first year of our [2023-26 Corporate Strategy](#)):

In terms of our core ongoing regulatory activity, we:

- received and considered **980** applications to be registered as a charity (a significant increase on 2022-3) and added **743** new charities to the Scottish Charity Register

- removed **1130** charities from the Scottish Charity Register (reflecting the efforts we are making to remove charities from the Register that are no longer engaging)
- received and risk assessed **530** concerns from members of the public about charities
- opened **210** inquiries into charities where we were concerned about possible misconduct and closed **313** inquiries
- made decisions on **688** applications for consent to wind up, make changes and reorganise charities
- dealt with **10,543** telephone calls and **8,467** emails, mostly providing support and guidance to charities and trustees
- had **25,000** total users on our website and there were **16,000** searches of the Scottish Charity Register

Among the most significant specific pieces of work were:

- we worked through the year to re-engage charities that have failed to report on their activities and a result have managed to decrease the number of charities failing to submit accounts to us by 400 during the year.
- we continued to work with Foundation Scotland on our successful [Revitalising Trusts Project](#). The project estimates that the total asset value of trusts revitalised during year 2 of the project has been £2.9 million.
- we introduced a new Annual Return for charities to complete when they submit their annual reports and accounts to us. The new Return is more interactive with greater support to ensure straightforward and accurate completion. The system provides tailored feedback to help charity trustees deal with issues identified from their answers to the annual return questions, and increase understanding of core governance issues
- 2023 we launched a new online form for concerns about charities to be sent to us, coinciding with a refresh of our [Inquiry Policy](#). Our aim was to better support people raising issues about charities to understand what issues OSCR can deal with and to give us information that we can act on quickly
- we increased our digital infrastructure security, introducing additional security measures and changing our hosting providers, resulting in achievement of Cyber Essentials Plus accreditation.
- we improved the design and accessibility of our website to make it easier for people to find what they need and to modernise the look and feel of the site
- as part of a Dundee accommodation hub, we have led other bodies in exploring opportunities to increase the sharing of services and have expanded involvement in a geographic hub with Dundee City Council.

Key activities planned for 2024-25

While much of our activity this year will focus in implementing the Charities (Regulation and Administration) (Scotland) Act 2023 as set out below, some of our key priorities are:

- using our data, responses from the improved annual return and consultation with sector bodies, charities and intermediaries to target the support we provide to charities on sector issues such as difficulties in charity banking, better reserves management and difficulties in finding auditors

- maximising the opportunities to increase automation and process streamlining to make more effective use of our resources.
- maintaining an organisational focus on seeking new opportunities to share services with other public bodies and the Scottish Government.
- working with Scottish Government colleagues as they develop and consider secondary charity legislation on areas including charity accounts and Scottish Charitable Incorporated Organisations (SCIOs)
- reviewing joint working agreements with other regulators and public sector bodies to ensure they deliver intended benefits, maximise collaborative working and reduce duplication and failure demand.

### Implementing the Charities (Regulation and Administration) (Scotland) Act 2023

The 2023 Act gained royal assent on 9 August 2023. We have been working throughout 2023-4 on the implementation the 2023 Act, in line with the emerging commencement timetable for commencement of the various measures. Phase 1, the measures in the Act that provide additional discretionary powers to OSCR, commenced on 1 April 2024.

These included increases to OSCR's powers when it is inquiring into charities when we identify that there is possible misconduct or a risk to assets:

- **Power to direct charities to take particular actions:**
- **Power to appoint interim trustees**
- **Power to inquire into former charities and former charity trustees**
- Power to remove charities from the Register which fail to submit accounts and to engage with the Regulator

Our engagement with the sector here focused on to the power to appoint interim trustees. We prioritised subsectors where data from our casework or from stakeholders suggested that the use of this power might help resolve specific issues such as high trustee turnover or commonly met governance difficulties. We also covered some of the queries raised in the Committee's consideration of this measure, such as the availability of suitable individuals to serve as charity trustees. Organisations we met included those representing women's aid, local development trust, early years and black and ethnic minority charities.

Through this work we were able to

- Identify organisations with staff willing potentially to act as interim charity trustees in their subsectors
- Identify umbrella organisations prepared to help identify potential interim trustees from among their members
- Identify partners to help explain the measures or train potential interim trustees in their subsectors, including groups who can often feel excluded from such discussions

Our other key communication and engagement activity focused on our new power to remove charities from the Scottish Charity Register that have failed to submit accounts on time and failed to engage with OSCR about putting this breach of trustee duties right.

We wrote in January 2024 to over 1500 charities in this situation to let them know that they were at risk of us taking this action. This has resulted in a small number of charities re-establishing engagement with OSCR, but since the provisions commenced on 1 April 2024 we have notified over 250 charities that we intend to remove them from the Register. While it is disappointing to remove charities from the Register, the duty for charities to report to the Regulator and the public underpins our regulatory framework in Scotland and transparency for donors and funders of charities

We are also fully involved in work to undertake the next phases of implementation:

- creation of a publicly searchable record of individuals who have been permanently disqualified by the Courts from being a charity trustee (to commence on 1 October 2024)
- an internal schedule or database of charity trustees for regulatory use within OSCR (planned to commence in Summer 2025)
- publication of trustee names as part of Charity Register entries (planned to commence in Summer 2025)
- a record of charity mergers (planned to commence in Summer 2025)
- additions to the automatic disqualification criteria for charity trustees and extension of disqualification to paid staff (planned to commence in Summer 2025)

We have established detailed technical requirements and options for the trustee database and the publication of trustee names and charity accounts, and this gives us the basis for specific, practical conversations with sector groups and charities about what future interactions with OSCR will be like. These will be two way and iterative, with sector feedback shaping the design and then delivery of new systems and processes.

To make this happen we are undertaking a multi-stranded engagement and communications programme. We analysed responses to the Scottish Government's consultations on measures in the Act, undertaken in 2019 and 2021, and to the SJSSC's call for evidence during passage of the 2023 Act, along with our sector data and trends from our casework, to help us identify types of charity that will be particularly impacted by new developments like the trustee database or extension of automatic disqualification.

We are also engaging sector organisations and third parties who can help us to speak with charities whose voices are seldom heard, for instance because of issues around inclusion, or because, like the 69% of charities with no paid staff, they have less time and capacity to engage on policy issues.

We are also engaging through OSCR's Charity Reference Group, who are people from charities and the sector who act as 'critical friends' for OSCR. The Group has already considered some aspects of the measures contained within the Act and another meeting has been arranged to discuss further aspects.

This engagement activity is now bolstered by the appointment of two engagement managers seconded from within the sector using the additional funding available to OSCR for 2024-5. They are developing a set of briefings for charities and other stakeholders on the new measures.

The engagement workstream is also supported by a programme of communications including a set of briefings for charities, and which will use the unique channels that OSCR has with charities including its website, the OSCR Reporter newsletter (around 9,500 subscribers, mostly within the sector) and correspondence with all charities as part of the annual return process.

We have increased the number of events at which we are speaking and will continue to do so until we have fully implemented all the measures.

While we have plans for development, communications and engagement work, these will remain flexible and dynamic to enable us to respond to needs and concerns of the sector as these emerge.

## Conclusion

We hope this briefing is of assistance and are of course happy to provide more detail on these or other matters.

**OSCR**

**30 May 2024**