

Charities and other NPO consultation

R Gray

Registrar of Non Profit Organisations

PO Box 37

2 Cornet Street

St Peter Port

Guernsey

GY1 3AX

1 May 2014

Dear Sir,

**Proposals to amend the Charities and Non Profit Organisations (Registration) (Guernsey) Law 2008**

I am pleased to submit the Institute's response to the consultation detailing proposals to amend legislation governing charity regulation in the Bailiwick of Guernsey and trust the comments are useful to your deliberations.

**About ICSA**

ICSA is the professional body qualifying and supporting corporate governance, risk and compliance professionals in all sectors of the UK, Ireland and the Crown Dependencies. Our members are educated in a range of topics including finance, HR, company law, administration and governance, which enables them to add value to any organisation.

ICSA has an extensive pedigree in the governance arena, acting as adviser to government and regulators on company law and charity and corporate governance; and is able to access a variety of applied experience in order to provide pragmatic insights into effective practices across a range of organisations. ICSA was central to the development of a code of governance for charities in 2005, and continues to play a leading role in its ongoing development and relevance.

A number of our members are involved in the not for profit and charitable sectors and all will be familiar with the importance of building and developing effective regulation and guidance to support charitable activities. This wealth of expertise and experience has informed our response to this consultation.

ICSA welcomes the opportunity to comment on the proposals to amend charity legislation in Guernsey. Given our experience and input into charity law development in each of England and Wales, Scotland, Northern Ireland, and Eire, we believe we are well placed to inform your thinking on this matter.



**General comments**

The Institute is pleased to note that the proposed legislative amendments support a risk based and proportionate regulator, especially with regard to the threat to charities from terrorist or extremist activities. It is assumed that the Registrar's approach will be based on evidence in order to target its activities and interventions in those areas that will maximise the benefit to individual charities and the sector in general.

ICSA welcomes the emphasis in the strategy on strengthening existing systems and mechanisms to counter abuse and is keen to promote further the importance of robust governance in the sector to ensure that charities apply their funds for charitable purposes effectively; and that trustees and managers fulfil their roles in a manner that is competent and accountable to their stakeholders.

For the charity and non-profit sector to continue to be respected and well supported, within the Bailiwick and beyond, it is essential that a robust and proportionate regulatory framework is in place. For charities and non-profit organisations which benefit from tax advantages, it is only appropriate that there are clear standards as to their governance and compliance; and they should be seen to be transparent and accountable for their actions.

ICSA agrees with the proposals set out in both consultation documents and believes them to be reasonable and proportionate. As the proposals regarding record keeping and disclosure are standard practice in other organisations throughout the UK, it should not present any undue bureaucratic challenges for those in the Bailiwick of Guernsey in control of such organisations.

The proposed requirement to include unsubmitted non-profit organisations in the register of charities and non-profit entities is welcomed as it will improve clarity of understanding regarding the regulation and registration of such organisations in the Bailiwick. Proposals that aim to reduce the opportunity for confusion and promote transparency within the sector should be encouraged as likely to enhance public trust and confidence.

Proposals to codify the full range of sanctions available to the Registrar regulating the sector will be beneficial to those governing and managing charities and non-profit organisations; thereby establishing the standards they are required to meet and the penalties available for failure to meet them. Any sanctions, however, should be considered and proportionate. The sector will be disadvantaged if the penalties are seen as so severe that potential trustees and managers are disinclined to act in such voluntary positions. Where criminal intent can be proved, the full force of the law should be implemented to protect the reputation and assets of the sector.

It is hoped that the above comments are useful to you in your deliberations relating to the development of charity law and regulation. Should you wish to discuss any points in further detail, or how ICSA may be able to assist you in this initiative, please do not hesitate to contact me.

Yours sincerely,

**Louise Thomson**  
Head of Policy (Not-for-profit)  
020 7612 7040