

**Memorandum of Understanding**  
**between**  
**the Charities Regulatory Authority**  
**and**  
**the Revenue Commissioners**

**1. DEFINITIONS**

**1.1** In this Memorandum of Understanding:

- (i) “2009 Act” means the Charities Act 2009 as amended from time to time;
- (ii) “TCA” means the Taxes Consolidation Act 1997 as amended from time to time;
- (iii) “Charities Regulator” means the Charities Regulatory Authority established by section 13 of the 2009 Act;
- (iv) “Revenue” means the Revenue Commissioners;
- (v) “MoU” means this Memorandum of Understanding;
- (vi) “parties” means the Charities Regulator and the Revenue Commissioners and “party” means either of them.

**2. PURPOSES AND OBJECTIVES OF THIS MOU**

**2.1** This MoU provides a framework for a close working relationship between the Charities Regulator and Revenue. It supports cooperation and collaboration in the interest of ensuring appropriate sharing and assessment of information by both parties, in the interest of upholding the integrity of charitable organisations and charitable trusts in Ireland and supporting public confidence in charities operating in Ireland or under Irish law.

**2.2** The Charities Regulator and Revenue are cognisant of and committed to the statutory basis of this MoU and the purposes of such arrangement as set out in section 33(1) of the 2009 Act:

- (i) to facilitate administrative cooperation between the Charities Regulator and Revenue in the performance of their respective functions in so far as they relate to the regulation of charitable organisations or charitable trusts;

- (ii) to avoid duplication of activities by the Charities Regulator and Revenue and
- (iii) to ensure, as far as practicable, consistency between decisions made or measures taken by the Charities Regulator and Revenue in so far as any part of those decisions or measures consists of or relates to a determination of any matters concerning the regulation of charitable organisations or charitable trusts.

2.3 The additional objectives of this MoU are:

- (i) to promote a common understanding of the responsibilities, working procedures, legal powers and constraints of the Charities Regulator and Revenue;
- (ii) to facilitate and provide the necessary safeguards for effective investigation and exchange of information, with the objective of preventing, detecting and remedying misconduct or mismanagement in the administration of charities and charitable funds;
- (iii) to ensure appropriate consultation and co-operation on matters of mutual interest so that charities may be encouraged to comply fully with their legal responsibilities under charity and taxation legislation and adopt best practice in governance.

**3. STATUTORY ROLE, FUNCTIONS AND RELEVANT POWERS OF THE CHARITIES REGULATOR**

**Role of the Charities Regulator**

3.1 The Charities Regulator is the independent regulator of Irish charities as established by the 2009 Act. The Authority was established under the 2009 Act<sup>1</sup> in October 2014.

**Functions of the Charities Regulator**

3.2 The key functions of the Charities Regulator under the 2009 Act<sup>2</sup> are:

- (i) to increase public trust and confidence in the management and administration of charitable trusts and charitable organisations;
- (ii) to promote compliance by charity trustees with their duties in the control and management of charitable trusts and charitable organisations;
- (iii) to promote the effective use of the property of charitable trusts or charitable organisations;
- (iv) to ensure the accountability of charitable organisations to donors and beneficiaries of charitable gifts, and the public;

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<sup>1</sup> section 13, 2009 Act.

<sup>2</sup> section 14, 2009 Act.

- (v) to promote understanding of the requirement that charitable purposes confer a public benefit;
- (vi) to establish and maintain a register of charitable organisations;
- (vii) to ensure and monitor compliance by charitable organisations with the 2009 Act;
- (viii) to carry out investigations in accordance with the 2009 Act;
- (ix) to encourage and facilitate the better administration and management of charitable organisations by the provision of information or advice, including in particular by way of issuing (or, as it considers appropriate, approving) guidelines, codes of conduct, and model constitutional documents;
- (x) to carry on such activities or publish such information concerning charitable organisations and charitable trusts as it considers appropriate;
- (xi) to provide information or advice, or make proposals, to the Minister for Rural and Community Development<sup>3</sup> on matters relating to the functions of the Charities Regulator.

The Charities Regulator also has certain related functions, previously performed by the Commissioners of Charitable Donations and Bequests for Ireland, under the Charities Acts 1961 and 1973.

All functions relating to charitable organisations and charitable trusts that were vested in the Attorney General were transferred to the Charities Regulator pursuant to section 38 of the 2009 Act.

### **Relevant powers of the Charities Regulator**

**3.3** The Charities Regulator is mandated by various provisions of the 2009 Act to enter administrative cooperation arrangements with other regulators and to share relevant information with other agencies. In particular:

- (a) section 33 of the 2009 Act requires the Charities Regulator, so far as is consistent with the proper performance of its functions, to endeavour to secure administrative cooperation between it and relevant regulators, and authorises it to enter an MoU or other arrangement with any relevant regulator for the purposes set out above;
- (b) section 32 of the 2009 Act empowers the Charities Regulator to provide a relevant person having functions relating to ensuring compliance with statutory requirements or to the detection, investigation or prosecution of offences with information in the possession of the Charities Regulator as may reasonably be required for the purpose of enabling the relevant person to perform his or her functions;
- (c) in certain circumstances, the Charities Regulator is required under section 28(1) of the 2009 Act to provide information obtained by the Charities Regulator in the performance of its functions that causes the Charities Regulator to suspect that an

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<sup>3</sup> *Functions under the 2009 Act were transferred to the Minister for Rural and Community Development pursuant to the Charities (Transfer of Departmental Administration and Ministerial Functions) Order 2017.*

offence has been committed by a charity trustee or a charitable organisation to specified persons;

- (d) section 70 of the 2009 Act allows the Charities Regulator to disclose documents or other records obtained under section 68 or section 69 to Revenue in specified circumstances.

#### **4. STATUTORY ROLE, FUNCTIONS AND RELEVANT POWERS OF REVENUE**

##### **Role of Revenue in administering charitable tax exemption**

- 4.1** Revenue's role is to serve the community by fairly and efficiently collecting taxes and duties and implementing customs controls.
- 4.2** The core business of Revenue is the assessment, collection and management of taxes and duties.
- 4.3** Revenue is responsible for administering the various tax reliefs as provided for in the TCA and other legislation relating to tax exemptions and refunds applicable to charities. Various reliefs apply under the different sections of the TCA to relieve charities from the payment of taxes and to encourage philanthropic giving to approved bodies. Revenue is also responsible for monitoring the compliance of charities with the conditions of tax exemption.

##### **Functions of Revenue for the purposes of this MoU**

- 4.4** The key function of Revenue for the purposes of this MoU is the administration of the various tax reliefs as provided for in the TCA and other legislation relating to tax exemptions and refunds applicable to charities.

##### **Authorised disclosure powers of Revenue and taxpayer information**

- 4.5.** Section 851A TCA permits a Revenue officer to disclose taxpayer information in limited circumstances and relevantly for the purposes of this MoU in the following circumstances –
- (a) in relation to a charity, such information as a Revenue Commissioner may authorise in writing and which is in the possession of a Revenue officer in relation to the name of a charity, its objectives, its governing documents and its principal officers<sup>4</sup>; and / or
  - (b) the information leads him or her to suspect that a criminal offence may have been committed to report the matter and provide relevant information to a statutory body responsible for the investigation of alleged criminal offences ("Investigating Authority"), and the Charities Regulator is such a body. The Investigating Authority may use any such information solely for the purposes of detection or investigation of the matter reported to it<sup>5</sup>; and / or
  - (c) in accordance with any other statutory provision which allows the disclosure of such information<sup>6</sup>.

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<sup>4</sup> Section 851A TCA (8) (f)

<sup>5</sup> Section 851A TCA (6)

<sup>6</sup> Section 851A TCA (2)

## **5. PRIMARY AREAS OF CO-OPERATION**

- 5.1** The Charities Regulator has its focus on the proper management and operation of charities and agrees to the referral of concerns to Revenue where it believes that the matter falls within the remit of Revenue; in this regard, the Charities Regulator will respect, maintain and adhere to all requirements of the relevant legislation.
- 5.2** For the Charities Regulator this includes but is not limited to circumstances where the Charities Regulator, through its registration, compliance and investigations processes becomes aware of information which may relate to suspected concealment, misinformation or fraud involving a charity or a person responsible for its management.

## **6. EXCHANGE OF INFORMATION**

### **General**

- 6.1** The parties are each responsible for the secure and appropriate storage of all data records in their own computing infrastructures. In this regard, both parties agree to comply with the relevant requirements in relation to the processing, keeping, use and disclosure of personal data and in particular to keep such information confidential and to take appropriate security measures against unauthorised access to, or unauthorised alteration, disclosure or destruction of the data.
- 6.2** The parties will ensure that any disclosure of information under the terms of this MoU is carried out in a manner that is prompt, efficient, proportionate and fully in compliance with the law, including in particular the General Data Protection Regulation, the Data Protection Act 2018, the 2009 Act and the TCA.
- 6.3** Neither the Charities Regulator nor Revenue will use any information disclosed under this MoU for any purpose other than the purpose of performing its statutory functions.
- 6.4** Without prejudice to any obligations under the Freedom of Information Act 2014, the Data Protection Act 2018 or any other statutory obligations that either party may have, neither the Charities Regulator nor Revenue will disclose any confidential information received under the terms of this MoU to any third party without first obtaining the consent of the party that provided such information.
- 6.5** Nothing in this MoU requires either the Charities Regulator or Revenue to disclose confidential information except in accordance with law.
- 6.6** Any reporting or provision of information undertaken by the Charities Regulator to Revenue or vice versa in accordance with law will be appropriately documented and will be subject to strict access and security controls and will ensure secure disposal of such data when no longer required.

## **Particular statutory obligations to provide information**

6.7 In particular:

- (a) the Charities Regulator is required in accordance with section 28 of the 2009 Act to provide to Revenue any information obtained by the Charities Regulator in the performance of its functions that causes the Charities Regulator to suspect that an offence has been committed by a charity trustee or a charitable organisation where the Charities Regulator is not satisfied that the information has already been reported to Revenue, and Revenue may use such information for the purpose only of the detection, investigation or prosecution of any such offence.
- (b) the Charities Regulator may provide Revenue with such information in the possession of the Charities Regulator as may reasonably be required for the purpose of enabling Revenue to perform its functions under section 32 of the 2009 Act.

## **Routine information exchange**

6.8 Revenue will provide quarterly or otherwise agreed to the Charities Regulator the following information which the Charities Regulator reasonably requires for the performance of its functions:

a list of charitable organisations not deemed to be registered in the Register of Charities for the purposes of the 2009 Act, on the basis that that they no longer hold tax exemption under section 207 or 208 of the TCA.

6.9 The Charities Regulator will provide quarterly or otherwise agreed to Revenue the following information which Revenue requires for the performance of its functions:

a list of registered charities (who are deemed registered pursuant to section 40 of the Charities Act 2009) who have amended certain particulars on the Register of Charities in the past quarterly period on the basis that it ensures that Revenue and the Charities Regulator retain accurate and similar publicly available information.

## **7. LIAISON AND COMMUNICATION**

7.1 The parties agree to meet at least twice each calendar year to review the effectiveness of this MoU and identify any issues that require to be addressed. Strategic, policy or operational meetings will be arranged as required and as agreed between the relevant liaison persons.

7.2 In order to ensure that matters are handled at the appropriate level, contact between the parties will be established between designated liaison persons (as set out in Annex 1).

7.3 The designated liaison persons may delegate ongoing liaison to other members of staff but should ensure that such members of staff have the appropriate authority to agree principles, policy and processes or should be able to secure that agreement within a reasonable time.

7.4 The parties undertake to communicate as appropriate on all matters of mutual concern. Communication will be both formally through scheduled meetings and informally on an ad hoc basis.

7.5 The parties agree to consult each other where practical, in relation to any significant new strategic or policy proposals likely to affect the other party and to provide such relevant information or advice as is necessary.

7.6 Where possible, each party will, before publishing any materials, statements, reports or press releases on a matter relevant to the other party and its statutory remit, notify the other party in advance of publication and provide sufficient detail to enable the other party to understand the subject matter of the proposed publication.

## **8. MISCELLANEOUS MATTERS**

### **8.1 Legal status of MoU**

This MoU does not give rise to legally enforceable obligations on the part of either party. However, both parties will observe and give due respect to the agreed terms of this MoU.

### **8.2 Amendment of this MoU**

Any provision of this MoU may be varied by the agreement in writing of both parties.

### **8.3 No disclosure if prohibited**

This MoU does not operate to require either party to disclose information to the other if the disclosure of that information by the party concerned is prohibited by law.

### **8.4 Exceptional cases**

While it is intended that the arrangements in this MoU should apply generally, it is recognised that some circumstances will require special handling. Nothing in this MoU prevents the making of arrangements to meet specific exceptional needs provided these are managed within the provisions of relevant legislation.

### **8.5 Effective Date**

This MoU replaces the existing MoU. This MoU comes into effect upon the date of its signature by both parties and will continue in effect until it is terminated or superseded by a revised document.

### **8.6 Joint training**

The parties agree that they may engage in joint training or information exercises involving their respective personnel where doing so would support the purposes of this MoU.

### **8.7 Cost and expenditure**

Each party will be solely responsible for the administration of, and any expenditure associated with activities carried out by it under, this MoU.

**8.8 Disputes**

Any disagreement arising from the interpretation of this MOU will be referred to the Chief Executive of the Charities Regulator and the Assistant Secretary, Personal Division, Revenue who will endeavour to resolve it within the spirit implicit in this MoU.

**8.9 Review**

This MoU will be reviewed annually on each anniversary of its signing. In particular, the content of the MoU will be reviewed to ensure that it remains relevant.

**Signed** on behalf of the **Charities Regulatory Authority**

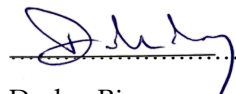


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Helen Martin

Chief Executive

Date: ...4 March 2021.....

**Signed** on behalf of the **Revenue Commissioners**



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Declan Rigney

Assistant Secretary

Date: .4 March 2021.....



## Annex 1 - Designated liaison persons

<b>Area of Liaison</b>	<b>Charities Regulator</b>	<b>Revenue</b>
Development and agreement of strategic policy relating to charities	Chief Executive	Principal Officer
Legal Framework queries	Legal Advisor	Assistant Revenue Solicitor
Operational Liaison	Director of Compliance & Enforcement or Head of Registration as appropriate	Assistant Principal
Media queries	Head of Communications & Stakeholder Engagement	Assistant Principal