Governance Forum

Non Profit Organisations and Public Sector

Who’s who, who does what, how do they do it?
Governance of non profit organisations

The changing political environment: growing role of NPOs lead to growing demands on regulation

In recent years, NPOs have gained increasing influence over national and international policy while also providing essential public services.

Direct outcomes: more money but also more expectations

Good intentions and values used to provide a sufficient basis for NPO legitimacy, but there is now increasing pressure on NPOs to provide evidence of their effectiveness

Self regulation and formal supervision
Governance of non-profit organisations
Criteria

How to define NPOs in Ireland?

- Organised
- Private
- Non-profit-distributing
- Self-governing
- Voluntary
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Irish scene

NPOs have different types of legal constitution

- unincorporated association (10%)
- charitable trust (4.3%)
- company (71%)
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Irish scene

Charitable status

The status of charity is currently granted by Charity regulator (RCN) and tax exemption by Revenue Commissioners (CHY)

- The relief of Poverty
- The advancement of education
- Other purpose beneficial to the Community
- The advancement of religion
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Irish scene

Who is who?

Lack of precise data due to absence of mandatory reporting requirements but recent studies refers to between 12,000 and 20,000 community and voluntary/non-profit organisations in Ireland, among which are charities.

Benefacts.ie, is a non-governmental organisation that provides free public access to extensive information about the entire non profit sector in Ireland (https://en.benefacts.ie/about/). It collects public data from many public sources and also provides a range of services to non profit.

In November 2016, 19,654 NPOs were included in its database, notably: https://benefacts.ie/explore?_ga=1.141314098.1040109893.1486547137

In terms of Charities and despite the recent entry into force of a "Register of Charities", no full picture either although the figure of 8,000 is often put forward. As of early February 2017, 5069 charities were on the register of the Charity regulator.
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Facts

- Contribution to GDP of non-profit sector is estimated at between 4 and 8%.
  In 2014 income generated by non profit was approx. 9 b (Benefacts.ie)

- Employment within non-profit sector is approx. 132,000 with a further half million people involved as volunteers, higher than most of developed countries

- Health, social services, education and international development represent 80% of total income of non-profit sector

- A key feature of the Irish non-profit sector is the highly skewed distribution of revenue

- It is estimated that 60% of the non-profit income comes from the State, a higher proportion than in other developed countries.

- Through direct grants or service contract, NPO accounts for about 10% of current public expenditure
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Types of regulations: Formal supervision

Rationale: ensure compliance with laws and reporting requirement

What form of supervision?
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Types of regulation: Self-regulation

- Self-regulation is the dominant form of NPO governance
- Types of self-regulation
- Weaknesses of self regulation
The evolving governance framework for Irish non-profit organisations

Legacy “hang-over”: use of charities to provide key services, education, health, welfare has persisted throughout the existence of the state and not necessarily evolved along modern principle of public governance.

Only recently, existence of a regulation applicable to all charitable organisations (Charities) in Ireland, the Charities Act 2009.

The specific cases of non-profit organisations funded by the HSE: section 38 and section 39 organisations and the annual compliance statement

The Annual Compliance statement covers 8 areas of governance (compulsory since January 2014).

It also prescribes that “all remuneration paid to employees (shall be) in accordance with the Department of Health Consolidated pay scales and pension arrangements” and that “others sources of funding are not being used to supplement employee remuneration that exceed the Department’s pay scales and pension arrangements
The evolving governance framework for Irish non-profit organisations

Current situation: Coexistence of voluntary codes and Charities Act.

Historically, one of the first attempts to self-regulate some activities of the non-profit sector in Ireland was the adoption of the ‘Statement of Guiding Principles for Fundraising’ that was drawn up by the Irish Charities Tax Reform Group in February 2008.
Irish Development NGOS

“Code of Corporate Governance for Irish development Aid NGOs” or known as the Dochas Code, adopted in June 2008

7 key good governance principles: Board leadership, Board accountability, Board responsibilities, Board review and renewal, Board delegation, Board and Director integrity and Board openness.
Governance Codes

Irish Non Profit Sector

The “Code of Practice for Good Governance of Community, Voluntary and Charitable Organisations in Ireland” (The Governance Code), adopted in February 2012.

The Code makes a distinction between three types of organisations: type A, B and C and is based on the “comply or explain” principle.

The Code consists of 5 key principles: Leading your organisation; Exercising control over your organisation; Being transparent and accountable; Working effectively and Behaving with integrity.

Example

Key Principle

Working Effectively

Sub-Principles

Ensuring the Board, directors and staff understand their role and ensuring effective board meetings

Implementing Actions

Effective Board Meetings
The Charities ACT 2009

The Charity Act was adopted in 2009 and established on 16 October 2014. http://www.charitiesregulatoryauthority.ie/

Its purpose is to reform the law relating to charities in order to:
- ensure greater accountability
- protect against abuse of charitable status and fraud
- enhance public trust and confidence in charities and increase transparency in the sector

The Act creates the following new structures:
- A new Charities Regulatory Authority
- The Charities Regulatory Authority will also maintain a Register of Charities
Regulation for non-profit sector in Ireland
The Charities Act 2009

- Defines what is a charity
  
  Organisations will have to pass a two-stage test (similar to that currently applied by the Revenue Commissioners) in order to register as a charity.

- Set new reporting requirements
  
  All charities registered with the Regulator will have to submit an Annual Activity Report. Most charities will also have to submit financial accounts.

- Regulates fundraising
  
  A number of changes with respect to fundraising will apply once the Act comes into force.
The Charities Regulatory Authority: establishment and first steps

- The CRA was established on the 16th of October 2014 under the terms of the Charities Act 2009. It is an independent agency of the Department of Justice and Equality. The CEO of the Authority is currently Mr John Farrelly. [https://www.charitiesregulatoryauthority.ie/](https://www.charitiesregulatoryauthority.ie/)

- Published and Maintain the Charities Register: a work in progress. So far, 5069 charities registered

- New charities: have to register before applying to Revenue

- Charities accounting and reporting: development of rules looking at practice (SORP)

- Monitoring compliance and investigation powers: initial concerns but recent past reflects CRA willingness to engage and redress malpractice (Console)
NPOs’ blurred accountability

NPO accountability, multi-layered set of relationships with:

- institutional donors
- governments
- supporters
- beneficiaries.

Uneasy relationship Public sector-Funder/NPO: tolerance for ambiguity and flexibility but need to agree about outcomes/results

Simplify reporting format and adequate Evaluation models – Randomised Control Trials (RCT)/ Social Return On Investments (SROI)
What is missing?
Monitoring and Evaluation systems

What the texts say?

Charities Act is pretty much silent on this issue, only requiring that each registered organisation produces an annual plan of activities along with annual accounts (art. 52). Role of the Consultative Panel to develop guidelines to improve management standards.

The Dochas code refers to the responsibility for the Board to set and approve policies, plans and budgets to achieve the objectives of the organisation and monitor performance against them;

The Code of good governance makes more ample references to the duty of the Board to agree a strategic plan that contains, among others, key performance indicators and is also bound to ensure that is a monitoring and evaluation systems and discuss regularly report on performance.
What is missing?
Stringent monitoring and evaluation systems

Useful guidance from the UK Charity Commission

“In order to demonstrate its effectiveness, the charity, among others:

- has considered how to identify, measure and learn from the charity’s achievements, impacts and outcomes, including the positive and negative effects that it has on beneficiaries, others with an interest in the charity and the wider community;
- sets achievable targets and indicators against which success and improvement is measured and evaluated based on the purposes of the charity, the needs of its beneficiaries, the quality of its services and the resources available;
- is not complacent but is engaged in a process of continual improvement, using techniques and tools best suited to its size and activities, such as recognised quality systems and benchmarking, in order to improve its own future performance”
What is missing?
Stringent monitoring and evaluation systems

Philanthropies in Ireland: the case of Atlantic Philanthropies

Evaluation at Atlantic tends to happen at the individual project level and at programme/cluster (of related grants) level:

- At projects levels
- At the programme level
- Transparency
What is missing?
Stringent Monitoring and evaluation systems

Value for Money (VFM)
Example from Concern

Integration of the concept of Value for Money in the organisation’s work processes

In addition to evaluation, Concern incorporates throughout the project cycle (i.e. from designing the project to its implementation and final evaluation) the comparative analysis of alternative courses of action in terms of their costs to bring about the same outcome or impact.
What is an appropriate level of remuneration?

"It is not for the commission to tell charities how much they should pay their executives. That is a matter for their trustees. However, in these difficult times, when many charities are experiencing shortfalls, trustees should consider whether very high salaries are really appropriate, and fair to both the donors and the taxpayers who fund charities. Disproportionate salaries risk bringing organisations and the wider charitable world into disrepute."

William Shawcross, Chair of the UK Charity Commission, 2013.

No guidance to be found in Charity Act or the Governance Code
Extract from 2012 Annual accounts of Concern:

“Salary range: total of 2 employees both of whom are based in Ireland and the UK, earned remuneration in excess of 90,000 per annum as follows: 1 between 90,001 to 100,000 € and 1 between 120,001 to 130,000 €”