



# LEGISLATION PROPOSAL

to enact new legislation

to amending existing legislation

## 1. For the attention of the Chair of the:

- Economic Development Committee
- Education Committee
- Environmental and Natural Resources Committee
- Public Health Committee
- Social and Community Development Committee
- Other: .....

## 2. Name of Promoter: Charity Commission for St Helena

Contact details: Chair, Mrs Bronwen Yon, The Castle Jamestown. Telephone 22470 email: Bronwen.yon@sainthelena.gov.sh

## 3. Background Information

On 11 October 2017 mandate was given to amend the Charities Ordinance to encourage Charitable Organisations to comply with their reporting requirements. During this meeting it was identified that the wording of the Bill, as proposed, created a criminal offence for Charities who failed to comply with the reporting requirements. The penalty was not intended to be pecuniary. Approval was given subject to wording being amended. This has now been done.

The Regulations as attached were also recommended to be laid before ExCo.

In addition to this the Charity Commission seeks approval to implement its safeguarding provisions. This amendment follows the concerns highlighted in the Wass Report, that civil society organisations were largely unregulated in terms of safeguarding vulnerable beneficiaries.

The Commission discussed the proposal at a consultation event, hosted at the Jamestown Community Centre on the 17th January 2018. The amendment would require charities who worked with vulnerable beneficiaries to file a safeguarding policy, and to report annually on its implementation. The event was well attended and generated lots of useful discussion, it turned out that the majority of organisations currently operated safeguarding procedures.

Those in attendance agreed that there should be some formal safeguarding provision, but that a balance would need to be struck so that individuals would not be deterred from volunteering.

The Commission agreed with this feedback which also accorded with its role, in that the Commission is responsible for providing oversight of charitable organisations whilst the

**4. Evidence Relied on**

- (1) The concerns raised by the Wass Report in that there is no legal framework for civil society organisations to protect vulnerable beneficiaries.
- (2) Feedback from the Consultation on 17th January 2018.

**5. Details of Proposal**  
(attach further pages if necessary)

Please see attached Bill and draft Regulations.

**6. What will happen if no legislation is made**

- (1) If there is no amendment to the Ordinance then the only option available to the Commission is to remove a non complying charity from the Register, in which case the charity will be afforded an opportunity to appeal. This is a time consuming process and the Commission is of the view that this should be used as a last resort and an option for a failure that is of a “gross” nature.
- (2) If there is no amendment there will be no legal requirement for civil society organisations to have safeguarding provisions, or to report on the effectiveness of the same, this could mean that vulnerable beneficiaries are not adequately protected and are at risk of abuse.

**7. Impact of the proposed legislation**

- (1) Implementation of this proposed legislation will ensure good governance and financial accountability of charitable organisations, particularly where public funds are concerned. Furthermore a management committee of a charity has a fiduciary duty to act in the best interest of the charity. The Commission is of the view that a modest financial penalty will ensure this duty is upheld.
- (2) This would place an obligation on management committees to ensure safe and effective practices in which vulnerable beneficiaries can have trust and confidence. The requirements of the legislation are not onerous or intrusive to the extent that it deters persons from volunteering or interferes with the management of charitable

**8. Proposed timescales**

**9. Promoter's Signature & date**

Bronwen Yon, Chair of the Charity Commission for St Helena



## DECISION OF THE LEGISLATIVE COMMITTEE AFTER CONSIDERATION OF THE PROPOSAL

10. Proposal considered on [date]

11. Officials & guests who discussed the proposal

12.a The Committee recommends no further action because:

or

12.b The Committee recommends that the following be done and the proposal be referred back to the Committee on [date]

or

12.c This is a mandate to the promoter to prepare drafting instructions with the following directions

13. The Committee's proposals for consultation are:

14. This proposal together with an ExCo Memo will be added as an agenda item at the ExCo on [insert date]

15. The ExCo Memo will be prepared by

16. Signature of Chair

17. Date