



## **Submission to the Consultative Panel on Governance of Charitable Organisations**

We welcome the opportunity to make representations to the Consultative Panel on Governance of Charitable Organisations. The Irish Penal Reform Trust (IPRT) along with the charitable organisations named below, write to express concern about a specific provision of the Charities Act 2009, namely, section 55 which operates to restrict the membership of charitable Boards. Section 55 of the legislation provides that a person -

*“shall cease to be qualified for, and shall cease to hold, the position of charity trustee of a charitable organisation if that person is convicted on indictment of an offence or is sentenced to a term of imprisonment”.*

Not only that, but–

*“a person who acts, or purports to act, as a charity trustee of a charitable organisation at any time while he or she is, by virtue of section 55, not qualified for that position shall be guilty of an offence”.*

A number of organisations raised the difficulties with this provision with the Charities Regulation Unit and the Chief Executive Designate of the Charities Regulatory Authority before it came into force 16 October 2014. Not only does this provision operate to prevent those with direct experience of imprisonment from sitting on any charitable Board (including the Board of the Irish Penal Reform Trust), it will actually operate to criminalise that individual further if they do so.

This is extremely problematic on a number of levels.

While we understand that it is very important to reform the law relating to charities in order to ensure greater accountability and to protect against abuse of charitable status and fraud and to enhance public trust and confidence in charities and increase transparency in the sector we are concerned that this particular provision represents a disproportionate response to those concerns and has unintended consequences which are aligned neither with the spirit of the Act nor with the criminal justice goals of rehabilitation and reintegration.

At IPRT, in common with many other charitable Boards we actively seek out individuals with direct experience of the criminal justice system to properly inform our work, and that includes inviting those with lived experience of prison to sit on our Board.

It presents a serious issue when we are legally prevented from using the skills, experience and extremely valuable contributions of individuals with personal insight and experience of the issues we campaign on. Their contributions at Board level often help us to understand the very real links between criminal justice and social justice, the obstacles that ex-offenders face when it comes to reintegration, and the realities of life in prison.

More importantly it constitutes yet another obstacle to effective reintegration and positive social involvement for people with convictions; a goal which finds clear expression in the Report of the Strategic Review Group Report on Penal Policy: *“rehabilitation and reintegration as a core principle and significant factor in reducing crime”*. We are concerned that it not only has an immediate effect on individuals it is likely to have a wider chilling effect on those potentially interested in formally contributing to charitable Boards.

While an individual (though not, on our reading, an organisation)

*“...may apply to the High Court for an order that [he or she] may hold the position of charity trustee of a particular charitable organisation or of a charitable organisation of a particular class, and the High Court may, upon such an application, make such an order if it considers that it would be in the public interest and in the best interests of the charitable organisation concerned or charitable organisations of the class concerned for it to make such an order”*

The question is then immediately raised as to whether legal costs for seeking a High Court Order on behalf of an individual under this provision are considered legitimate expenses for a charity to incur? It would be entirely unrealistic to expect an individual to incur these costs on their own behalf. In addition to this, if a charity sought consistent Board representation from a person/persons with experience of the criminal justice system, these costs would be repeated, resulting in the penalising of charities (or indeed, individuals) who opt to have diverse and reflective representation on their Board. Boards whose trustees have different backgrounds and experience are more likely to make better decisions. Finally, charities must be seen to have legitimacy in representing their beneficiaries and stakeholders and that means ensuring that those voices are at the Board table.

We would very much welcome further engagement with your office to discuss these issues.

I can be contacted on 083 441 7577 or [director@iprt.ie](mailto:director@iprt.ie) or at the address above at any time.

Yours sincerely,



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Deirdre Malone  
Executive Director  
**Irish Penal Reform Trust**  
6<sup>th</sup> December 2017

Endorsed by and on behalf of:

<b>Bedford Row Family Project</b>	RCN: 20042172
<b>Bray Community Addiction Team</b>	RCN: 353429
<b>Care After Prison</b>	RCN: 506754
<b>Cork Alliance Centre</b>	RCN: 361726
<b>IASIO (Irish Association for the Social Integration of Offenders)</b>	RCN: 20081775
<b>Jesuit Centre for Faith and Justice</b>	RCN: 20014094
<b>PACE Prisoner Aid through Community Effort</b>	RCN: 29875
<b>Release Prison Partnership</b>	RCN: 20107994