



LAW REFORM
COMMISSION/COIMISIÚN UM
ATHCHÓIRIÚ AN DLÍ

EMBARGO: Midnight Monday 16th JANUARY 2023

Law Reform Commission Publishes

Plain English Summary Consultation Paper on the Liability of Clubs, Societies and other Unincorporated Associations

Tuesday 17th January 2023 The Law Reform Commission has published a [Plain English version](#) of its Consultation Paper on **The Liability of Clubs, Societies, and other Unincorporated Associations**. The summary document is available on the Commission's website, www.lawreform.ie.

The Plain English version is designed to generate participation by the general public in the consultation process and to encourage debate on the issues raised in the Consultation Paper. The Law Reform Commission is eager to receive responses from all quarters, particularly from those who are involved in activities carried out by unincorporated clubs and associations.

Law Reform Commissioner Richard Barrett says that the issues raised and analysed in the Consultation Paper are relevant to thousands of people engaged in non-profit, community activities throughout the country:

"There are over 17,000 unincorporated bodies functioning in Ireland, providing valuable community services in areas including sport, social services, emergency relief and cultural activities. Society benefits greatly from the contribution from members of organisations engaged in these activities, which is largely based on voluntarism. However, there are legal issues which can arise for members of these organisations, and for those dealing with them, which are not widely known, or appreciated; for example, the fact that individual members have potential liability for things that might go wrong, such as injury, or damage, to third parties."

The key problem with the law of unincorporated associations is that such bodies are not recognised in law as having a legal existence separate from their members.

This gives rise to many difficulties, including the fact that the club or association cannot sue, or be sued in their own name: legal action must be taken against the membership as a whole. Another issue that arises is that individual members of clubs or associations cannot sue their own club, even in cases of negligence.

Unincorporated associations have no legal capacity to enter contracts or be part of contracts. The contract must be between all the members of the club and the supplier of goods or services. In addition, unincorporated associations cannot own property, instead it must be held by trustees on their behalf.

In relation to civil and criminal law, while such laws appear to apply to unincorporated associations it is difficult to enforce the law, by virtue of the fact that such entities do not have a recognised legal

existence and so it is difficult to litigate against or prosecute them. As a consequence, all the members of a body could be found guilty of an offence, even if they were unaware of the matter concerned. Furthermore, in relation to criminal offences, there are no criminal procedure rules to force a representative of an unincorporated association to attend court to represent their association, giving rise to difficulty in enforcement.

The Plain English version of the Consultation Paper sets out these and other issues in a clear and concise manner. The document also outlines a series of objectives that the Law Reform Commission believes should underpin any changes to existing law concerning unincorporated association. The Law Reform Commission seeks the views of everyone who has an interest in these matters.

The document briefly examines the legal situation concerning unincorporated associations in other countries, including Australia, Canada, New Zealand, France, Germany, Italy, USA, South Africa and the UK. The Commission sets out three possible models for reform in Ireland:

Model 1: Change the law to create “non-profit registered associations”, which would become legal entities separate from their members;

Model 2: If an unincorporated association meets certain criteria, such as a minimum number of members; a constitution-type document and a set of rules, it could become a legal entity separate from its members;

Model 3: If an incorporated association is not to have a separate legal identity from its members, the law must say how an incorporated association can be held liable in contract, tort and criminal law. This would mean adapting existing legislation.

The Commission analyses these options, sets out the potential advantages and disadvantages, for readers and seeks their views on questions asked.

The Consultation Paper also highlights an option that is already available to unincorporated associations of becoming a company limited by guarantee (CLG). The Commission suggests that that may be a suitable solution for larger bodies, as it would provide them with the ability to own their own property, enter contracts and to hire employees. This option may not be attractive for smaller, less structured bodies because of the expense involved in establishment and ongoing administrative burdens of company law compliance.

The Plain English Summary has achieved the [NALA Plain English Mark](#). That means that it meets international plain English standards.

The Commission also aims to develop and strengthen its links to the Irish language community. With that in mind, the Commission has also published an [Irish language summary](#) of the Consultation Paper.

The Commission invites members of the public and interested bodies to share their views on the issues and questions raised in the Consultation Paper, by submitting their responses to a series of questions set out in the document.

Responses can be made to the Commission by email to UnincorporatedAssociations@lawreform.ie or by post directly to Law Reform Commission, Styne House, Upper Hatch Street, Dublin 2, D02 DY27.

Deadline for submissions: Wednesday 15th March 2023

Background notes For Editors

The Law Reform Commission is an independent statutory body whose mission is to keep the law under independent, objective and expert review, to make recommendations for law reform and to make current law accessible for all. The Commission strives to ensure that the Commission's law reform publications are practical, relevant, solutions-driven and focused on the end-users of legislation. To date, the Commission has published over 200 documents (Consultation Papers, Issues Papers and Reports) containing reform proposals. The majority of these proposals have influenced the drafting and content of reforming legislation.

NALA, the National Adult Literacy Agency, is an independent charity committed to making sure people with unmet literacy and numeracy needs can fully take part in society and have access to learning opportunities that meet their needs.

For further information/interviews, contact:

Larry Donald, Heneghan 087 2581787

Michael Hall, Heneghan 087 3106238