

Volunteer Ireland Submission on the Liability of Clubs, Societies and Other Unincorporated Associations

Volunteer Ireland welcomes this opportunity to make a submission to the Law Reform Commission on the Liability of Clubs, Societies and Other Unincorporated Associations.

Background

Volunteer Ireland is the national volunteer development organisation and the support body for local Volunteer Centres in Ireland. We work to support, promote and celebrate volunteering. As such, this submission is framed in the context of the suggested law reform proposals' impact on volunteers and volunteering in Ireland.

According to the Law Reform Commission's own estimate¹, as of June 2021, there were 19,410 unincorporated associations in Ireland, including 2,684 charities.

The individual members referred to in the Consultation Paper are usually volunteers. Therefore, we believe it is necessary to ensure volunteers' voices are represented during this consultation through Volunteer Ireland.

Over 1 million people in Ireland volunteer each year². These individuals are the driving force behind the activities of most unincorporated associations and play a critical role in Irish society, delivering vital services within our communities.

Current legislation

Many voluntary non-profit associations, clubs, societies and other groups are unincorporated associations. Such associations do not have a legal existence separate and distinct from their members: the association is simply the group of members.

The Consultation Paper indicates that these groups rely on volunteers and their efforts and that groups wish to keep their costs and bureaucracy to a minimum when organising

¹ https://www.lawreform.ie/_fileupload/press%20releases/Media%20Release%20%20-%20LRC%20CP%2068%20Unincorporated%20Associations.pdf

² <https://www.cso.ie/en/releasesandpublications/er/q-vwb/qnhsvolunteeringandwellbeingq32013/>

their affairs. We appreciate that this poses a number of important legal consequences in relation to the following:

- A) Exposure to personal liability of members for the wrongdoing of other members
- B) Members who are injured cannot sue their own association as they cannot sue themselves
- C) Unincorporated associations cannot sue or be sued which leaves its members, who are usually volunteers, exposed to being sued instead
- D) Assets held by an unincorporated association are beyond the reach of litigants and regulators and with changes in membership can be difficult to establish over time

We are pleased to see the Law Reform Commission's willingness to examine and propose reform on the liability of clubs, societies and other unincorporated associations that include volunteers. In terms of Irish legislation, volunteers are offered little protection. Legal issues arising around unincorporated associations is just one example of this exposure.

Current legislation, such as that around bullying and health and safety, applies to volunteers in the same way it applies to members of the public. Volunteers are not specifically protected in any way by law, other than in the Civil Liability Act 1961.

Volunteer Ireland has encouraged groups to make their own submissions and to express their views to the Law Reform Commission. We urge the Law Reform Commission to take those individual views on board.

As the national organisation that promotes, supports and advocates for volunteering in Ireland, below we make high level recommendations in relation to the proposed law reform.

Risks to volunteering

Volunteering takes place in communities across Ireland every day, often unseen, and has a significant impact on society. The difference volunteers make to society is immeasurable, especially on a local and community level. This often happens through the work of unincorporated groups. As such, volunteers must be protected, and volunteering in these groups needs to remain accessible through its relative informality.

Volunteer Ireland recognises the need for reform of the Liability of Clubs, Societies and Other Unincorporated Associations. However, it is critical that any reform doesn't make it more difficult to volunteer. The Commission should be aware of the current risks to volunteering and seek to mitigate them rather than exacerbate them.

Administrative burden

Voluntary groups already spend a large proportion of their time on fulfilling various administrative requirements for their funders, regulators, and other stakeholders. While volunteers bring a wide range of skills and resources to their groups, administration may not be one of them and it is often hard to find people to take on these tasks. Spending time on administration takes away from the time volunteers could spend on service

delivery. It is essential that the reform will not impose extra administrative work as it could very easily be the tipping point for many groups to keep volunteers engaged.

Barriers to volunteering

The world of volunteering is changing and increasingly many people want to volunteer in more flexible ways than before. Unfortunately, many organisations report that they are finding it difficult to re-engage volunteers who were involved before the pandemic. Volunteers who do come back, may give less time or need more flexible volunteering terms. This poses a difficulty on many of the groups who traditionally rely entirely on volunteers and are already dealing with challenges like the cost of living crisis. Volunteer Ireland and the network of Volunteer Centres do a lot of work with local organisations to reduce existing barriers to volunteering, of which there are many. It's vital that any changes to the law in this regard don't create more barriers.

Creating a legally clearer organisational structure for unincorporated associations should not mean overburdening voluntary groups, as it could pose an unnecessary barrier to volunteering at a time when volunteer recruitment is already very challenging.

Recommendation

While acknowledging the above risks, reform is necessary to provide some level of protection to volunteers within unincorporated associations. We recommend that in implementing any changes:

- Volunteers should not be liable for wrongdoing perpetrated by other members.
- Volunteers who are injured, should be able to seek compensation or take legal action.
- Volunteers should not have to enter into contracts on behalf of their groups e.g. with service providers, employees, –or in relation to property.
- Volunteers should not have to take on additional responsibilities, administrative burdens or liability.
- Barriers to volunteering relating to administration and organisational structure should not be exacerbated by the law reform.

We advocate for law reform on this to make volunteering a safe and protected activity when done in good faith.

Conclusion

With thousands of unincorporated voluntary groups in Ireland engaging hundreds of thousands of volunteers each year, it is crucial that volunteers' interest is kept to the fore when reforming legislation around unincorporated associations.

We believe this can be achieved without alienating the very people who keep these groups alive and run their varied activities.