

Opening remarks by Minister of State John Curran, T.D.

Dublin Castle

12th January 2010

Good Morning Everyone!

I must say at the outset that, as the Minister of State with responsibility for charities regulation, I am particularly delighted pleased to be here this morning to open proceedings. Over the weekend when the current lengthy cold “spell” was at its worst in the Dublin area, there were moments when we were seriously contemplating cancelling the conference. However, we were very reluctant to take such a step as we knew that the conference was heavily oversubscribed. Thankfully, conditions improved enough to enable us to proceed with the event as planned. From the turnout, despite the weather, it is absolutely clear that the subject matter – the future of the UK and Irish Generally Agreed Accounting Principles – is a matter of keen interest both to the charities sector and to the professions that work with the sector that are also represented here today.

The intention of the Accountancy Standards Board review is to place the UK and the Republic of Ireland at the forefront of financial reporting in a

way that meets the needs of all entities. It is therefore an initiative to be welcomed. The ASB Review is very broad ranging in that it will affect bodies in both the UK and Ireland, of which public benefit entities such as charities constitute a relatively small, though in my view a very discrete and important, proportion. It is clear from its work in the UK with the charity regulators there over recent months that the ASB acknowledges that public benefit entities occupy a particular unique space that is not readily comparable to their SME commercial counterparts, and I welcome the particular focus that has been given towards charities as a consequence of this reality.

It might be useful at this stage to try to position this broader, international consultative process within an Irish context, and specifically in the context of the Charities Act 2009. The issue of financial, and indeed activity-related, reporting by charities was perhaps one of the most challenging aspects of the drafting of the Charities Act 2009. I know from the debates that it was also an issue of particular interest to the charities sector.

The Government's policy in this regard, which in turn reflected the overwhelming view of the sector also in our public consultation process, was straightforward enough - to minimise the additional administrative

burden that charities in Ireland would have to bear as a consequence of statutory regulation, and to avoid dual regulation and filing in keeping with principles of Better Regulation, whilst enhancing the information on the activities of charities that is available to the public, and particularly those who support charities. One of the key purposes of the Charities Act is to improve transparency, and as a consequence enhance public confidence in the sector.

As I said, the policy itself was straightforward. However, it set a considerable challenge for my officials and the parliamentary draughtsman to deliver an approach within the fairly rigid strictures of primary legislation that would meet this goal. That I believe this goal was ultimately achieved in the Act represented a considerable achievement, though, as a consequence, some further practical and operational challenges have emerged that will now also have to be met - both by my Department, and by the charities sector. However I am confident that between us all we will have the flexibility and imagination required to meet these challenges also.

In practical terms, and this is extremely relevant to the topic for discussion today, what this means is that the annual accounts produced by incorporated charities for the CRO under the Companies Acts will be

forwarded by the CRO to the new Charities Regulatory Authority. Such charities will not be required to provide additional accounts to the new Authority under the Charities Act.

On the other hand, non-incorporated charities will have to provide an “Annual Statement of Accounts” to the CRA. What this “Annual Statement of Accounts” will contain will itself be the subject of consultation with the charities sector later this year, consistent with the highly successful consultative approach that has been adopted by my Department from the outset of this regulatory process, and which has itself been recognised at EU level as an example of “best practice”.

Without wishing to be seen to prejudice this upcoming consultation, it is most likely that this will require charities to disclose some additional information in relation to their charitable activities and their finances, through both the “Annual Report”, and the “Annual Statement of Accounts” mechanisms.

From looking at a number of samples, it would seem that there is a great variation in terms of the quality and range of information currently provided by companies in their financial statements to the CRO. Some charities comply with the bare minimum standards required under

company law, as they are perfectly entitled to do. It is the case that some Irish charities go beyond the minimum, whilst some even comply with the SORP standard, which is recommended best practice by the ASB.

However, it must be recognised that company law was never designed or intended to help people to extract financial information relating specifically to the charitable activities of organisations. The CRO has no statutory role in relation to the oversight of the charitable activities of incorporated charities. That is what the Charities Regulatory Authority will have under the Charities Act.

However, because charitable companies are exempted from the accounts provisions of the Charities Act for the reasons previously outlined, a method will have to be developed in the regulations to be prepared under the Charities Act to ensure that, for example, a medium sized incorporated charity ultimately provides to the new Authority the same level of financial and activity reporting as its non-incorporated counterpart.

In the Act, and this reflects the response to the prior public consultation, we did not seek to impose a particular new legal structure on Irish charities, particularly given that as we are only in the infancy of the

regulation of the charities sector here in Ireland, any required structural changes that would have arisen as a result of such an approach would only have placed an additional burden on existing charities at a time when they will already be adjusting to being subject to statutory regulation for the first time.

The legal structure taken by a charity should not facilitate a lesser, or indeed a greater, overall reporting regime, as this would be patently unfair. It should ultimately be the size or class of the charity, and the consequent level of public interest that applies, that should determine the information that it will have to provide to the CRA, and not its legal structure.

What this might mean in practice is that, for incorporated charities, the desired financial information might be furnished to the CRA through a combination of both the Annual Report produced under the Charities Act, and the financial statements produced under company law, whereas for non-company charities, the bulk of financial information will most likely be sought through the Annual Statement of Accounts in the format to be prescribed under the Charities Act. This is one possible approach, though nothing is cast in stone yet.

As I mentioned earlier, I look forward to consulting with the charities sector, and interested parties, on these matters in advance of the establishment of the CRA.

Perhaps of more pressing interest for the immediate, particularly given that the public consultation period ends on 1st February, is the subject matter for today's conference, the ASB's review of the UK and Ireland's "GAAP".

Whilst we were pressing ahead in this country with introducing our own charities legislation, the rest of the world was not standing still. The ASB was itself over a number of years developing a draft policy which, if adopted, will replace the existing UK GAAP financial reporting arrangements with a new system which will be meet the standards of the International Accounting Standards Board. It wouldn't be unreasonable to assume that the financial reporting arrangements to be introduced by the ASB for public benefit entities in due course following its public consultation process will inform the financial reporting régime to be introduced under the Charities Act, hence its relevance in this jurisdiction.

Given my sole status as “official opener” today, you may be relieved to note that I do not intend to enter into any detailed analysis of the ASB consultation paper at this time – I’ll happily leave that for now to the other expert speakers and to the audience at today’s conference to consider. I will however reflect upon proceedings today in forming my own view before the 1st February deadline.

I would however just like to comment briefly on some aspects of the ASB’s consultation paper - as regards public benefit entities - that caught my eye. Firstly, there is an acknowledgement by the ASB that International Financial Reporting Standards “are not framed with public benefit entities in mind”. The public benefit section of the ASB paper which is included in your conference pack – whilst acknowledging that there are similarities – also outlines the many differences between public benefit and for-profit entities in terms of their objectives and operations. It also sets out the different accounting issues that apply to public benefit entities.

I welcome the commitment by the ASB to consult further were it to be proposed to develop a public benefit entity standard. I am aware that the ASB already has an Advisory Committee on Accounting for Public

Benefit Entities (CAPE). The Charity Commission for England and Wales and the Office of the Scottish Charities Regulator, who are the joint SORP making body for the UK, have published extensive guidance over the years on public benefit. Very recently, the newly established Charity Commission for Northern Ireland, itself published a consultation paper on draft guidance on public benefit. So there is no shortage of quality information on public benefit in the public domain. Given the expertise available within their organisations therefore, I would envisage the charity regulators having a significant input were any further consultation process to be undertaken by the ASB on a public benefit standard.

I think one of the most important outcomes of the ASB initiative to introduce IFRS standards is that whatever emerges in the case of public benefit entities must be – in the ASB’s own words - “fit for purpose”. It should recognise the capacity, particularly of smaller public benefit entities – which constitute the vast majority of the sector in Ireland - to comply. Whilst we all welcome improved financial reporting standards in principle, the benefits arising must be commensurate with any additional administrative or cost burden imposed on public benefit entities.

It is clear from the wording of the ASB consultation paper that there is a particular recognition of the needs of such organisations, and as a consequence I am very hopeful that what ultimately emerges from this process, with the valuable input of the charities sector and regulators alike, will address these needs, and indeed be “fit for purpose”.

To bring my opening remarks to a conclusion, I would like to acknowledge that the ASB and the Charities Commission for England and Wales were particularly keen to bring the GAAP debate to Ireland to Ireland and I was delighted to be in a position to provide a venue and support for the conference. I would like to thank in ICTR, and particularly Sheila and Jane, for their assistance in organising this event.

I would like to thank Laura and Nigel from OSCR and the Charities Commission for England and Wales, respectively, who have braved the elements to make it here today, not to mention Dr Hyndman and his colleagues from just a little bit closer to home. It is particularly encouraging that the Chairman of the ASB, Ian Mackintosh, is attending in person today. This demonstrates the commitment at the highest level of the ASB to ensure that Ireland is fully integrated into the consultative process.

I would like to thank the Dublin Castle conference team, our sound and lighting technician, and the caterers.

Finally, I would like to thank you intrepid souls who have made it here today. I am glad for you all that we prevailed with this conference despite our doubts given the poor weather in recent weeks. I would now urge you all to avail of the limited window of opportunity that is available by actively engaging in the ASB's consultative process before 1st February by having your say.

My only remaining function this morning is to declare this conference officially "open", and to wish you all an interesting and informative day.

Thank you all very much.