

## **Questionnaire**

We would welcome responses to the following questions set out in this consultation paper:

### **Question 1**

**Do you support the general approach of the Commission's proposals – attribution of separate legal personality to qualifying unincorporated associations,**

**that separate legal personality should not be dependent on any registration requirement,**

**that unincorporated associations should be able to opt out of becoming a SALP, and**

**that SALPs will have limited liability although 'culpable' office-bearers and members will continue to incur personal liability for their wrongful actings?**

### **Question 2**

**(a) What is your view on the risk of the availability of SALPs creating an incentive to avoid incorporation? Is there a case for limiting SALPs by size? If so, what should the threshold be?**

**(b) Is there any case for requiring SALPs of a certain size to register – if so, which register would be appropriate or would a new register be needed, what would the criteria for registration be, and what would be the sanction for not registering?**

### **Question 3**

**Should there be any sanction, criminal or otherwise, where an association wrongly holds itself out as a SALP? If yes, what penalty would be appropriate?**

### **Question 4**

**Should current office-bearers and managers have a right of relief against those in post at the time of a breach of the clause 4 duty? Or should this be left to the constitution?**

### **Question 5**

Should the Bill include provision that will avoid multiple or vexatious requests for a SALP's documentation? Should a reasonable interval between requests be specified?

**Question 6**

(a) Is it necessary or desirable to restrict the automatic reversion of rights and liabilities upon losing SALP status without dissolving, so as to prevent inadvertent loss of assets or a breach of contractual terms or statutory licences? If so, on what basis should that be done?

(b) Is it necessary to provide that a planned loss of SALP status cannot be proceeded with unless efforts have been made to transfer assets and liabilities to the office-bearers, etc. or the membership have been made aware of the consequences of not doing so?

**Question 7**

(a) Should provision be made in the proposed Bill to enable the prosecution of dissolved SALPs?

(b) If yes, against whom should fines resulting from the prosecution be enforceable?

(c) Are there any alternatives, such as making an application to court to enable a prosecution to proceed?

**Question 8**

(a) Do you consider that it should be possible to prosecute unincorporated associations which have lost SALP status for common law crimes committed by it when it was a SALP?

(b) If so, do you consider that any fines arising out of that prosecution should be enforceable against office bearers, managers or members, and what should the extent of their liability be?

**Question 9**

What length of time is needed for associations to prepare themselves to become SALPs?

**Question 10**

Does the draft Impact Assessment adequately capture the costs and benefits of the proposals? If not, can you provide information from which a better assessment can be made?

Are there any costs or benefits that have been overlooked?

**Question 11**

**Are there any other issues arising from the proposals we should be aware of?**

**Question 12**

**Are you supportive of the Commission's proposals on criminal liability of partnerships as set out in the draft Bill?**

**Thank you for participating in this consultation exercise.**