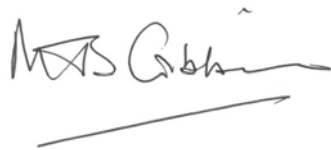
 Regulatory Policy Committee	OPINION	
Impact Assessment (IA)	Reform of Scots law on Unincorporated Associations	
Lead Department/Agency	Scotland Office	
Stage	Consultation	
Origin	Domestic	
Date submitted to RPC	08/02/2012	
RPC Opinion date and reference	15/03/2012	RPC12-SCOT-1267
Overall Assessment	RED	
<p>The IA is not fit for purpose. The IA needs to explain why these associations will not choose to opt out under the preferred option as it is not apparent otherwise how the objectives will be realised. The IA also needs to explain why the option to introduce a provision of a new corporate vehicle for non-profit-making bodies is being considered for consultation when responses have already shown that the stakeholders are “<i>largely not in favour of a new vehicle for incorporation</i>”. Furthermore, it is not apparent why this proposal is considered out of scope of One-in, One-out (OIOO).</p>		
<p>Identification of costs and benefits, and the impacts on small firms, public and third sector organisations, individuals and community groups and reflection of these in the choice of options</p>		
<p><i>Ability to opt out.</i> The IA says that under the preferred option it will be possible for unincorporated associations to be able to opt out of being a Scottish Association with Legal Personality. As such, the IA says that “<i>the perceived benefits to associations of having legal personality will be at least as equal to the small costs of complying with additional requirements</i>”; otherwise they would opt out. However if it is possible to opt out, it is not apparent how the benefits (e.g. for the third parties) will be realised. Limited information is provided to support how the proposal will deliver a behavioural change in unincorporated associations and therefore why they are likely to not opt out from the proposal. In order to understand why the wider benefits that are outlined will materialise, the IA needs to explain why these associations will not choose to opt out or alternatively why they do not choose to incorporate now if they are expected to be better off.</p>		
<p><i>Viability of options.</i> One option being considered is introducing a provision of a new corporate vehicle for non-profit-making bodies (Option 2). However, the IA acknowledges that there has been a previous consultation carried out by Scottish Law Commission, in which it appears that most of the responses to that previous consultation were “<i>largely not in favour of a new vehicle for incorporation</i>” (i.e. Option 2). The IA therefore needs to explain why this option is being considered for consultation if it is already believed that this is not likely to be viable. Furthermore, no information is provided in the IA to show that a lack of vehicles for incorporation is the reason for the problem under consideration, particularly as the IA says that “<i>the landscape of vehicles for incorporation was already crowded</i>” and that “<i>organisations wishing to incorporate did not require yet another option</i>”.</p>		
<p>In addition, under the preferred option legal personality to unincorporated association</p>		

will be automatically attributed when “*they satisfy certain conditions*”. However, the IA should explain the relevance of these conditions so that the proposal can be better understood in tackling the problem.

Have the necessary burden reductions required by One-in, One-out been identified and are they robust?

The IA says that the proposal is not in scope for One-in, One-out (OIOO). However, at the same time the IA acknowledges that there are likely to be direct costs on business (page 5), which includes not-for-profit associations for OIOO purposes. As it appears that this proposal is in scope of OIOO, the IA therefore needs to provide a clear assessment of the direct impact on business and will have to provide a robust estimate of the Equivalent Annual Net Cost to Business (EANCB) at final stage.

Signed

A handwritten signature in black ink, appearing to read "Michael Gibbons", with a long horizontal stroke underneath.

Michael Gibbons, Chairman