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31 January 2024

Orlando Fraser KC  
Chairman  
Charity Commission  
PO Box 211  
Bootle  
L20 7YX

INT2024/00656/DC

Dear Orlando,

I am writing to set out the Government's position on the commencement of the Charities Act 2022 as it pertains to restitution cases made as *ex gratia* payments by charities, which we discussed when we met last year.

The Charities Act 2022 includes provisions, in sections 15 and 16, which would enable charities to authorise smaller *ex gratia* payments themselves, without the need for Charity Commission approval. These provisions would also enable national museums and galleries, whose governing legislation precludes the restitution of any objects in their collections, to apply to the Charity Commission for permission to make an *ex gratia* payment involving the restitution of an object. The potential consequences of these provisions were not made clear by the Law Commission when the Bill was introduced, and were not the subject of Parliamentary scrutiny or debate during the passage of the Bill.

The policy of HM Government is that national museums and galleries should continue to be bound by their governing legislation, precluding them from resolving to retribute objects from their collections other than in the limited and specific circumstances expressly provided for in legislation. To that end, we will specifically exclude those national museums and galleries from the commencement of sections 15 and 16 of the Act.

Beyond the national museums and galleries, restitution cases can arise in other charities. Currently these charities must apply to the Charity Commission for approval in order to retribute an object, where they are seeking to do so by way of an *ex gratia* payment. Charity Commission oversight of these cases provides an important assurance that the charity's trustees have undertaken proper due process in reaching their decision. Removing this oversight would not be appropriate in restitution cases. We are therefore looking to exclude from the commencement of sections 15 and 16 any *ex gratia* payment where the recipient (i.e. the person to whom legal title for the property would be transferred) is located outside the UK.



This approach will ensure that all *ex gratia* cases involving a charity transferring legal ownership of an object to its country of origin outside the UK will have to seek approval from the Charity Commission (as they currently do).

My officials will continue working closely with yours on the commencement of these provisions and on communicating our plan to the sector. We will look to bring sections 15 and 16 into force later this year, in order to enable us to work closely with Charity Commission officials on the implementation of these sections as planned. We will review the implementation of these sections as part of the post-implementation review of the Act.

With best wishes,

*Parkinson of Whitley Bay*

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**Minister for Arts & Heritage**