



## Comparing Charity Law Reviews: Successes and Challenges

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The article investigates a decade of charity law reviews processes across six common law jurisdictions – Australia, New Zealand, Northern Ireland, Scotland, England and Wales and Ireland. By analyzing the lifecycle of a regulatory review, it provides valuable insights into its strengths and weaknesses, offering guidance for designing future review models and research approaches.

The author emphasizes the necessity for governments to establish an adequate regulatory environment that fosters the growth and development of organizations in today's context. This includes modernized regulations that align with current realities, enabling charities to engage in activities such as unrelated commercial ventures to support their financial sustainability.

It further observes that, whether through independent or government-led review processes, many challenges can be effectively addressed through good regulatory practices and streamlined registration procedures. However, politically sensitive issues, such as defining the scope of charity and advocacy, often present more complex and enduring obstacles.

[#CharityLawReviews](#) [#ReviewProcesses](#) [#CharityLaw](#) [#ComparativeCharityLaw](#)

### Background

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### Context



- Although each review is shaped by its unique place, political context, and cultural influences, there are **five essential phases** in the review lifecycle: The Terms of Reference, The Public Consultation, Report Recommendations, Formal Government Responses and Post Review Implementation. Each phase is crucial to identifying tensions, resolvable and irresolvable issues.
- Review processes include statutorily mandated reviews occurred in England and Wales, Australia, and Ireland, while Scotland, New Zealand, and Northern Ireland undertook reviews based on political promises. Reviews can be independent or government-owned and the implications of both model types are examined.
- The **lifecycle of the review process** is essential for identifying areas of common interest for improvement, as well as highlighting dissonant issues among stakeholders.
- The process of reviewing charity laws presents both **challenges and opportunities**, involving not only technical and conceptual issues but highlighting sensitive matters that create tensions between the state and the non-profit sector, which significantly shapes the process and its outcomes.
- **Formal government responses play a crucial role in independent legislative reviews**, as governments may choose to accept, reject, or partially accept the recommendations, significantly influencing the trajectory of reform.

# ERNOP Research Note

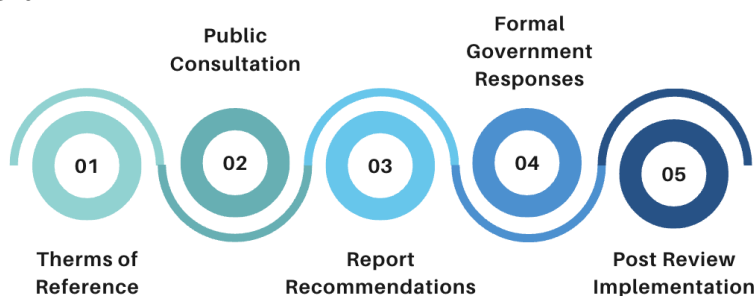
## Academic articles on philanthropy through a practitioner lens

### Takeaways & Learnings



- Among the five phases in the review process, the **Terms of Reference (ToR)** plays a pivotal role in setting the scope of the review and is inherently political, whether explicitly or implicitly. The language used and stakeholders involved in drafting the ToR are critical to the review's direction and outcomes.
- In the same way the **Public Consultation phase**, if carried out with the faithful purpose of comprehensive and transparent listening, can serve as an important mechanism for **diagnosing areas that require effective revision**.
- **Independent Reviews** tend to be completed in a timely manner and often **focus to scrutinize the regulator's practices objectively**. In contrast, government-owned reviews often start with regulator position papers, which can influence the level of scrutiny the regulators face.
- **Post-review implementation** can vary, resulting in either **new or amended legislation or changes to a regulator's administrative practices**.
- **Law Reform Commission involvement** can play a crucial role in post-review legislative change. By using the expertise of its professionals, it helps keep policy windows open after the publication of the review report, enabling **ongoing legal scrutiny and facilitating the drafting of necessary legislation**.
- Certain regulatory issues, such as registration, deregistration, and financial reporting thresholds, are easier to resolve due to their functional and technical nature. The "**Harder Nuts**" involve more complex issues, such as **defining charitable purposes and advocacy**, as they are politically sensitive. These "Harder Nuts" tend to be deprioritized or lost in the political process of government-owned reviews.
- Regulatory reviews have the **potential to transform charity law**, but this outcome is not guaranteed. **Reform is a lengthy process**, with momentum at risk at any stage. To address difficult issues, we need a **better understanding of review processes**, learn from past reviews, and foster stronger state-sector engagement.

### Charity Law Review Lifecycle



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