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**Watson M (Myra)**

**From:** Joyce Harkness AECVS [info@aecvs.org.uk]  
**Sent:** 18 August 2004 14:49  
**To:** Watson M (Myra)  
**Subject:** AECVS Response to the Draft Charities & Trustee Investment (Scotland) bill

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Please find outlined below the response from Annandale & Eskdale Council for Voluntary Service on the Draft Charities & Trustees Bill:

AECVS supports the following items of the Bill:

- The Bill's provision for a test of public benefit for eligibility for charitable status.
- The proposed extension of categories of charitable purposes where voluntary organisations are providing benefit to the public.
- The proposed extension of categories of charitable purpose to include such new areas as the promotion of human rights and other areas such as sports and community regeneration whose status is currently ambivalent.
- The proposal to establish the Office of the Scottish Charity Regulator (OSCR) as an independent statutory regulator
- The proposal to establish OSCR as a Regulator on a statutory basis integrating the powers of recognition and registration, supervision, investigation, and advice on compliance.
- The Bill's proposal that the Regulator applies a test of public benefit to claims for charitable status
- The requirements for charities to provide information both to OSCR and the public.
- The proposals to regulate certain key aspects of fundraising for charities
- The proposed Scottish Charitable Incorporated Organisation (SCIO) as a valuable additional legal form.
- The view that a Charities Act ought to contain a general requirement on charities to discharge their responsibilities "in a manner which encourages equal opportunities and, in particular, the observance of equal opportunity requirements".
- The proposals to regulate fundraising particularly those concerning written agreements between charities and external fundraisers.

AECVS has concerns about the following items of the Bill:

- The draft Bill proposes the term "charity steward" in place of "charity trustee" to describe those legally responsible for directing Scottish charities – we feel that as "charity trustee" is a widely recognized & used term and any change would cause confusion
- AECVS is opposed to the proposal (Section 50 (1) (c)) to specify a particular duty on charity trustees with business or professional expertise to use "any special knowledge or expertise" in the discharge of their duties as trustees. We feel this duty is covered by the general requirement in (1) (b) to act with due care and diligence.
- AECVS is opposed to the suggestion of relaxing the current law against the payment of charity trustees for discharging their normal duties as trustees. Normal expenses for travel

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and subsistence should be covered, plus payment for exceptional work.

- AECVS believes that the paid staff of a charity should not be eligible to be directors of that charity.

Other Comments:

AECVS believes that a major investment in activities to enhance the quality of governance in the Sector should be introduced **to compliment** this legislation. The need for this investment, **including public investment**, in promoting good governance in Scottish charities will be increased further by the new legislation.

We hope you find the above comments useful, and would be grateful if we could be included in further consultation on the OSCR on SCIO's.

Any further information can be directed to our Senior Development Officer at the address below.

*Joyce Harkness*

Senior Development Officer  
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