

Catholic Bishops' Conference of Scotland

Response to Draft Charities and Trustee Investment (Scotland) Bill and Consultation Paper – August 2004

Introductory Comments

The Catholic Bishops' Conference of Scotland is pleased to have this opportunity to respond to the proposals contained in the draft Charities and Trustee Investment (Scotland) Bill. We commend the Bill team for its work in engaging with the various bodies covered by the proposed legislation during the consultation period and for their openness in discussing and explaining the proposals.

The Catholic Church, along with other denominations, faiths and the multitude of charitable organisations, has worked for many years for the greater good of Scottish society and we welcome attempts to make these efforts ever more effective and productive. We make the following short comments on several aspects of the bill in the hope that our contribution will be of positive benefit in producing an improved regulatory framework for Scottish Charities.

Definition of a Charity

The role of organised religion in the life of individuals and society is of considerable importance. Historically there has been no doubt that the contribution of religion is one of great benefit. That good work continues today. We therefore believe that presumption that the advancement of religion is a public benefit should not be overturned. If the decision to require a public benefit test is applied to religious bodies, including the historic, long established churches, it is imperative that the bill clearly states that spiritual benefits meet the public benefit test. Notwithstanding the positive note that public benefit need not be limited to material benefit, there is always the danger that the work of religious bodies could be interpreted according to prevailing materialistic criteria. It is true that religions contribute greatly to the good works of society in catering for material needs and that many individuals who contribute to charitable works are motivated by their religious faith. The central function of religion is, however, a spiritual one. The measure of the benefit in this area is highly subjective and can only ever be quantified indirectly, such as the ensuing benefit to society of exemplary lifestyles. The distinct nature of religious bodies, therefore, needs to be recognised more specifically in the Bill and while retaining the presumption of public benefit could best achieve this aim, the

unqualified recognition of the spiritual dimension of religion as public benefit should at least be guaranteed.

Concerns about the work of cults or extremist groups are understandable and perhaps there is need to introduce criteria which can be used to identify instances where such groups should not benefit from charitable status.

Establishing a Statutory Charities Regulator in Scotland

We support the stated intention that the role of the Office of the Scottish Charity Regulator will be exercised in a proportionate and transparent fashion. It is important that no unnecessary additional burdens are added to charities and religious bodies. There are several instances where the bill states that OSCR may act as 'it thinks fit' and, although we understand the need for flexibility, we hope that this will not lead to over-burdensome intervention and expect that a suitable degree of consultation will be carried out prior to decisions being made by the regulator.

Governance of Charities

The Church at various levels relies on volunteers and the proposals under section 50(1) raise fears that people will be inhibited from offering their help on a voluntary basis, given the severity of the penalty for cases which may only involve an act of carelessness yet could result in a criminal charge.

Regulating Charity Fundraising

Public confidence in the work of charities is of crucial importance in maintaining the thriving charitable and voluntary sector which Scotland has traditionally enjoyed. The bad examples of misconduct and dishonesty have cast a shadow on the vast amount of good works that charities and religious bodies carry out in our society. We support attempts to strengthen public confidence in the use of charitable donations but urge that excessive intervention in what is predominantly a reputable sector does not disproportionately encumber Scottish charities and religious bodies.

OSCR's role in this is crucial and we look forward to working with this new body in a productive and effective way, which will strengthen rather than weaken the activities covered by the proposed legislation.

Improving the Operating Environment for Charities

We urge the Executive to reconsider the proposal to reclassify religious bodies as religious charities. The proposed change of 'Designated Religious Body' to 'Designated Religious Charity' is one which could reinforce the concern raised above in regard to public benefit. We believe that the special nature of religious bodies in

terms of the spiritual benefits they provide may be marginalized if religious bodies are viewed in the more restrictive manner of a charity where a more tangible benefit is evident.

We do not wish to see a tension created between the material benefits and the spiritual benefits which religious bodies provide. The term religious charity evokes the image of an organisation which happens to be religious but provides a service which could be provided by any other charity, e.g. sheltering the homeless, treating drug addicts, caring for the infirm. Such functions are important aspects of a Church's work but they are not the *raison d'être*. The term Designated Religious Body is more appropriate for religious denominations.

There is a need for clarity in regard to the criteria necessary for designated status. We envisage that each diocese of the Catholic Church in Scotland will have designated status and the component parts recognised as such rather than as separate charities. This may be complicated by the fact that in some dioceses individual parishes have in the past been issued with separate charity numbers. We suggest this needs to be consolidated without prejudicing the status of parishes.

We take the opportunity to express our interest in participating in the consultation on accounting requirements which will be dealt with under separate regulations.

Transitional Arrangements

We believe that the requirement for existing Designated Religious Bodies to be assessed for approval of this status is not necessary since the functions and the work of the main religious bodies are well established, adequately supervised and have operated under designated status without raising any concerns.

We wish clarity on whether the proposed re-assessment of the status of existing Designated Religious Bodies will be conducted periodically.

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