

Consultation Response



Draft Charities and Trustee Investment (Scotland) Bill

Children in Scotland

Children in Scotland is the national organisation for voluntary, statutory and professional organisations working with and for children and their families across Scotland. It exists to identify and promote the interests of children, young people and their families and to enable them to contribute to the development of policies and services which are of the highest possible quality and able to meet the needs of a diverse society. It does this with, through and for its members.

The organisation represents over 350 members, including all the major voluntary, statutory and private children's agencies, professional associations and local authorities as well as many smaller community groups and children's services. It services the Scottish Parliament's Cross Party Group on Children and Young People and the National Voluntary Children's Forum, as well as hosting a range of other forums and advice services. It works in partnership with its sister agencies in England (the National Children's Bureau) and Wales (Children in Wales) and is a member of EuroChild.

Children in Scotland, formerly the Scottish Child and Family Alliance, gained independent charitable status in June 1994 and, at the same time, registered as a Company Limited by Guarantee.

This response is on behalf of the Directors of Children in Scotland and a separate response is being submitted on behalf of Children in Scotland's members.

General Comments

Children in Scotland welcomes the introduction of a new system of charity regulation in Scotland through the establishment of a regulatory body. There are over 20,000 charities in Scotland who play a vital role in daily life in Scotland but they are currently not required to lodge financial or any other information centrally and no-one knows for certain how many there are. The existing law defining charity is based on a statute passed in 1601. The Directors of Children in Scotland recognise the shortcomings of the current system where it is very difficult to find out what kinds of organisations have charitable status in Scotland because there is no charity register.

Key issues in the draft bill which the Directors of Children in Scotland wish to comment on:

1. **Definition of Charity.** The Directors note that the definition of charitable status is different from England. The key difference lies in paragraph 7(2)(f) “the advancement of the arts, heritage, culture and science” The English act omits ‘culture’. The Directors support the advancement of a multicultural society but recognise the difficulties which might arise for cross border charitable organisations affected by the differences in definition.
2. **The establishment of the Office of the Scottish Charity Regulator (OSCR).** The Directors support the establishment of OSCR and the desire that it should be independent. They feel that it is appropriate that OSCR should keep the public register of charitable organisations but they are surprised that there is no requirement for OSCR to provide accounts to the general public.
3. **Governance of Charities.** The bill allows for a charity to be constituted as a Scottish Charitable Incorporated Organisation-(SCIO). The Directors feel that the process to register with both OSCR and as a SCIO should be as simple and efficient as possible, especially for the smaller charities. They believe that the onus should be on OSCR to make the SCIO attractive to smaller charities to ensure that as many charities as possible are registered.
4. **The Directors question the need to change the name of Trustee/ Director to Charity Stewards.** If any change is needed the preferred name would be Charity Trustee (the same term that is used in England).
5. **The Directors believe there is a need to include appropriate information and advice and training for trustees as best practice.**
6. **The Directors welcome the proposal that there will be a distribution of funds lying in dormant bank accounts for five or more years but recommend that the guidelines for transferring these funds be clear and fair.** They also recommend that these funds be treated as unrestricted income to charities.
7. **Powers dealing with wrong doing.** Paragraph 18 and Paragraph 25 gives OSCR unlimited powers of supervision with the right to obtain documents and information. The Directors believe that although it is right OSCR should have the powers to do this, the procedures for undertaking this process should be clearly laid out in guidance.
8. **Finally, the Directors believe that the robust appeal procedures hinge upon adequate guidelines which include safeguards to ensure that the Scottish Charities Appeals Panel is independent and professional.**

For further information on any of the points raised in this consultation response please contact Rosalind Hume, Director Corporate Affairs, rhume@childreninScotland.org.uk