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Watson M (Myra)

From: Nikki Thomson [nikki@edinburghtenants.org]
Sent: 25 August 2004 17:28
To: Watson M (Myra)
Subject: Response to the Draft Charities and Trustee Investment (Scotland) Bill

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Dear Myra Watson

I write on behalf of Edinburgh Tenants Federation with a few comments on the consultation.

Edinburgh Tenants Federation is a not-for-profit voluntary organisation that represents tenants' and residents' groups in Edinburgh. Neither our members nor our own organisation currently qualify for charitable status because in the opinion of the Inland Revenue Charities Section we fail the public benefit test. This has meant that we are unable to access much of the funding that is available for projects we wish to undertake to advance civic responsibility and promote social inclusion, as many funders are unable or unwilling to fund organisations that are not registered charities.

We therefore welcome the new definition of charitable purposes set out in section 7. We believe that 'the advancement of civic responsibility or community development' and 'any other purpose intended to provide community benefit' will make it easier for voluntary and community organisations such as tenants' groups to obtain charitable status, and with it access to more funding opportunities. Given the Scottish Executive's own wish to see the voluntary and community sector flourish, to promote civic responsibility and to see the involvement of ordinary tenants and residents in the work of community planning partnerships, it is essential that community organisations are able to access funding that will enable them to do their work.

Many tenants' and residents' organisations are already regulated under the terms of the Housing (Scotland) Act 2001, which allowed for the registration of tenants' and residents' groups. To become an RTO (Registered Tenants Organisation) a group must be able to show that it is properly constituted, that it has an elected committee, that decisions are taken democratically, that it promotes equal opportunities, that it has appropriate accounting records and presents an annual financial statement to its AGM, and that it gathers and represents the views of its members.

The additional responsibilities of being trustees of a charity will not be particularly onerous for many existing RTO office-bearers. We do not like the term 'charity stewards' (s81) but feel that the term 'charity trustee' is a suitable term for members of charity boards. We accept that there are additional

responsibilities in being a member of a charity board and feel the Regulator may have a role to play in ensuring that organisations applying for charitable status are well aware of the responsibilities that this status will place on board members (s50).

We believe your proposed definition of public benefit (s7 and 8) is helpful as guidance to potential applicants and to the Regulator, but that what is more important is that the Regulator has discretion to define whether an individual organisation qualifies or not, and that there is a right of appeal for organisations that initially fail to gain charitable status. There must be transparency in the system of awarding charitable status, so the Regulator should also make available publicly reasons for denying (or removing) charitable status.

We welcome your definition of the Regulator and its function (s1-6) and concur that the most appropriate form is as a Non-Ministerial Department (s1-2 and Schedule 1).

We are concerned that your proposed income thresholds for small, medium and large-sized charities (s55-58 and elsewhere) are too restrictive. Taking again our own experience as a federation of tenants' and residents' organisations, there are some tenants' groups that have an income of more than £10,000 per annum but employ no staff, maintain no premises, and it makes little sense to describe them as 'medium-sized' and therefore placing additional requirements and burdens upon them. The Federation itself has an income of less than £200,000 per annum, a staff of four and an office - to describe us as 'large', on the same basis as Capability Scotland or the Scottish Federation of Housing Associations, is just ludicrous. Income may not be a reasonable measure of size - particularly since a charity or voluntary organisation's income can fluctuate radically from year to year.

In conclusion, we broadly welcome the introduction of new Charity Law to reflect the climate in which charities, voluntary and community organisations now operate.

Yours faithfully

Nikki Thomson

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