

# Couple Counselling SCOTLAND

*Promoting, developing and co-ordinating a confidential counselling service for couples in Scotland*



**Response**

## ***The Draft Charities and Trustee Investment (Scotland) Bill***

### **Introduction**

The Couple Counselling Scotland network has been providing relationship support to couples for over 50 years.

Couple Counselling Scotland:-

- ▶ Works in partnership with its sister organisations in the Relate Federation.
- ▶ Selects and trains volunteers as accredited couple counsellors.
- ▶ Supports the practice of couple counsellors through individual and group supervision.
- ▶ Provides a professional development programme for accredited couple counsellors.
- ▶ Provides support to affiliated local services to develop psychosexual therapy clinics locally.
- ▶ Offers advice, guidance and learning opportunities to others in related fields of work.
- ▶ Acts as a national voice on behalf of couples in Scotland.
- ▶ Pilots projects in partnership with local member services and others to test new services for couples
- ▶ Co-ordinates the work of couple counselling in Scotland.
- ▶ Relates to and works in partnership with other organisations supporting families in Scotland

We also work closely with our sister organisation Relate. Our work is carried out by a national network of fourteen independent local services, counselling takes place in about 50 centres across Scotland. There are many agencies providing counselling but our unique skill is in counselling people with relationship difficulties. This impinges directly on the quality of family life in Scotland. Last year about 4,500 children benefited from our work with their parents.

CCS response to points in the Draft Charities and Trustee Investment (Scotland) Bill is set out below. Each comment is referenced to the relevant section of the Bill.

### **1. Chapter 1, Office of the Scottish Charity Register**

CCS agrees with the proposal to establish OSCR as a Regulator on a statutory basis with integration of the powers of recognition and registration, supervision, investigation, and advice on compliance.

**2. Chapter 2, Section 7 – The Charity Test**

CCS supports the proposal that the Regulator will be required to apply a test of community benefit. The Act must set out clear and strong criteria of what constitutes the community benefit which qualifies for charitable status. The inclusion in the legislation of clear and strong community benefit criteria would provide the foundation for an effective system of accountability.

In the absence of clear criteria of community benefit, the proposed extension of the list of charitable heads of activity will increase the possibility of further anomalies being created if the existing case law approach is continued.

**3. Chapter 2 – The Charity Test**

**Charitable Purposes**

While relationship support and other counselling services clearly provide public benefit, they do not seem to come under any particular one of the listed charitable purposes. Number 4 (the advancement of health) or Number 8 (the advancement of reconciliation) seem to be the closest. Previously they seem to have come under “other purposes beneficial to the community”. There is a case for a category covering counselling, mediation and other work supporting families.

We, like others, note the divergence between the language used for the list of charitable purposes in the Scottish Bill and that used in Clause 2 of the Bill for England and Wales. We are also concerned that such differences could cause difficulties for charities and we believe that this is an area where precise alignment across the UK is desirable.

**4. Chapter 3, Information about Charities**

CCS agrees with the requirements for charities to provide information both to OSCR and the public.

**5. Chapter 4, Sections 24 and 29 - Inquiries and Reports on charities**

CCS believes that OSCR should take steps to protect the integrity of charities that are not themselves under investigation but which are in partnership with a charity that is.

**6. Chapter 6, Scottish Charitable Incorporated Organisations**

CCS welcomes the introduction of Scottish Charitable Incorporated Organisations.

**7. Chapter 8 – Charity Stewards**

The draft Bill proposes the term ‘charity steward’ in place of ‘charity trustee’ to describe those legally responsible for directing Scottish charities.

CCS disagrees with this proposal. The term ‘charity trustee’ is widely used throughout the United Kingdom and in Scotland is distinguished from the use of ‘trustee’ in Scots trust law. The proposed change is more likely to lead to confusion than to reduce it.

**8. Chapter 8 - General Duties**

CCS is opposed to the proposal (Chapter 8, 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. It considers that this duty is covered by the general requirement in (1) (b) to act with due care and diligence and that to specify a particular duty will tend to undermine the existing principle that charity trustees are individually and collectively responsible.

**9. Chapter 8 - Payment of Charity Stewards**

The unpaid voluntary character of charity trustees is a distinguishing feature of the charity sector as of the wider voluntary sector. CCS would not support any move to relax the current law against the payment of charity trustees for discharging their normal duties as trustees. It considers charity trustees should continue to be eligible for the reimbursement of expenses such as travel and subsistence. It recommends that the payment of trustees for exceptional work continue to be allowed but with the inclusion in the Bill of a clause modelled on Clause 27 in the draft Bill for England and Wales requiring principally a written agreement stating the amount and terms of the payment and limiting the number of trustees in receipt of such payment at any time to a minority:

**10. Chapter 8 - Paid Staff as Trustees**

CCS believes that the paid staff of a charity should not be eligible to be directors of that charity. The presence of paid staff as directors of the charity that employs them would undermine the sector’s voluntary ‘brand’ and set up a conflict of interest at the heart of charity governance.

**11. Chapter 8, Part 3 – Fundraising**

CCS welcomes the proposals to regulate fundraising.

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