

1. Public Benefit

It is considered that it would be preferable to include broad criteria in the Bill as to the definition of Public Benefit. The term is very wide and open to interpretation and is a question of fact and degree.

2. OSCR – Form and Functions

It appears appropriate that OSCR should be established as an independent corporate body particularly given its investigative functions.

In relation to Clause 12 in the draft Bill, it is provided that a body entered in the Register may refer to itself as a "charity", a "registered charity" or a "charity registered in Scotland" and under the definitions section it is provided that a "charity" means a body entered in the Register. Will there be a transitional period in relation to existing charitable bodies? It does not appear to be provided in the draft Bill that a body not registered is not entitled to refer to itself as a "charity" etc.

3. Officers have significant concerns in relation to the extension of "public benevolent connections" to include "promises of money", as to how this will work in practice for local authorities and as to how the information obtained from individuals in relation to their personal and bank details will be protected and utilised by benevolent bodies.

In Clause 67 (6)(d) of the Bill, a local authority would be entitled to refuse permission for a public benevolent collection where the organiser of the collection has been convicted of certain offences. "Organiser" is not defined in the Bill, however, it would appear relevant to extend this to include not only the organiser but also the collectors of "promises of money".

In relation to the collection of "promises of money" it is considered that this should be restricted to charities registered in the Scottish Charity Register. Indeed if it were to be a requirement that all benevolent bodies who undertook public benevolent collections were registered, this would facilitate investigations by local authorities into whether or not benevolent bodies were indeed established for charitable, benevolent or philanthropic purposes.

It would be of assistance if the Scottish Executive would provide detailed information as to how they propose that the collection of "promises of money" will work in practice in order to ascertain the effect on local authorities.

4. Public Trusts

The provisions of Clauses 55-58 of the Bill allowing for less expensive and more accessible methods for re-organising charities are welcomed and it is noted from the consultation paper that it is intended that there should be a positive benefit to local authorities in that it will allow local authority managed small charitable trusts to be easily amalgamated and more efficiently administered.

It is noted, however, that Clause 57 (4)(b) of the Bill excludes property held on trust by local authorities. Officers would prefer such property not to be excluded. It would be beneficial if small public trusts, administered by local authorities, could be amalgamated according to the provisions of Clauses 57 and 58, given that OSCR has powers to consider such amalgamation and particularly given the very small sums of money often involved.