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Copy to husband Gerritt

Diocese of Galloway

8 Corschill Road

Ayr

KA7 2ST

Tel: 01292 289888 Fax: 01292 266750

E-mail: stninian@globalnet.co.uk

MINISTER

23 August 2004

Margaret Curran MSP
Minister for Communities
Scottish Executive
Victoria Quay
Edinburgh
EH6 6QQ

COMMUNITIES

Dear Mrs Curran

Consultation on the draft Charities and Trustee Investment (Scotland) Bill

We refer to the above and now enclose our response with regard to the consultation paper.

At the outset, we would state that we are in agreement with the Scottish Executive on the need for change and closer regulation of charities in Scotland. With the rights we enjoy come the responsibility to act in a responsible and transparent way with regard to our activities and finances. Additionally we will be happy to cooperate with and support the Office of the Charity Regulator in Scotland

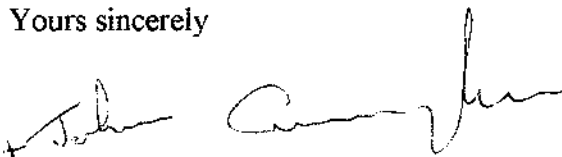
We would however make the following comments.

- The Diocese has Designated Religious Body status, consequently we enjoy certain additional privileges at present and it is proposed that some of these continue. However, while we will have automatic charitable status for one year we will have to reapply. Will one reapplication, if successful, suffice or will there be periodic reapplications thereafter? Indeed why should we need to reapply at all? The Diocese has been in existence for several centuries and it would be difficult to suggest that we do not provide charitable services albeit that we are, first and foremost, a religious body. We and other Christian denominations and even other religions would appear to have an additional burden to face in reapplying for charitable status when this does not seem to apply to other charitable bodies. It would therefore, without further clarification, seem to be superfluous even allowing for the fact that there might be concerns about cults or fringe organisations purporting to be religious bodies and endeavouring to obtain charitable status..

- The recent consultation document issued by the OSCR clarifies some of the issues that we might face by giving examples of what is intended under existing legislation, and that exercise brings its own questions and challenges. However the Draft Bill in Chapter 3 Section 17 paragraph 3 uses the phrase “otherwise as it thinks fit”. Were this phraseology to be carried throughout the legislation we could be faced with situations that we have had no opportunity to comment upon and which, if passed into legislation, could lead to conflict not just for us but for any charity. The need to avoid ambiguity so that the legislation will be, as intended by the OSCR, “fair”, consistent”, transparent, and “proportionate” is extremely important.
- The question of charity fundraising is one of the main issues which sparked the current debate and intended legislation. Fundraising is done on many levels in many ways within the diocese and other religious charities. Most of these ways will not fit the public perception of fundraising employed by say the international disaster charities or medical or animal charities. The diocese by and large uses methods favoured by smaller charities and from collections made at Mass. It would perhaps be appropriate to differentiate in the legislation between different types of fundraising or at least recognise that our methods will impact in a substantially different way in the regulators stated aim to publish statistics related to the cost of fundraising.
- Within the proposed legislation we have concerns about where charitable status will be recognised. Almost all of our parishes have individual Charity Reference Numbers. We would contend that this gives them charitable status in their own right. However it is the Diocese which has Designated Religious Body Status. Parish recognition as a charity is not consistent throughout the Catholic Church in Scotland but it is the case in Galloway. Some clarification of this would be welcome and if consolidation is required the timescale for Galloway and perhaps even other charitable bodies might prove onerous and disproportionate to the end result in the short term.
- The issue of volunteers is of some concern. We rely heavily on volunteers at every level with the Diocese and whilst supervision and governance are important we have no wish to see legislation that will deter people from becoming involved if the penalties outweigh the severity of the error. By all means punish criminals but a proportionate response is essential in the case of simple error.

In conclusion we would thank you for allowing us comment on your proposals and we would commend you and your team for your work to date.

Yours sincerely



John Cunningham
Bishop of Galloway