



SCOTTISH EXECUTIVE

**The Draft Charities and Trustee
Investment (Scotland) Bill:
Focus group discussions
with the general public**

Social Justice



**social
research**

**THE DRAFT CHARITIES AND TRUSTEE INVESTMENT
(SCOTLAND) BILL:**

**FOCUS GROUP DISCUSSIONS WITH
THE GENERAL PUBLIC**

Todd Associates/Van Döet Consulting

**Scottish Executive Social Research
2004**

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EXECUTIVE SUMMARY

Background

The Scottish Executive intends to introduce a new bill to regulate charities operating in Scotland. This bill is, currently, in draft form and has been the subject of extensive public consultation with interested parties. The Executive's normal consultation process tends to elicit responses and views from those involved in the sector. This project was therefore intended to seek the viewpoint of the "general public" i.e. those not directly working or involved in charities. This report contains the results of a series of focus group discussions held throughout Scotland in August 2004.

Aims of Research

The overall aims of the project were to explore:

- General public attitudes towards charities
- Effects of recent negative media coverage
- Levels of confidence in charitable donations
- Views on proposed changes contained within the draft Bill.

Methodology

Five focus groups were organised of between 7 and 10 participants selected randomly from the general public to represent a broad cross-section of the Scottish population. Passers-by in the street were stopped at a range of locations, including shopping centres, community centres and office complexes and invited to take part in discussions on charities in a local venue. Quotas were used to ensure a mix of gender, and age and socio-economic group. Sessions were held in of the following locations to reflect possible geographic differences:

- Suburban Edinburgh (Barnton)
- Central Glasgow
- Inverness
- Galashiels

A focus group consisting of people of Asian origin was also organised in Edinburgh to ensure the inclusion of views from a wider selection of Scottish society.

Each session lasted 1½ hours and was led by a facilitator supported by an observer. To aid analysis of the discussion, the sessions were tape-recorded on the understanding that the tapes would not be kept after use.

Findings

Generally, there was a high degree of agreement on the issues discussed in the focus groups both within and between the groups.

There was a unanimous view that new regulation was needed and that the Executive's introduction of the Bill was timeous and could rightly be regarded as a priority.

There was, however, a clear and roughly equal division between those who advocated a rigorous regulatory framework and those who advocated a more liberal approach. These differences are highlighted below.

Definition of charity

There was very little concern over the definition of charitable purposes *per se* with the majority taking the view that the critical test was that of public benefit. Some took the view that what were perceived as "campaigning" organisations e.g. animal rights activists, pro-and anti-abortion groups should be denied charitable status.

Opinion was divided on the status of private schools with a majority accepting that they should qualify as charities as they are educational facilities and a minority arguing that they should only qualify where providing publicly accessible facilities e.g. community use of sports centres or public scholarships.

Definition of public benefit

There was unanimous agreement that public benefit should be defined within the legislation as they believed this would avoid the regulatory mechanism becoming overburdened with appeals. There was also general agreement that applicants for charitable status should be able to quantify such benefit and be required, periodically, to prove they had generated it. A small majority took the view that the definitions should be wide, leaving the public to decide which of many charitable causes to support. A substantial minority felt that public benefit should be defined rigorously with the onus on applicants to prove that they were satisfying a genuine need among the deprived and oppressed.

Specifically, there was general agreement that campaigns for individuals e.g. fundraising to pay for medical treatment of a sick child could not be regarded as for the public benefit and should not be eligible for charitable status.

Awareness and impact of bad publicity

There was widespread awareness of recent bad publicity with most participants naming specific bodies involved without prompting. There was unanimous agreement that personal confidence in charities had been severely dented. Around half stated that they had reduced the amount of donations which they made as a result. Almost all stated that they were much more selective in which charities to support.

There was also widespread suspicion of major, "household name" charities in terms of the proportion of funds raised which went to the ultimate beneficiaries.

Role of the Regulator

The role outlined in the draft bill was widely agreed as being timely and necessary. There was a clear majority view that the definitions of charitable purpose and public benefit should be specified in detail within the Bill to reduce discretionary powers and that the Regulator should be supported by an Advisory Board comprising people with knowledge of charities but not directly involved with individual charitable organisations.

The rebuilding of public trust in charities was seen as the primary function of the Regulator with an emphasis on ensuring the maintenance of a public register and ensuring charities produce annual accounts clearly stating how funds raised were spent. The need for disciplinary powers and legal sanctions was also agreed unanimously.

Charity Steward

The concept of a common title and code of practice for all individuals involved in the governance of charities was unanimously agreed. There was also a consensus that charities should be allowed to pay reasonable remuneration but that this should be clearly identified in their published accounts.

Only one participant approved of the name. “Steward” was generally felt to have low status connotations and should be replaced with a term more reflective of the importance of the function. All the groups suggested alternatives but none gained any consensus.

It was agreed that the Regulator should have the power to disbar those found guilty of misconduct from holding the title.

Fundraising and public benefit collections

There was widespread and strong irritation with street collectors with around a third of participants suggesting that they should be banned entirely. The majority sympathised but felt that this was too draconian. They did, however, agree that:

- Street collections should be restricted to registered charities
- Individual collectors should carry both official identification from the charity and display a license
- Licensing should remain a local authority responsibility to reflect differing local conditions
- Numbers and locations of collectors should be more rigorously controlled
- Only passive collecting should be allowed with aggressive collectors subject to prosecution

CHAPTER ONE: BACKGROUND, AIMS & METHODOLOGY

1. Background

1.1 The Scotland Act devolved the power to legislate for the regulation of charities in Scotland to the Scottish Parliament. The Scottish Executive published a draft Charities Bill¹ and consultation paper² on 2nd June 2004 to take forward its Partnership Agreement commitment to reform Scottish charity law.

1.2 The draft Bill:

- sets out a Scottish definition of charity based on a list of charitable purposes and the principle of public benefit
- empowers the Office of the Scottish Charity Regulator (OSCR) to:
 - assess applications for charity status
 - maintain a publicly accessible statutory register of all charities
 - monitor charity activities and accounts
 - take action to safeguard charity funds where misconduct is suspected
- sets out a number of improvements in the regulation of fundraising

1.3 The purpose of the charity legislation is to provide a robust, effective and proportionate regulatory system for Scottish charities which will secure the widespread support and confidence of both the public and the charity sector.

1.4 The draft Bill sets out a Scottish definition of charity based on a list of charitable purposes and the principle of public benefit compatible with the definition being adopted by the UK Government. It empowers the Office of the Scottish Charity Regulator (OSCR), a new agency set up in December 2003, to maintain a publicly accessible statutory register of all charities operating in Scotland, to monitor charity activities and accounts and to take speedy action to safeguard charity funds where misconduct is suspected. It also sets out a number of improvements in the regulation of fundraising for charities.

1.5 Todd Associates in association with Van Doet Consulting were commissioned to undertake an assessment of public opinion of the changes proposed in the draft Bill.

1.6 This research forms a part of the wider consultation that the Scottish Executive has undertaken on the draft Charities Bill proposals. A consultation paper was published on 2 June and as well as a conference to explain the proposals, a series of public regional seminars for representatives of the charity sector was held. A summary of the views expressed in discussions at the conference and seminars is available on the Executive's website³. In addition, Executive officials held over 40

¹ <http://www.scotland.gov.uk/library5/social/charitiestrusteesbill.pdf>

² <http://www.scotland.gov.uk/consultations/social/dctib-00.asp>

³ <http://sh45inta/about/UNASS/UNASS/00015300/page70039779.pdf>

meetings with representatives of charities, professionals and others working in the charity sector.

2. Aims of Research

2.1 The overall aims of the focus groups were to explore:

- General public attitudes towards charities
- Effects of recent negative media coverage
- Levels of confidence in charitable donations
- Views on proposed changes contained within the draft Bill

3. Methodology

3.1 Five focus groups of between 7 and 10 participants selected to represent the broad demographic structure of the Scottish population were undertaken. Sessions were held in a variety of locations to reflect possible geographic differences.

3.2 The locations and demographic characteristics of the focus groups are outlined in Table One.

Table One: Focus Group Demographics

Location	No. of participants/gender	Socio-economic range	Disabled	Ethnicity	Age
Edinburgh - Barnton	8 7M/1F	A/B 2 C1/C2 4 D/E 2	2	White 8	18-25 2 26-59 4 60+ 2
Edinburgh - Mosque	9 9M	A/B 3 C1/C2 5 D/E 1	0	Asian 9	18-25 2 26-59 5 60+ 2
Glasgow - City Centre	7 1M/6F	A/B 2 C1/C2 4 D/E 1	1	White 7	18-25 2 26-59 5 60+ 0
Inverness - City Centre	9 4M/5F	A/B 2 C1/C2 5 D/E 2	1	White 9	18-25 3 26-59 5 60+ 1
Galashiels - Clovenfords	7 3M/4F	A/B 3 C1/C2 3 D/E 1	0	White 7	18-25 1 26-59 5 60+ 1
Totals/%ages	40 60%M 40%F	A/B 31.5% C1/C2 51% D/E 17.5%	10%	White 77.5% Asian 22.5%	18-25 25% 26-59 60% 60+ 15%

3.3 Each session lasted 1½ to 2 hours and was led by a facilitator supported by an observer. These roles were changed for each meeting to minimise the potential for facilitator bias. Sessions were tape-recorded on the understanding that the tapes would be used to facilitate the analysis and would be disposed of after use. Each participant was paid £20.

3.4 For each session, the facilitator introduced the background to the new Bill and explained the purpose and structure of the consultation exercise, allowing time for questions and general comments. The following topics were covered in each group:

- Definition of charity
- Definition of public benefit
- Awareness and impact of recent bad publicity
- Role of the Regulator (OSCR)
- Concept of “Charity Steward”
- Fundraising and public benefit collections

3.5 After the discussion of each topic and at the end of each session, the facilitator summarised the key points raised during the discussion and asked for verification that they reflected the views of the group accurately. Finally, the groups were invited to raise any additional points which they felt had not been covered previously.

CHAPTER TWO: FINDINGS

1. General Comments

1.1 There was a high degree of agreement on the topics discussed in each focus group both within and between the groups. There was a unanimous view that new regulation was needed and that the Executive's introduction of the Bill was timely and could rightly be regarded as a priority.

1.2 There was, however, a clear and roughly equal division between those who advocated a rigorous, even harsh regulatory framework and those who advocated a more liberal approach. These differences are highlighted under Specific Findings below and categorised into consensus, majority and minority views.

1.3 All groups were asked at the end of the session whether they had felt the discussions to have been worthwhile. All agreed that it had been and seemed to have genuinely enjoyed participating. The facilitators found no difficulty in eliciting comments and debate which clearly indicates a high level of public interest in the various issues addressed by the draft bill and particularly that of confidence in use of donations.

2. Group Dynamics

2.1 The facilitators made it clear that they sought an open expression of views and that, while debate and discussion was desirable, there was no need to reach a consensus. This created a neutral, non-judgemental atmosphere in which participants clearly felt comfortable in expressing themselves openly but non-confrontationally. The general pattern of discussion was for the more outspoken participants to express strongly held views followed by the more reticent introducing specific cases of the "grey area" or "exception to the rule" variety. This tended to lead the discussion into underlying principles rather than specifics with a general conclusion that all the issues covered were more complicated than the participants had hitherto thought.

3. Specific Findings

3.1 Awareness and impact of bad publicity

3.1.1 Background There have been a number of media reports of malpractice within a small number of charitable organisations with some charities reporting decreases in donation levels as a result.

3.1.2 Views There was widespread awareness of recent bad publicity with most participants naming specific bodies involved without prompting and unanimous agreement that public confidence had been negatively affected by it.

This was the only topic where there was no discernible division of opinion within or between groups except for the Asian group's additional concern over alleged anti-Islamic media reporting of Islamic Aid contributions to the Iranian earthquake relief.

Consensus

- **Personal confidence in charities had been adversely affected by bad publicity.** It was recognised that only a very few charities had been guilty of misuse of funds. Nevertheless, virtually all participants stated that these events had led them to question the operations of charities in general.

“If there is one bad apple in the barrel, there’s likely to be others.”

- **50% of participants had reduced their level of donation as a result.** This principally took the form of reduced impulse donations, mainly to street collectors.
- **Almost all were aware of being more selective in which charities they supported.** Around 30% of participants had increased or changed to regular direct debit contributions to a small number of charities which they trusted.
- **All were increasingly suspicious of the proportion of funding which went to the ultimate beneficiaries.** While all accepted that administrative costs and full time staff were unavoidable, they predominant view was that only charities with something to hide would not declare the proportion of donations absorbed by these.
- **Lack of confidence extended to the major, long standing charities as well as to lesser known, smaller scale organisations.** There was a general perception that charities had been and were continuing to evolve into major businesses and losing their reputation for ethical behaviour in the process. When asked if they could agree on a word to describe their current attitude, the majority of participants in all groups proposed either “cynical” or “suspicious”.
- **Reduced confidence in street collectors was particularly marked.** There was a widespread assumption that such collectors were paid and a suspicion that a high proportion of donations went to the collector.
- **Confidence can only be restored by independent regulation, licensing and monitoring including the mandatory publication of charity accounts.** All groups emphasised their view that the decline in public confidence was extremely serious and could only be addressed by an open, well publicised and rigorous regulatory system.

3.2 Definition of Charity

3.2.1 Background Currently, to qualify as a charity, an organisation must be exclusively charitable and established for the public benefit. The Inland Revenue recognises organisations as charitable for tax purposes in four categories:

- relief of poverty
- advancement of education

- advancement of religion
- other purposes beneficial to the community.

It is assumed that bodies falling into the first three categories are automatically of benefit to the public but those in the fourth category must prove it.

It is important that the Bill fits the Scottish context and makes sense to the Scottish public. However, because the Inland Revenue will use the same definition for tax purposes across the UK, charity has to be defined in a way that is compatible with the Home Office's proposals, published in May 2004 which set out 13 'charitable purposes' and a second stage 'public benefit test'⁴.

In future any organisation wishing to qualify will have to show that its purposes fall within one or more of these categories and that it will provide public benefit.

3.2.2 Views Participants, generally, found it difficult to separate the definition of charitable purpose from that of public benefit. As one Glasgow participant said:

“If there’s no public benefit, it’s not a charity. If there is, it is.”

The range of views expressed is summarised below.

Consensus

- **The definitions contained within the Bill should be clear and unambiguous.**
- **Regulations should clearly define what activities were eligible.** There was a general feeling in all groups that the regulation process could become complex and bureaucratic. To avoid this, participants believed that the regulations should clearly define what activities were eligible and minimise the onus on the Regulator (OSCR) to apply judgement or discretion. It was also felt that this would avoid the system becoming overburdened by appeals.
- **Organisations benefiting single individuals should not be eligible.** There was a unanimous view that there is a difference between collecting for a group of people in need and soliciting donations for an individual. As one Glasgow participant expressed it:

“...if you want to help someone out, that’s your business”.

A number of participants raised the issue of cases where families of those engaged in fundraising activities were reported to have used excess funds for personal benefit. Again, there was a broad consensus that it was up to the individual donors to satisfy themselves that their donations would be used properly and that the law should only intervene in cases of criminal deception.

⁴ http://www.homeoffice.gov.uk/docs3/charitiesbill_foreward040527.pdf

Majority

- **Any “not for profit” organisation should be eligible as a charity.** This followed from the view that it should be left to the public at large to determine what causes they wish to support and that the role of charity law is simply to ensure that registered charities are bona fide organisations.

- **The ultimate decision lies with the public deciding whether to donate or not.**

“The regulations should be there to protect us from fraud, not to tell us what a good cause is”

- **The legal definition should be even handed and not attempt to impose ethical judgements.** The majority felt that this should apply even in the case of highly controversial campaigning organisations. “If their campaign really annoys me, it will encourage me to donate to the other side”.

Minority

- **Need to differentiate between “not for profit” organisations and charities.** A minority held quite the opposite views. While they had no objection to “not-for-profit organisations receiving tax benefits, they felt strongly that the term “charity” should be reserved for organisations satisfying a “genuine need”.

- **Charities should prove a genuine need for their activities and that they will make a significant difference to human society or the environment.** The minority felt that this criterion would make a major contribution to restoring public confidence.

- **Campaigning organisations should not be eligible.** The argument used to support this view was that the definition of charitable purpose should be acceptable to the public at large. Where an organisation is trying to change public opinion or in conflict with an opposing viewpoint, it cannot, by definition, be regarded as satisfying the criterion of public approval as a “good cause”. As one respondent stated:

“[name of environmental organisation] is an opinion, not a charity”.

- **A small minority considered that religions should not be eligible.** The argument used was largely an extension of that used to support the exclusion of campaigning organisations.

The difference between the majority and minority views was largely centred on how to deal with campaigns which were socially divisive or controversial. One example raised by three of the five groups was the “Pro-Life” and “Pro-Choice” debate over abortion legislation. The majority view was well expressed by one participant:

“If you accept that religions and civil liberties groups qualify as charities, you have to accept that they can campaign for their beliefs even if they are opposite”.

A minority challenged this with comments such as:

“surely women’s rights take precedence over religious dogma”

“ any group trying to change the law are by definition political and not charitable”.

3.3 Definition of Public Benefit.

3.3.1 Background In drafting the Bill, it was originally considered that it should contain a definition of public benefit as follows:

- Public benefit must outweigh any possible public harm.
- The benefit need not be restricted to material benefit.
- Public benefit must be provided to a class of beneficiaries who are members of the general public, or who constitute a sufficient number of members of the public within a particular community. It must not be provided on the basis of personal or other connection to a charity.
- Any private benefit to an individual, other than those arising through pursuit of the charity's purposes, must be legitimate and incidental to the pursuit of the charity's purposes.
- Public benefit is not affected by any charge for services providing charges are set at a level that does not exclude or deter a substantial proportion of potential beneficiaries.

As a detailed definition may in practice be confusing, it is proposed in the draft Bill that instead, the OSCR should publish guidance setting out how it will interpret public benefit, and how it will decide whether an organisation meets the charity test. It will be expected to consult with the sector before issuing the guidance. The final arbiter of 'public benefit' in Scotland will remain, of course, the Scottish Courts.

3.3.2 Views. There was unanimous agreement that public benefit should be an essential test of eligibility and that it should be defined within the Bill rather than left to the OSCR in collaboration with the charities.

The range of views expressed is summarised below.

Consensus

- **The Bill should contain a clear and unambiguous statement of the criteria for determining public benefit.** There was considerable concern that leaving the definition to the Regulator in consultation with charities could lead to constant debate between them and to a large number of appeals all of which would divert attention and resources from the key tasks of regulation. Should the definition within the Bill require amendment, it was felt that this should properly be dealt with openly via debate within the Scottish Parliament.

Majority

- **The broad definition proposed above is sufficient.** The majority considered that the bill should define the characteristics of public benefit unambiguously but not be prescriptive in attempting to define specific types of public benefit.
- **Leave the public to decide whether the activity is of benefit through their decisions whether to donate or not.** This was a repetition of the argument quoted earlier in terms of the definition of charitable purpose and also reflects the difficulty which participants found in differentiating between the definition of charitable purpose and public benefit.

Minority

A minority dissented from the above view by advocating much more restrictive criteria as set out below.

- **Applicants for charity status should have to prove that there is a genuine need arising from deprivation, oppression or environmental damage.** A common case used to support this view was the private school sector which the minority felt should be excluded from charitable status, except where providing scholarship places or sharing facilities with community groups.

“If ye can afford tae send yuir bairn tae a private schule, ye cannae claim tae be down on yuir uppers.”

- **Applicants should prove that their activities will make a significant difference taking into account the scale of the problem.** While the majority agreed with the view that there are too many charities, often collecting for the same purpose, only a minority felt that the Bill should encourage a reduction in numbers by requiring proof of this nature.

There was very little debate between the holders of the majority and minority views as they reflected personal perceptions rather than argued cases.

3.4 The Role of the Regulator

3.4.1 Background The creation of the Office of Scottish Charities Regulator was explained and its proposed functions introduced as being:

- the determination of charitable status
- the maintenance of the charity register
- the provision of public accountability of charities
- the monitoring of Scottish charities
- the provision of a support service
- the protection of the public.

3.4.2 Views There was unanimous agreement that a strong, independent regulatory regime was essential, tempered by a concern that it should not be overly bureaucratic

in its operations but should have disciplinary powers. “A weeheid and muckle buits” as one participant put it. The range of views expressed are summarised below.

Consensus

- **The function is necessary to restore public confidence.** This view was raised in all discussion topics as mentioned above.
- **It should be independent of both government and charities but supported by an Advisory Board of people with practical experience of the sector but not actively involved in it.** It was generally agreed that the whole area of charities regulation was complex and that the regulations and procedures adopted would need to evolve over a period. To guide this process, it was felt desirable that the Regulator should have access to independent advice from a body of expert opinion without vested interests.
- **Its function should be clearly defined in detail within the legislation with a minimum of discretionary powers.** This view was based on the argument that public confidence was so low that only very clearly defined legislation would be able to restore it. It was also felt that very clear definitions would be necessary to allow the Regulator to impose sanctions.
- **It should have significant disciplinary powers.** This view was based on the assumption that there would always be a minority of fraudulent or unscrupulous operators and that a strong deterrent was needed to control them:

“If self regulation worked, we wouldn’t need a Regulator in the first place.”

- **The danger of it becoming highly bureaucratic could be damaging to smaller, local charities.** There were no specific arguments or cases quoted to support this. Rather, it reflected a vague concern and a plea for a pragmatic approach.

Majority

- **The Regulator should investigate complaints against registered charities where there is *prima facie* evidence of wrong doing.** The view was that regulations should assume that registered charities were complying with the regulations unless there was good reason to doubt it – “innocent until proven guilty” as a number of participants put it.

Minority

- **The Regulator should audit registered charities randomly to ensure they have complied with their stated aims at the time of registration.** The minority felt that the potential damage to public confidence in further cases of malpractice was sufficiently great that a proactive monitoring regime should be adopted “to keep them on their toes”.

3.5 The Concept of Charity Steward

3.5.1 Background The draft Bill sets out clearly and explicitly the responsibilities of the individuals concerned in running charities. There is, however, no agreed term for people serving on charity boards. As a result, the Bill suggests the term 'charity steward' to mean any person voluntarily governing a charity or sitting on a charity board.

3.5.2 Views The concept of a common title and code of practice for all individuals involved in the governance of charities was unanimously agreed. There was also a consensus that charities should be allowed to pay reasonable remuneration but that this should be clearly identified in their published accounts.

With the exception of only one participant, the name “Steward” was generally felt to have low level, menial connotations and should be replaced with term more reflective of the importance of the function. All the groups suggested alternatives but none gained any consensus.

The range of views expressed is summarised below.

Consensus

- **There should be Code of Practice common to all individuals, irrespective of the legal structure of the organisation.** There was a very strong view that there was a requirement for higher ethical standards in the charities sector than in the private sector. A written Code of Practice would have the twin benefits of supporting public confidence and ensuring that individuals taking up charitable positions were aware of the seriousness of their responsibilities.
- **The Regulator should have the power to disbar individuals who have violated it and refer them for prosecution where appropriate.** The argument here was simply that there was no point in having rules unless they were enforceable.
- **The term “charity” should be retained in the title but the term “steward” is unacceptable.** There was unanimous agreement among all participants apart from one that “steward” had low level, menial connotations. Various alternatives were suggested including “governor”, “monitor”, “custodian” but none gained majority support. Four of the groups suggested that, ideally, a traditional Scottish term should be used but were unable to suggest one
- **Remuneration is acceptable but should be commensurate with the duties involved, declared by the charity and publicly available via the Regulator.** It was agreed that it was acceptable that “charity stewards” could be paid at market rates where it was necessary to attract individuals with necessary skills and experience. It was felt strongly that the level of remuneration and expenses received should be made public as a check on unreasonable payments.

Majority

- **Special provision should be made for small scale, local groups with unpaid committees.** There was a concern that the formalisation and legal obligations of the role would discourage people becoming involved in such associations which already find it difficult to attract active supporters.

Minority

- **There should be no exceptions to the legal requirements to adhere to the Code of Practice.** One group took exactly the opposite view i.e. that the social cachet which they believed would become attached to term would act as an incentive.

3.6 Fundraising and public benefit collections

3.6.1 Background Scottish charities raise over £2 billion a year to spend in our communities from a vast range of sources. Effective regulation must promote public trust in charities as fundraising from the public is one area where this trust has been significantly dented by lack of a legal framework.

The draft Bill sets out an important foundation of statutory regulation of charity fundraising including the power to regulate fundraising if it is felt that self-regulation has not been effective. The proposals for regulation of fundraising in Scotland are:

- Widen the concept of charity to allow the regulation of any fundraising for a good cause, whether or not the body raising funds is a registered charity.
- Charities and benevolent bodies will have the right to seek an interdict preventing unauthorised fundraising by anyone who uses fundraising methods in their name.
- It will be an offence to solicit money or other property for a body by suggesting that the body is a charity when it is not.
- Professional fundraisers and commercial participators (*see glossary*) who solicit money or other goods on behalf of a named charity or benevolent body must have an agreement with that body to do so
- Professional fundraisers and commercial participators will be legally required to make a statement to potential donors about the amount of the funds they will receive and commercial participators about the amount that will go to the charity or cause.

The existing system of a local authority licensing of public charitable collections (now renamed 'Public Benevolent Collections') will continue with some improvements.

Public benevolent collections (PBCs) are redefined in the draft Bill to include collections of money and promises of money from the public in a public place.

There are no plans to regulate door-to-door collections of goods by charity shops, since evidence suggests that existing codes of practice work well and there is little negative effect on public confidence from these types of collections.

'Designated national collectors' will take the place of the current 'exempt promoter' scheme for charities collecting across a range of local authority areas, and will be recognised and regulated by OSCR. They will not be able to give more than eighteen months' notice, in order to avoid 'block booking' years in advance.

3.6.2 Views There was widespread and strong irritation with street collectors with around a third of participants suggesting that they should be banned entirely. The majority sympathised with this view but felt that this was too draconian. All agreed that street collections should be allowed, then regulation and control of street collections should cover all forms of collection and should apply equally to charities and non-charities with a majority considering that the latter should ideally be banned.

The Edinburgh group reported that a new term “chugger” had recently begun to be used to refer to paid street collectors. The fact that a specific term for the activity has been coined is an interesting indication of the level of public awareness.

The range of views expressed is summarised below.

Consensus

- **Individual collectors should carry both official identification from the charity and display a license.** This was based on the twin arguments that the requirements would allay public suspicions and also help to reduce numbers.
- **The proportion of funds raised reaching the ultimate beneficiaries should be clearly displayed.** There was a widespread assumption that such collectors were paid and a suspicion that a high proportion of donations went to the collector. This provision would, it was argued, allay suspicions and support volunteer based collections over paid collectors.
- **Licensing should remain a local authority responsibility to reflect differing local conditions.** A particular concern raised by all groups was that collections made by individuals or clubs during local public events should not be discouraged. Specific mention was made of events such as Gala Day parades, school fetes and village sports days. There was some inconclusive discussion about whether the law should simply “turn a blind eye” to such activities or whether they should be classified as exempt activities.
- **Numbers and locations of collectors should be more rigorously controlled.** There was a strong view that high concentrations of collectors in popular areas constituted a public nuisance and that more control was needed to reduce numbers.
- **Only passive collecting should be allowed with aggressive collectors subject to prosecution.** There was a widespread view that a minority of collectors were overly intrusive and damaged the reputation of their organisations as a result.

Majority

- **Street collections should be restricted to registered charities.** It was felt that allowing non-registered public benevolent collections would penalise registered charities. As one participant commented: “If the organisation collecting is genuinely for the public benefit, it should be registered as a charity.”
- **Exception should be made for local clubs and associations raising funds for themselves with the intention of donating the proceeds to charities.** All groups made a clear distinction between collecting on behalf of a charity and collecting funds as part of a social function with the intention of donating them to charity. Examples given included pub pool and darts matches as well as local public events as discussed above. The majority felt that such fundraising activities should be exempt from regulatory and licensing requirements with the proviso that they should make it clear that they are not collecting officially on behalf of the charities concerned.

Minority

- **All street collections should be banned.** This view was expressed by around 30% of participants and is indicative of the level of irritation engendered by the activity. In addition to the public nuisance argument discussed earlier, it was felt that the annoyance generated was bringing charities generally into disrepute and possibly depressing overall contribution levels. One strongly held view put forward by a participant was that:

“It’s just legalised begging”.

4. Demographic Variations.

4.1 Given the small sample sizes, it would not be valid to read too much into intra- and inter-group variations. On the whole, there was a high level of agreement on the issues discussed in the focus groups both within and between the groups. There were, however, some minor differences which may be indicative of wider geographic and demographic issues. These are highlighted in Table Two.

Table Two: Geographic and Demographic Variations

Characteristic	Comment
Geographic location	The Glasgow group were particularly supportive of the view that charitable status should be given only to organisations supporting the underprivileged or oppressed with the onus on the organisation to prove that genuine need existed and that its activities would be of significant benefit. They also were the most concerned about street collections with the majority (only one dissenter) supporting an outright ban.
Gender	Female participants tended to support stronger regulation than males and were less willing to allow the Regulator to exercise discretion.
Ethnicity	The Asian (exclusively Muslim male) group were significantly more supportive of a liberal interpretation of charitable purpose than the other groups with the proviso that all registered charities should make their detailed accounts public.
Age	Younger participants tended to be more suspicious and cynical about charities in general. Older participants tended to express a sense of betrayal over the actions of “rogue” organisations.
Socio-Economic Class	There were no discernible, consistent differences between the various social groups.

CHAPTER THREE: CONCLUSIONS

1. A number of very clear messages came out of the Focus Group discussions:

- Public confidence in charities as a whole is reported to have declined significantly in recent years
- This is depressing both willingness to make donations and the amount donated.
- There is strong agreement with the need for a rigorous regulatory environment to restore public confidence

In relation to the four aims of the Focus Group consultations, the principal conclusions are as follows:

1.1 General public attitudes towards charities There was reported to have been a serious and growing lack of confidence in charities as organisations and the proportion of donations finding their way to the ultimate beneficiaries. It was generally felt that proper regulation as proposed in the draft Bill will greatly contribute to the restoration of public confidence and be of benefit to *bona fide* charities which are recognised as being in the majority.

1.2 Effects of recent negative media coverage The high level of awareness of recent bad publicity is, in itself, an indication of the importance which the general public attaches to charities and of concern regarding their vulnerability to malpractice by a small minority. A well publicised and transparent regulatory regime will do much to counteract the negative effects of recent negative media coverage.

1.3 Levels of confidence in charitable donations The widespread suspicion and uncertainty over the use and destination of charitable donations will be ameliorated by the proposed changes in the licensing of street collections and the requirement on registered charities to publish their accounts.

1.4 Views on proposed changes contained within the draft Bill As stated above, the provisions contained within the draft Bill are broadly regarded as correct, necessary and timely.

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