

## **Draft Charities and Trustee Investment (Scotland) Bill Response of the Scottish Council of Jewish Communities**

The Scottish Council of Jewish Communities is the representative body of all the Jewish communities in Scotland comprising Glasgow, Edinburgh, Aberdeen and Dundee as well as the more loosely linked groups of the Jewish Network of Argyll and the Highlands, and of students studying in Scottish Universities and Colleges.

The Scottish Council of Jewish Communities supports the view of the Minister for Communities that charities 'deliver effective, user-focussed services'. Halachah (Jewish Law) regards acts of charity as a religious obligation and there are many charitable organisations within the Scottish Jewish community. In addition many Jewish people are active members of charities operating in the wider Scottish community and work as volunteers, trustees and in a variety of organisational capacities.

We welcome the opportunity to comment on this draft legislation, and support the view that it must ensure that 'charities in Scotland are effective transparent and trustworthy' and that the 'regulatory environment...supports them rather than tying them in red tape'.

We have consulted widely within the Scottish Jewish community, and this response has been informed by the views of accountants, treasurers, and auditors of communal organisations who commented on the way in which the proposed changes would impact on communal organisations. The Scottish Council of Jewish Communities also hosted a briefing and consultation meeting during the Bill drafting process, at which members of the Jewish community were able to share their views directly with a member of the Bill drafting team.

### **Definition of a Charity**

We are concerned that a test which requires a separate demonstration of 'public benefit' will be difficult to administer. Unless the criteria for such a test are clearly set out they will necessarily be subjective and open to interpretations based on an individual's beliefs and indeed political views. If, however, they are closely defined the criteria will inevitably be inflexible and exclusive. We recognise the Scottish Executive's concern that the Scottish definition of a charity should be in line with Home Office proposals for England and Wales, but strongly urge that if a public benefit test is to be applied, broad guidelines should be included in the Bill although OSCR should be responsible for drawing up detailed guidance after consultation with charities. The test of 'public benefit' has not been problematic in the past, and there is no reason to expect it will become so, but we recommend that the term 'public' should be clarified to ensure that services to minorities can be maintained.

As the representative body of a faith community we are particularly concerned that 'benefit' should not be defined in purely physical terms, and strongly urge the inclusion in the Bill of a statement recognising that 'benefit need not be restricted to material benefit' (p10 consultation paper).

### **Registration and Reporting Procedures**

We believe that OSCR should ensure that information about the new registration and reporting procedures is both clear and uncomplicated. We are aware of several small, private charitable trusts whose trustees have expressed the view that they may dissolve the charity rather than have to make substantial and costly changes to their administration. It would clearly be problematic if this were to be a common response to the reforms and we would urge OSCR to review and where appropriate to rewrite letters and information leaflets.

### **Charities operating in Scotland and in England**

Many charitable organisations in the Jewish community operate in England and Wales as well as in Scotland, and we are concerned that they should not face unduly onerous registration and reporting procedures. We urge that effective channels of communication should be developed between OSCR, the Charity Commissioners, Companies' House etc to facilitate information sharing between regulatory bodies. We welcome the assurance that

consolidated information will be sufficient and that there will be no requirement to provide OSCR with separate Scottish accounts and reports.

We are concerned at the possibility that some very small charities based in England or elsewhere in the world that request donations from a very few people resident in Scotland may not be aware of the necessity to register with OSCR. It would clearly be impractical for OSCR to inform all charities worldwide of the need to register, and we believe that procedures should be put in place to ensure that such minimal activity remains lawful.

### **Designated Religious Charities**

We are pleased to note that the membership required for Designated Religious Charities has been reduced to 3000 as this will make designated religious charity status a realistic proposition for more faith groups in Scotland. We would, however, suggest that the change in terminology from 'Designated Religious Bodies', is not only unnecessary but likely to cause confusion. The original designation made it clear that these are umbrella organisations, authorised to monitor charities throughout a whole religion or denomination. The use of the term 'Charities' may be misunderstood, and may lead to concern on the part of individual synagogue or church congregations if they think that a membership of 3000 is required in order for them to register as a charity.

### **Charity Stewards**

We support the view that 'the public is entitled to.....reassurance that.....Scottish charities are managed properly' (McFadden Commission) and agree that charity stewards 'should be under a duty to act in the best interests of the charity'. We do, however, have some concern at the level of duty proposed in the Bill, particularly in relation to charity stewards with particular experience or expertise, and suggest that it might discourage people from volunteering in this way due to a fear of criminal prosecution.

### **OSCR**

We believe it to be of the utmost importance that OSCR is not only independent but is seen to be independent, and therefore support the proposal that it should be a non-Ministerial Departmental Body answerable directly to the Scottish Parliament.

### **References to Charitable Status**

We are concerned that the Bill's wording (section 12(3)) may cause confusion as to which documents should include information about a charity's registration. Whilst it is clear that letters and cheques are covered by 'documents signed on behalf of a charity' it is not entirely clear what the phrase 'issued by a charity' includes. We believe that clear guidance is required covering, for example, religious study sheets distributed at synagogue services, agendas of meetings, and general information sheets.

Confusion already exists due to the quantity of different systems used to identify charitable organisations, for example, charity numbers, company numbers and Inland Revenue file numbers. We recommend that this matter should be reviewed, and suggest that charities should in future be allocated a single universally recognised and accepted identification number.

### **Summary**

We fully appreciate the reasons behind this reform of charity law and believe it to be of the utmost importance that the general public should be able to have confidence in the probity of charitable organisations. We support the intentions of the proposed legislation, but stress that registration and reporting procedures must not be too onerous, particularly for small charities.

It is our view that the public benefit test is not workable in its proposed form, and that it could in future be used to exclude organisations that provide non-material benefits, such as religious organisations, from charitable status.