

10 April 2019

Aileen Campbell
Cabinet Secretary for Communities and Local Government
The Scottish Government
St Andrew's House
Regent Road
Edinburgh, EH1 3DG

Dear Cabinet Secretary

Request to rethink approach to reviewing Scottish charity law

The Scottish Government's review of Scottish charity law is currently taking place, and the recent call for responses to the consultation has now closed.

SCVO welcomes the opportunity to review charity law and has submitted a [response](#). However, we are concerned that the consultation has not gone far enough to deliver a comprehensive review of Scottish charity law, which we feel is required to maintain and build trust and confidence in the collective reputation of modern charities across Scotland today; what we call the 'charity brand.'

There can be no underestimating the importance of trust in charities, which is already at a high level in Scotland. Public trust in the charity 'brand' is one of the most powerful assets our sector holds but gaining and retaining this is not easy in the current context. We agree with the Scottish Government's view that this challenge should be addressed by appropriate regulation.

It is essential that the system within which modern charities operate is robust. However, there is a real risk that the current proposed changes are simply tinkering around the edges, when the environment that charities now operate in has changed significantly since the Charities and Trustee Investment (Scotland) Act was passed in 2005. Given that legislative time is scarce, we think this is a missed opportunity and would ask you to broaden out the scope of the review.

I know you support the view that all proposals should also be developed in partnership with relevant stakeholders, and we are concerned by a lack of engagement of the voluntary sector before and during the development of the recent consultation, which we feel has resulted in a limited range of proposals being included in the consultation.

Mansfield Traquair Centre, 15 Mansfield Place, Edinburgh EH3 6BB
Tel: 0131 474 8000 • Web: www.scvo.org.uk • SCVO Information Service: 0800 169 0022.

While the consultation refers to important issues for OSCR, the Scottish Government and charities in Scotland, it fails to capture some of the most important areas of concern for our sector, as well as other technical areas that would benefit from modification. I am therefore writing to ask you to take this chance to carry out a more comprehensive review of Scottish charity law that addresses more fundamental questions.

A significant area of concern for SCVO and the wider voluntary sector exists around the definition of '**public benefit**', and we would urge the Scottish Government to work with the sector, OSCR and SCVO to redefine what public benefit should mean in 2019. Without a clear and relevant definition of 'public benefit,' charitable status will continue to be misused, or used in ways that the public and many in the charitable sector would not support.

Thirteen years on from the current legislation coming into force, we are still struggling with the **identity of modern charity**. Our sector is diverse and that must be celebrated and protected, but there should be some unifying form of common identity that makes a charity unique in Scotland today. Confusion as to what constitutes a modern charity can impact negatively on the collective reputation of charity, but it is impossible for this to be addressed without a clear and relevant definition of 'public benefit.'

On a more technical note, to strengthen and enhance the **role of OSCR**, we also urge the Scottish Government to widen the discussion to include the structure of the regulator. SCVO feels that OSCR should be independent of government, be legally required to report to the Scottish Parliament rather than Ministers, and be allowed to recruit to senior posts from a wider pool of candidates beyond the civil service with the right skills, knowledge and experience to lead the organisation.

Whilst SCVO agrees that this is the right time to review Scottish charity law, we believe that the recent consultation has not gone far enough. We urge the Scottish Government to reflect on these broader challenges and take the time needed to create a stronger foundation for the charitable sector in Scotland. We would welcome the opportunity to meet with you to discuss our position in detail.

Yours sincerely,

Anna Fowlie
Chief Executive

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