

RCNI Submission on proposed Charities legislation, May 2004

The RCNI is the national forum of Rape Crisis Centres (RCCs) which provides a strong voice for survivors and is a catalyst for social change to end rape and all other forms of sexual violence. Our membership encompasses 16 RCCs with approximately 130 staff and volunteers serving the needs of survivors of sexual violence across Ireland. Last year our members delivered a direct service to tens of thousands of survivors and supporters. The Network enhances the resources of the individual centres and proactively promotes their agenda through partnership with government and civil society in Ireland.

RCNI feels the proposed charities legislation is essential to the integrity of the sector. We also recognise that there is a need to revisit the definition of charitable institutions given transformations in Irish society. Therefore, we welcome this initiative and the excellent and succinct presentation of the proposals in this consultation document. We are keen to see the positive regulation of the sector which is customer and delivery focused,

The RCNI have four principal concerns regarding the proposed legislation which we will outline first before looking at the proposals section by section.

- the balance of responsibility and duty;
- the avoidance of the duplication of accounts;
- administrative simplicity and
- the overseeing authority and its membership

Firstly, the RCNI have some concerns over the balance of support and regulation evident in this document. While clear guidelines are essential to avoid abuse of the sector and to protect charities from disrepute by association, the legislation should be weighted towards supporting and facilitating charities and their functions rather than purely regulating them. While this aim is clear from the preamble (p 6) and at points throughout the document, it is not so evident when the detail is being worked out (e.g. p 10). The RCNI would like to bring this to your attention and ask that you guard against this slippage.

Secondly, as many organisations in the voluntary and community sector are also limited companies this means there may be a requirement to produce duplicate accounts. As you are aware this requirement would put a strain on limited resources and must be avoided without losing the

essential accountability of the charities to an overseeing body. We fully endorse your endeavours to avoid this situation.

Thirdly, while we welcome the need for strict guidelines and limitations on charitable status this concern must not override the equally important need for administrative simplicity. Government legislation preventing or putting out of operation genuine voluntary and community organisations would be an unfortunate consequence of this legislation. We feel this is avoidable given due care.

Fourthly, our preference for the overseeing body is to have an independent charities body. The membership of this body would have to reflect the NGO/charities sector.

The RCNI would also like to make a recommendation:

It is important that the regulatory body produces guidelines on advocacy as a matter of priority. The advocacy aspect of community work is often secondary to the primary function of charitable organisations and, therefore, has the potential to cause conflict regarding the charities' remit, and departmental responsibility, particularly for funding purposes. It would be extremely valuable to take this opportunity to achieve clarity from the outset.

The Consultation paper section by section

Section 4 - Clarity:

RCNI is happy with the definition proposed but would suggest broadening the wording in one place. Charitable purposes should include, 'the prevention and relief of the suffering of humans'.

It is also important that the definition of charities looks, not only at the function of an organisation but also at its constituents and 'client' base. A charity must serve the community at large, the marginalised and/or the disadvantaged; the public benefit requirement must be fulfilled. If the definition only takes into account function then it could, for example, end up supporting the already privileged.

Section 5 - Accountability:

RCNI strongly support an independent charities body to regulate and support the sector. It is our view that given the importance of this body it ought to be an entirely new and independent entity. In our experience a standalone body, with staff recruited specifically for the completion of duties outlined in clear terms of reference, is the most effective and realistic means of achieving the goals of this legislation.

While we agree with the statutory functions outlined on page 10, it concerns us somewhat that these are almost entirely given over to regulatory, as opposed to supportive, functions. Perhaps some further thought needs to go into how to frame the approaches in supportive rather than regulatory fashion in order to ensure the balance ethos highlighted at the start of the document is carried through into the detail and framework for practice of the legislation.

Section 6 - Transparency:

The measures outlined here to ensure transparency are very positive steps. Also we wholeheartedly welcome the proposal to ensure that no dual filing will be required of charities which are already limited companies.

We have no further points to raise in sections 7, 8 or 9.

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