

Anderson Strathern Election e-briefings

Scottish Parliament Election – 3 May 2007

Voluntary Sector and Charities

Introduction

The 2003 - 2007 session of the Scottish Parliament (its second session) ended at midnight on Monday 2 April 2007 and the next Scottish General Election will take place on Thursday 3 May 2007.

The first meeting of the next session will be on Wednesday 9 May 2007, when MSPs will be sworn in and a new Presiding Officer and Deputy Presiding Officers will be elected.

This briefing paper considers areas of law reform in the second session of the Scottish Parliament concerning the voluntary sector and charities. It also considers each of the political parties' (Labour, SNP, Conservative, Liberal Democrats, Scottish Green Party, Scottish Socialist Party, Solidarity and Scottish Senior Citizens' Unity Party) key manifesto commitments on issues relating to the voluntary sector and charities, as presented in advance of the 2007 Election.

Review of second parliamentary session

Charities fall within a wider group of organisations known as the 'Voluntary Sector'. Within the last Scottish parliamentary session, the Parliament has legislated to radically reform charity law in Scotland.

Prior to 2006, the law in Scotland was governed by the [Law Reform \(Miscellaneous Provisions\) Scotland Act 1990](#) ("the 1990 Act") and the [Charities Accounts \(Scotland\) Regulations 1992](#). The purpose of this legislation was to try to ensure that Scottish charities were publicly accountable, supervised and properly managed, but there were still concerns that the law was inadequate. The 1990 Act did not create an index of charities. Only the Inland Revenue had information as to which organisations had charitable status and it was under a statutory duty not to disclose this information. There were also no general powers to investigate cases of wrong doing, although the Inland Revenue and Court of Session could investigate in certain circumstances.

Acts of the Scottish Parliament

[Charities and Trustee Investment \(Scotland\) Act 2005](#)

The Charities and Trustee Investment (Scotland) Bill was introduced into the Scottish Parliament by Malcolm Chisholm MSP on 15 November 2004. It was passed by the Parliament at stage 3 on 9 June 2005 and received Royal Assent on 14 July 2005.

The Charities and Trustee Investment (Scotland) Act established the Office of the Scottish Charity Regulatory ("OSCR"), a statutory body charged with maintaining a register of all charities in Scotland. It gives OSCR powers to investigate any charity and any organisation which controls a charity. It also gives OSCR powers to impose sanctions in cases of misconduct, including suspension from and cessation of the charity, limiting the charity's financial dealings and freezing assets. The Act creates a three tier appeal system against OSCR's decisions and established a two part charity test. It allows charities to apply to OSCR, rather than the courts, to amend their constitution. It obliges charities to have their accounts independently examined and audited and sent to OSCR for review. It introduces 'Scottish charitable incorporated organisations' and 'designated religious charities'. The Act also imposes certain obligations on charity trustees and establishes controls in relation to fundraising and the investment powers of trustees.

Commitments by Party

Labour

- Ensure the voluntary sector is a full partner in community planning
- Promote best practice in volunteering through the procurement process
- Streamline and stabilise funding arrangements affecting social enterprise or voluntary sector organisations that provide services for local or central government
- Work with the sector to encourage more people to be trustees of voluntary organisations, ensure that they get the support they need and secure the future of bigger, social economy organisations
- Focus more resources in the sector, including the first 'Social Enterprise Strategy for Scotland' which will be tasked at delivering more public services
- Task Highlands and Islands Enterprise to consider an all Scotland approach to supporting Social Enterprises

SNP

- Work in partnership with the voluntary sector to support new ways of delivering services (such as palliative care), including direct payments to service providers
- Assist unpaid carers and intensify initiatives to implement the conclusions of the "Care 21 Report on the Future of Unpaid Care in Scotland"
- Provide additional funding for the support and development of carer organisations
- Improve the provisions of respite care by providing resources for additional 10,000 respite weeks per year, in a home or care setting
- Extend the involvement of the voluntary sector as co-producers of public services and drivers of community development
- Work with the voluntary sector and regulatory and monitoring bodies to develop a charter of best practice to regulate the activities of voluntary organisations

Conservative

- Reduce charity regulation to make it more independent from the state
- Adopt a simple common sense approach to bureaucracy and disclosure

Liberal Democrats

- Create Youth Community Enterprises, a new form of non-profit distributing business to include young people in a range of community activities
- Encourage support volunteering in all its forms (ongoing activity as well as one off gap year projects)
- Consider options for a new unit in Project Scotland to develop opportunities for young people to undertake work and voluntary placements in international organisations
- Build on the National Volunteering Strategy and develop local strategies in partnership with the voluntary sector

Scottish Green Party

- Support needs of carers by providing more respite care
- Improve benefit provision, financial and social support and education and training for carers
- Improve pay and condition for carers

Scottish Socialist Party

- Replace Carers Allowance with the national minimum hourly wage rate



- Implement a 4 year minimum funding period for all publicly funded projects
- Reduce water bills for voluntary organisations
- Fund training programmes for independent community representatives, which would be conducted via the Scottish Council for Voluntary Organisations
- Work with the Scottish Council of Voluntary Organisations and the existing network of community groups to train independent community representatives
- Ensure all publicly funded projects provide trade union rates of pay and conditions to all paid employees
- Invest in not-for-profit community transport by funding an increase in services and routes
- Introduce full funding for community care
- Increase support for those who care for or assist family or friends with disabilities

Solidarity

- Abolish charitable tax relief for private schools
- Invest at least £10 million to strengthen support services to take the pressure off carers
- Offer younger carers the opportunity of 'distance learning' and Open University courses free of charge
- Introduce a Bill in the Scottish Parliament to give a non means tested carers allowance to all carers; exempt them from being charged for services to support them in their caring responsibilities; and extend concessionary travel fares to all carers
- Distribute existing legal benefits for carers throughout Scotland
- Increase the allowance given to carers
- Abolish Scottish Enterprise and allow local authorities to disburse grants to local not-for-profit businesses and Social Enterprises

Scottish Senior Citizens' Unity Party

- End the sale of people's homes to pay for residential care

Further information

For more information on the work of Anderson Strathern's Parliamentary and Public Law Unit, please contact us on 0131 270 7772

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