

# Response from Sligo County Community Forum to Establishing a Modern Statutory Framework for Charities Consultation Document

May 2004

## Background

Established in 1999 *Sligo County Community Forum* is a representative body comprising of 17 elected representatives from the local Community and Voluntary sector. With a registered membership of over 400 groups, the Forum acts as a network to enable the Community & Voluntary sector to meet and address common issues and concerns of the sector and represent those views at a county level.

## Objectives of Sligo County Community Forum

- Provide a structure and communication platform for registered Community and Voluntary groups in County Sligo.
- To access and share information relevant to the Community & Voluntary sector
- To provide support for Community Development
- To promote Social Inclusion
- Generate public awareness and participation in decision making at local level
- To inform and influence policy at local, regional and national level

## Introduction

Sligo County Community Forum hereafter referred to as 'The Forum' welcomes the opportunity to respond to the Department of Community Rural & Gaeltacht Affairs, *Establishing a Modern Statutory Framework for Charities... Consultation Paper*. Our comments are informed by Sligo County Community Forum's role as a representative body for registered Community & Voluntary organisations in County Sligo.

The Forum, in conjunction with Irish Charities Tax Research Ltd, hosted an Information Evening where representatives of the Community & Voluntary sector in County Sligo attended to hear the details of the proposed changes to Charities Legislation and to raise questions and comments in relation to this. The questions and comments were collated and will be included in this paper.

The Forum wishes to submit its views and questions on *Establishing a Modern Statutory Framework for Charities – Consultation Paper* to the Department of Community Rural & Gaeltacht Affairs before deadline 28 May 2004. This paper therefore represents a generic overview of the Forum members' positions on the *Consultation Paper* but may not necessarily correspond with the particular opinion of every single member group of the Forum.

The format of the paper is along the suggested outline proposed by the Department for ease of comparison.

### OVERALL POLICY AIM

- The Forum supports the overall policy aim of establishing an integrated system of registration and regulation together with supervision and support for registered charities.
- The Forum sees the consultation document as a significant step in establishing confidence and best practice in the sector.
- The Forum recognises the need for, and welcomes a comprehensive piece of legislation to govern the sector.

## CLARITY

- The Forum recognises that a clear definition of charity is critical to the establishment of a modern statutory framework and supports the introduction of a statutory definition of charity to replace the current Pemsel categories.
- The Forum would like to see an extension to the “*advancement of community welfare*” category to include “*the care, support and protection of the family*” in addition to ‘children and young people’... as support for the family is seen as a necessary prerequisite in supporting young people and children.
- The Forum recommends extension of “*advancement of education*” to include people with disabilities.
- The Forum proposes the widening of the ‘*other purposes beneficial to the community*’ category to include other categories of ‘*public benefit*’ including ‘not-for-profit’ organisations providing a service to the community.

## ACCOUNTABILITY

- The Forum recommends that the current criteria used by Revenue Commissioners for making audited returns be maintained by the new regulatory body for charities i.e. only charitable organisations with a turnover of €50,000 or more are required to make audited account returns. This is to protect charities with a small turnover from extra financial burden.

### **Independent Statutory Body**

- The Forum supports the establishment of an independent statutory body with responsibility for regulation of charities. This single point of contact marks a significant improvement to the current system whereby a

multiplicity of agencies play a role with regard to various aspects of charity.

- The Forum proposes that the charities sector be represented on the new regulatory body.
- The Forum strongly recommends that the new regulatory body, whatever shape it takes, be equipped with adequate relevant resources, (financial and non financial) to carry out its functions effectively, efficiently and in a professional manner. This is seen by the Forum as critical to the success of the body in gaining the confidence of the sector and the general public.

#### **Favoured option for independent regulatory body**

- The Forum supports the option of establishing *a new independent body (Caradas)* under the aegis of the Department of Community Rural and Gaeltacht Affairs which would be accountable to both this Department and the Oireachtas.

#### **Proposed responsibilities of new regulatory body**

- Because of the high legal costs on organisations seeking charitable status, The Forum proposes an alternative to the High Court Appeal System i.e. an intermediary body.
- The Forum recommends *The Commissioner of Charitable Donations and Bequests for Ireland* as the most appropriate body for this purpose.
- If High Court is only option available then The Forum proposes that organisations have the option to apply for Free Legal Aid to avoid incurring unnecessary legal fees.
- The Forum supports the view that the regulation needs to be *appropriate, proportionate and administratively simple* to be successful and to avoid unnecessary bureaucracy and red tape for charities.
- The Forum endorses the position that effective implementation and transparency will rely on clear lines of responsibility being put in place between the new regulatory body and the Department of Community,

Rural and Gaeltacht Affairs and other agencies with a role to play in charitable organisations.

- The Forum recommends that the new regulatory body will continue to consult with the charities sector in relation to regulation content and implementation.
- Overall the Forum supports the proposed functions of the new regulatory body in that they appear to be comprehensive and mindful of the balance between, on the one hand, proper accountability and vigorous intervention, while on the other, appropriate support and guidance to promote best practice in the sector.

### **Fundraising**

- The Forum supports the proposal to regulate street trading and the collection of promises of money consistent with regulation governing street collections.
- The Forum supports the requirement for charities to disclose details of permits applied for and funds raised.
- The Forum endorses the view that it is important to achieve balance between public confidence in charities fundraising activities and supporting and encouraging the dynamism and innovation of charities to function without undue bureaucracy.

### **Self Regulatory Initiative**

- The Forum welcomes the proposal for a Code of Conduct and recommends that such codes be given statutory recognition.

## Transparency

- The Forum welcomes the proposal to create under the new regulatory body, a central register of 'Registered Charities'.
- The Forum supports the proposal that all charities would be obliged to register with the regulatory body.
- The Forum supports the proposal that the new regulatory body should recognise returns to Companies Registration Office by charities which are companies limited by guarantee pursuant to company law as it stands to avoid dual filing.
- The Forum supports the concept of proportionality in relation to additional information required for the register and that supplying information does not place excessive burdens on charities
- The Forum recommends the updating of this register on a regular basis to ensure up to date accurate information is contained therein.
- The Forum supports the information being made public as this will make the register accessible and promote transparency.

## Compliance

- The Forum supports the proposed statutory powers for the new regulatory body to ensure compliance with the new regulations and to protect the public interest.
- The Forum agrees with the regulatory body having the power to exercise immediate sanctions and supports the graduated approach to compliance / appropriate sanction based on the assumption that
  - *Charities want to meet their legal requirements*
  - *Charities vary enormously in their degree of organisational capacity, their asset base, sources of financing and fields of activity*

- The consultation document does not state how the evidence of non-compliance will be discovered... ... Will there be investigators attached to the new regulatory body?

### Governance

- The Forum supports the standardisation of role, duty of care, responsibilities and duties of charity trustees/officers/directors.
- The Forum supports the consolidation of both statutory and common law standards relating to charity trustees, thereby bringing coherence and consistency to this area.
- The Forum welcomes the statutory protection of all officers of charity regardless of legal structure.

### Review

- The Forum supports the proposal of one comprehensive piece of legislation in stand-alone form, governing charities which is seen as a fundamental improvement on current situation.
- The Forum welcomes the review of reforms after five years but recommends a system of on-going monitoring and evaluation be provided for.