

## A Charitable Concern?

### How Charities in Scotland are preparing for the potential for constitutional change: *a series of discussions*

*Session 1: Organisational Concerns*  
30<sup>th</sup> May 2013, Andrew Carnegie House Dunfermline

#### 1. Introduction

- This is the first of a series of seminars on the charities in Scotland and constitutional change.
- The session was chaired by Jane Ryder, former Chief Executive Officer of OSCR and was attended by 19 delegates representing large and small charities with a range of structures and remits.
- This session focused on **structural/ internal** issues. Although much of the focus is on the 2014 referendum and the impact of independence, constitutional changes accompanying the Scotland Act 2012 will also have an impact on how charities operate<sup>1</sup>.

#### 2. Preparing for potential constitutional change: Scottish Refugee Council experience

The session began with a presentation from John Wilkes, Chief Executive Officer, Scottish Refugee Council (SRC). Key points were:

- In January 2013 SRC published the results of 11 months of careful research: [\*Improving the Lives of Refugees in Scotland after the Referendum: An Appraisal of the Options\*](#).
- The report set out SRCs vision of a fair and just asylum system that offers a safe country of refuge, whether Scotland is a country within or outside of the United Kingdom.
- While SRC were clear that, as a charity, they did not have a view on the outcome of the referendum they recognised a window of opportunity to use the charity's knowledge and experience to influence the debate about future refugee and asylum policy in a non-partisan way.
- John felt that charities, whether Scotland based or part of larger British or UK charities, have a responsibility, at this crucial time, to do work like this.
- SRC were also concerned that the debate around the referendum and asylum and immigration, which are still reserved matters, had a good chance of being debated by the media and politicians against the current 'toxic' atmosphere that surrounds these issues. The purpose of the report was to put some hard evidence into the debate to counter some of the usual stereotyping that often accompanies the current discourse on these issues.
- The SRC board were concerned that the potential risks in producing such a report were carefully

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<sup>1</sup> For example, after 1<sup>st</sup> April 2016 Scottish Ministers will be able to vary the rate of the Scottish Rate of Income Tax

handled. The process adopted was:

- Setting up an expert advisory group which included some of the SRC board experienced in refugee experiences and public policy, an academic specialising in asylum law, a representative of the UN High Commission of Refugees UK office, the Scottish Human Rights Commission and Professor James Mitchell an acknowledged expert in public policy;
- The group set the parameters and approach for the report;
- The SRC commissioned its policy team to research the evidence;
- The board reviewed the report at various stages;
- The Chief Executive was responsible for the final editing of the report to ensure that it was objective, non-partisan and balanced;
- Professor Mitchell launched the report at the SRC AGM and the SRC developed media and implementation strategies for the report's dissemination.
- The report assesses refugee policy options in three potential scenarios: status quo, Devolution – Plus and an independent Scotland. The report makes recommendations within each scenario. SRC took care to ensure that report was credible and evidence based. An expert panel was convened and John ensured the report was balanced and neutral in tone. A statement outlining SRCs non- partisan position was issued in 2012.
- The report has received a positive response. SRC have met with both the Scottish Government and the Home Office to discuss the recommendations. Despite careful planning, the report has not as yet received much media interest.
- SRC feels it can continue to maintain its neutral position even if the Scottish Government opted to take up their recommendations and the UK government did not. SRC were advocating policies that improved the lives of refugees, based on the international Refugee Convention and Human Rights instruments and neutral about constitution.
- Many participants agreed that there was a legitimate and important differentiation between constitutional settlement and government policy.
- This type of balanced approach that asked questions about both the visions presented by the 'Better Together' and 'Yes' campaign was seen by many to be the best way to maintain a neutral, policy focused position. Some participants did though express the need to keep the possibility of taking a view on independence itself where it was clearly in the interests of its charitable purposes.

### 3. Roundtable discussions

The group split in two to discuss their experience, concerns and learning on preparing for potential constitutional change internally. There was broad agreement that the third sector had a role in the debate about constitutional change. Participants agreed that although many charities had been nervous about entering the debate at the outset, things had moved on as outline positions had become clearer. In this context participants felt that it was vital that the third sector was there to share their knowledge and experience and to challenge assumptions on both sides. A considered but proactive approach would be legitimate, taking into account OSCR (draft) guidance.

The main discussion points are summarised below.

### Establishing good communications

- There was general agreement that any policy decision was for the Board and, once made, issuing a position statement to staff was a useful first step. A clear position statement minimises the risk of staff having conversations about the referendum without knowing the charities position. There are a number of examples of these that can be shared amongst charities. An external communication plan is also important.
- A number of participants were concerned that the implications of constitutional change in Scotland did not figure highly enough on the agenda of the relevant UK organisations. Many participants were concerned that English colleagues were not fully aware of the implications of existing as well as possibly further changes.

### Funding

- Participants were concerned both about how funds would be distributed internally (where the charity was currently a UK one) and by external bodies (charitable Trusts and Foundations with a UK remit) post-independence. A recent Institute of Fundraising survey of members has echoed these concerns<sup>2</sup>.
- The importance of transparency – in how funds are collected and distributed across charities, including UK wide charities- was discussed. This is of increasing public interest, and the case for improvements in transparency is an important issue, whatever the outcome of the referendum.
- Participants raised concerns about assumptions being made about the robustness of charities in an independent Scotland. It was acknowledged that there was no guarantee that income and funding sources would be the same following independence.

### Operations and structure

- Some participants indicated they had not yet considered the likely implications of independence (if any) on organisational structure or operations – the pressing ‘day to day’ issues of running a charity having taken precedence until this point. In contrast, others had been asked by their Boards to prepare detailed assessments of the likely impacts of the Scotland Act 2012, further powers under devolution and independence.
- Timing was discussed –while constitutional change is not going to happen overnight there is a risk that organisations may be too slow to act miss important opportunities. It might be useful to consider potential scenarios based on likelihood and pace of change.
- Draft guidance from OSCR encourages charities to address these issues as part of their organisational planning. Internal strategy days may be the natural place to consider different scenarios.
- The likely impact on participants’ organisational structures was varied and depended on current structures. Those that had already begun assessing the impact of different scenarios noted that the changes to income tax arising from the Scotland Act 2012 could prove to be one of the most complex areas of change for UK organisations. Changes in the income tax rates would

<sup>2</sup> Institute of Fundraising Scotland (online) *Research Report: Scottish Independence and Fundraising May 2013*  
<http://www.institute-of-fundraising.org.uk/library/research-report-scottish-independence-and-fundraising/>

have implications on payroll, pensions and gift aid. Cross border employability of staff could also be an issue.

- Names were discussed – charities with the words ‘national’ in their title could find these terms problematic in the future.

### Sharing learning

- There was broad agreement that the safe space of the seminar had been useful and many participants were keen to collaborate with and share learning with others. The important role that intermediary and umbrella organisations can play was noted. Several participants wondered if Scottish charities might be able to learn from the experience of charities in the other parts of the EU.
- The group reflected on other constitutional changes including potential for ‘Devolution-Plus’ or changes to the relationship with the European Union. Regardless of the outcome of the referendum, this type of forward scenario planning was seen as helpful.

### 4. Next Steps

- It was agreed that it would be useful to organise an additional session which UK partners could attend to discuss issues affecting cross-jurisdictional organisations.
- The next session will be broadened from ‘clients’ to ‘beneficiaries’ to appeal to a wider group of participants. It was agreed that it would be useful to have a speaker to stimulate discussion.
- The next session will take place on August 27<sup>th</sup> 2013, at ACH, Dunfermline.