

RESPONSE TO THE SECOND DRAFT PAPER ON JERSEY CHARITIES LAW
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Please note that this is a personal response to the draft paper and did not involve consultation with voluntary organisations that deliver health and social care. However some of the views are based on the research that was undertaken during the JAVO health and social care project.

The Exemption of Private Trusts

The new charities law is a major opportunity to create awareness of the existence of private trusts and foundations, in terms of their aims, whether they give grants regularly, how they give grants and what are their priority causes. This would make a huge difference to charities in Jersey who waste a lot of time and resources investigating 'secret trusts' and writing applications that are immediately discounted because the charity did not know the funding criteria of that particular trust. It is therefore disappointing to see that private trusts may be excluded from the new charities law. It seems that this is due to the fact that they would still be regulated by the Financial Services Commission; however there is still an issue of openness, improving awareness and accountability to the general public. If a private trust is set up to benefit charities then this information should be widely available.

The new charity law would be an opportunity to enforce private trusts to produce a constitution, a set of criteria about what they fund, the size of grants they are willing to give and deadlines or approximate times of when the decision making committee meets. This would save charities in Jersey a huge amount of time and resources which are currently wasted. It would create efficiencies in the whole system of fundraising in this manner both for charities and for private trusts that currently have to waste time considering applications that do not meet their requirements. By being clear about what they want, it would also help private trusts to encourage charities to enter applications that meet their needs and allocate their funds more appropriately.

It should also be noted that private trusts are included under charity law in the UK. From experience, this is a real benefit in that knowledge on these trusts can be easily gained and that private trusts are encouraged to be more accountable.

Definition of Charities

The broader definition of the Scottish Charities and Investment Act does appear to be more useful and appropriate. Personally, and from the research that I have undertaken, I believe that sports and campaigning organisations should also be able to register as charities if they benefit the public. There are already many examples including campaigning organisations such as Friends of the Earth and sports charities such as those that encourage sports activities in deprived areas and Sports for the Disabled. All of these are causes in which members of the public would be keen on supporting.

Gift Aid

I am pleased to see that the Gift Aid scheme may be widened and that part of the aim is to encourage public giving. Many charities have stated that they are concerned that the public have lost interest in charitable giving following constant awareness raising campaigns (including international campaigns, such as the Tsunami Appeal). Therefore any new initiative or new way of giving may be a way of boosting public giving in the near future.

Jersey Charities Commission

The draft paper does not clearly state what the responsibilities of a Jersey Charity Commission would be. It would make more sense for charitable law to be enforced by a statutory body rather than delegated elsewhere, especially to organisations that already support or give grants to charities as this would certainly lead to conflicts of interest. However an enforcing body and, separate to this, organisations that offer support to charitable organisations both need to exist as the former will have the authority to enforce charities to meet the requirement of charity law and the latter would offer advice, guidance and training to help charities work towards meeting the new requirements.

Summary

From the research undertaken through the JAVO health and social care project, the evidence very much suggests that charity law is needed. This is for several reasons:

- ★ To create awareness of what charities deliver in Jersey for the benefit of the public who may wish to access those services, to avoid duplication and to encourage partnership working
- ★ To enforce charities to be more accountable, to produce a set of yearly accounts, to have a mission statement and clear constitution and to be more open with the general public about what they deliver
- ★ To standardise the above best practice across all charities, rather the disparities that exist between charities at present
- ★ To avoid fraud and to avoid public monies being spent in areas against the wishes of those who give to charities (i.e. charities should be spending all their funds according to their constitution)

Charity law will also improve public confidence in charities and may lead to increased public giving. Finally greater awareness of what charities currently offer would benefit the States in terms of identifying opportunities for joint working, consultation with the sector, avoiding duplication and being more aware of what charities are depended on to deliver certain services. Awareness of what charities deliver in Jersey was certainly a key issue during the JAVO project, not just amongst the general public, but also amongst members of the States. An updated register where charities are enforced to provide more detailed up-to-date information would make a great deal of difference. The current register kept by Association of Jersey Charities, by no means includes all charities, is not up-to-date and in many cases does not offer any details of who to contact or of what each charity delivers. This seems to be due to the fact that it is the responsibility of the charities themselves to

update their own information directly through the website.

Finally, as reiterated in the conclusion of the JAVO report, in order for charity law to work, a programme of support, advice, guidance and training also needs to be introduced. Up until now, there has been very limited guidance or legal requirements surrounding charities, hence many charities have some work to do in order to meet new expectations. Rather than avoid this, it must be accepted that it can be achieved with help and support and at little cost to charities if they work more closely together, sharing expertise and knowledge on how to introduce new practices into their organisations. An umbrella organisation that represents health and social care would therefore add value to a charities commission by offering assistance to charities that have not previously produced a set of accounts, through offering training and through identifying and encouraging best practice that meets the quality standards recommended under a new charities law.