

PREM 19/2636

PART I

Confidential Filing

Covenanted Charitable Donations
by Close Companies.

Taxation of Charities.

ECONOMIC

POLICY

March 1985

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
28.3.85							
27.4.85							
4.5.85							
24.6.85							
8.11.85							
8.11.85							
12.11.85							
23.12.85							
7.1.86							
8.1.86							
26.2.86							
17.6.86							
11.11.86							
12.12.86							
2.1.87							
2.3.87							
8.2.88							
12.2.88							
21.3.88							
10.4.89							
10.5.89							
<p>PREM 19/2636</p>							
<p>Part ends</p>							

PART 1 ends:-

NP to Home Sec 16.5.83

PART 2 begins:-

Policy Unit to PM 12.83

cc/u



PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

16 May 1989

NBLM

*Phc 6
17/5*

Dear Douglas

WHITE PAPER ON CHARITIES : DRAFT TEXT

Thank you for your letter of 3 May seeking H Committee's agreement to the publication of the draft White Paper on charities.

The Prime Minister wrote agreeing to publication, subject to some textual amendments which I understand have been incorporated. Geoffrey Howe, George Younger, David Young, Malcolm Rifkind, John MacGregor and Peter Brooke wrote indicating that they were also content and, in some cases, asking for their officials to be kept in touch on particular aspects of the proposals. John expressed the hope that the question of the status of Eton and Winchester Colleges and of the Universities of Oxford, Cambridge and Durham could be settled quickly.

No other colleague commented and you may take it, therefore, that you have H Committee's agreement to the publication of the White Paper, subject to the incorporation of the amendments requested by the Prime Minister.

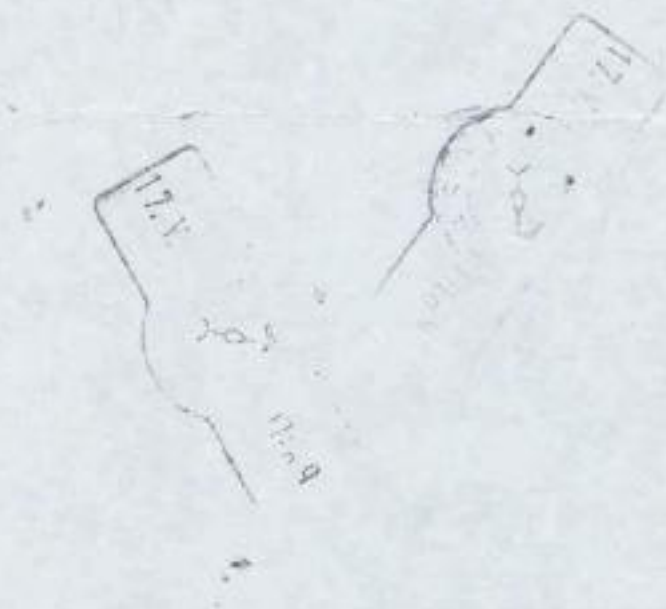
I am copying this letter to the Prime Minister, members of H Committee, Geoffrey Howe, David Young, John MacGregor, George Younger, Sir Robin Butler and First Parliamentary Counsel.

John Wakeham

JOHN WAKEHAM

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Charities Legislation (White Paper)

3.31 pm

The Secretary of State for the Home Department (Mr. Hurd): With permission, Mr. Speaker, I wish to make a statement about our plans for charities legislation. I have laid a White Paper before the House today.

It is about 30 years since the last major charities legislation. Since then the charitable world has seen substantial changes. The number of charities has grown enormously—with a corresponding increase in the funds flowing through them. That is welcome news. The part which charities and the voluntary sector play in meeting genuine need at home and abroad is increasingly impressive and important.

But that expansion makes safeguards essential. My right hon. Friend the Chancellor of the Exchequer and I jointly commissioned in 1987 an efficiency scrutiny of the supervision of charities. The scrutiny team, led by Sir Philip Woodfield, submitted its report in June that year. We welcomed the report. The White Paper now sets out how we propose to implement it.

We have also taken the opportunity to raise some fundamental issues relating to charitable status. They are difficult and we invite views on them.

The White Paper concerns England and Wales. My right hon. and learned Friend the Secretary of State for Scotland will be putting forward separate proposals. We shall be considering to what extent the changes proposed in the White Paper should be extended to Northern Ireland.

Our aim has been to strike a balance between freedom and control. Charities should be able to go about their business without unreasonable interference but within a framework which ensures that they are properly accountable to the public.

At the core of the White Paper are proposals to give the commissioners new powers in dealing with mismanagement and abuse. For example, there will be a new power for the commission—in the last resort—to transfer a charity's assets to another charity.

To enable the commissioners to concentrate on their new priorities we are proposing that the commission should be relieved of some of its present statutory duties. For example, we propose to relieve the official custodian of his responsibilities for administering charity investments, and we are also proposing that the commission should largely withdraw from its present responsibility for overseeing many charity land transactions.

Other major reforms are necessary to enable the commission to monitor charities adequately. It needs more information, and in particular financial information, about charities. In future all registered charities will have to submit fuller accounts to the commission each year. Accounts of all but the smallest charities will need to be professionally audited or independently examined.

The commission's register of charities has been criticised as out of date and of limited use. An accurate, up-to-date and accessible data base is needed in which the public can have confidence and which the commission can use as its basic supervisory tool. The White Paper provides for that.

The Charities Act 1985 has improved the effectiveness of small charities. We believe that it would be right to build on the experience which has been gained by extending its effectiveness.

We have consulted widely on the reform of the law relating to fund-raising. We are proposing measures to clarify and simplify the present law on public collections and to deal with malpractice. We look to voluntary efforts to regulate the newer means of charitable appeal, such as "telethons", but we propose to take powers to regulate these forms of appeal should this become necessary in future.

We believe that charities should make some contribution towards the Charity Commission's costs—now over £7 million a year. So we propose a registration fee of £25, and graduated charges for some other services. Small charities will continue to receive the commission's services free. We reckon that some 90 per cent. of the commission's costs will continue to be borne by the Exchequer.

The commission has already acted to carry out the recommendations of Sir Philip Woodfield which do not require legislation. It has improved its management and the efficiency of its procedures; it has developed its capacity to monitor and deal with abuse; and it is preparing the ground for computerisation. Those changes will fit the commission for the active exercise of the new powers that we propose, and I believe that the result will be a better service to public and charities alike.

The cost of the commission is only a small part of the Government's contribution to charities, and to the voluntary sector more generally. The proposals that we are putting forward will help to provide a framework within which the health and integrity of charities can be assured. Our duties in respect of grants to individual organisations go beyond this. Our immediate concern must be to ensure, on behalf of the taxpayer, that we get value for money and effective services in return. It is for that reason that I have today announced, in response to a written parliamentary question from my hon. Friend the Member for Daventry (Mr. Boswell) plans for a scrutiny of Government funding of the voluntary sector.

We shall take careful note of views expressed on the White Paper, both inside and outside the House. We hope then to bring forward legislation.

Mr. Stuart Randall (Kingson upon Hull, West): On behalf of the Opposition, may I thank the Home Secretary for his statement on the future of the Charity Commission?

We are uncertain about whether paragraph 5 of the White Paper goes far enough in dealing with abuse. Will the Charity Commission have all the powers that it needs to root out abuse? Have all the recommendations of the Woodfield report on the matter been included in the White Paper? If not, why not?

Paragraph 2.4 appears to leave open the question whether there will be changes in the legal meaning of charitable status. Will the Home Secretary say a little more about his feelings on that vital and central matter? Why have the Government decided to introduce charging for registration? Does not the Home Secretary accept that many very small charities might encounter financial difficulty with those proposals? Does he agree that charities would not receive services from the commission for those fees and that the real purpose of registration is

past 10 years should be recognised, perhaps by a campaign honour—which seems to have been rather slow in coming to people who have been doing a magnificent job over many years?

The Prime Minister: I am grateful to my hon. Friend. The whole House will wish to take advantage of his invitation to send its sympathy to the relatives of those lost in the crash to which he refers, of a helicopter that has been flying from HMS Brilliant, which had previously been on duty with the Armilla patrol. I am grateful to my hon. Friend for raising that matter. Other matters are being considered by the Ministry of Defence, but we would like to honour those who took part in the Armilla patrol and in its extremely important work in the international waterway of the Gulf.

Q5. Mr. Allen McKay: To ask the Prime Minister if she will list her official engagements for Tuesday 16 May.

The Prime Minister: I refer the hon. Gentleman to the reply that I gave some moments ago.

Mr. McKay: Is the Prime Minister aware that after nearly two years of negotiations by some local authorities in south Yorkshire and in Scunthorpe, an agreement was signed five months ago for a £308 million aid concession from Europe? Is she aware that the Secretary of State for the Environment decided to break that agreement so that the aid will be widespread throughout the east of England? Does the right hon. Lady agree with the Secretary of State's action, which has deprived my constituency—which has a 20 per cent. male unemployment rate—of substantial aid, or does she disagree with him and accept that the money should be spent where the EEC said? If the Prime Minister does agree with her right hon. Friend, do we not risk losing credibility in respect of our use of EEC aid?

The Prime Minister: No. Those EEC aid agreements must also take into account the Government's view as to how the money can best be spent. Every single pound spent by the EEC in this country is paid for by the taxpayers of this country. Over and above everything that we pay for, this year we shall pay £2 billion net to the European Community, so it is obviously very important that the Government's views are also taken into account.

Q6. Dame Jill Knight: To ask the Prime Minister if she will list her official engagements for Tuesday 16 May.

The Prime Minister: I refer my hon. Friend to the reply that I gave some moments ago.

Dame Jill Knight: Will my right hon. Friend take this opportunity to welcome the interest shown by hospitals throughout the country in achieving self-governing status? Will she stress once again to the House and to the country that self-governing status does not mean that hospitals are either opting out of the Health Service or going private?

The Prime Minister: My hon. Friend is correct. No hospital will be privatised. Hospitals will be given the

choice, if they wish, to be self-governing, which means that they will have control over their own budgets so that decisions will be taken much nearer to the patient, which will in many cases mean far better value for money.—*[Interruption.]* Opposition Members dislike choice except when they choose to say that they like it occasionally. Whether or not a hospital becomes self-governing is a matter of choice.

Q7. Mr. Skinner: To ask the Prime Minister if she will list her official engagements for Tuesday 16 May.

The Prime Minister: I refer the hon. Gentleman to the reply that I gave some moments ago.

Mr. Skinner: On reflection, does the Prime Minister regret having used a three-line Whip and a guillotine to push the Single European Act through the House?

The Prime Minister: No, I do not. We wished to have many of the directives under majority voting because things which we wanted were being stopped by others using a single vote. For example, we have not yet got insurance freely in Germany as we wished. We strenuously contest some decisions concerning animal and health regulations, which we believe should come under unanimity and that is our understanding. We are not quite certain what will be the judgment not of the Council of Ministers but of the European Court, which makes judgments on whether a particular matter comes within majority or unanimity if it is not clear on the face of the wording.

Q8. Mr. Moss: To ask the Prime Minister if she will list her official engagements for Tuesday 16 May.

The Prime Minister: I refer my hon. Friend to the reply that I gave some moments ago.

Mr. Moss: Is my right hon. Friend aware that Governments throughout the world are looking at ways to reform the provision of health care and that Poland and Hungary, to name but two Communist countries, are introducing methods of private insurance and charges?

The Prime Minister: Certainly, many countries are looking at the rapidly increasing cost of health care. We recall that in 1977 Alec Merrison said that provision for health care in this country could take the entire income of the country, so we are all looking to get the very best value for money, not only in Poland and Hungary, but in Germany, Italy and other countries in the European Community. Those who take out private insurance pay their full share of tax to the National Health Service and by not using it and paying further for their own treatment they are taking a very great burden off the Health Service and should be thanked for doing that.

merely legal recognition? Are not the Government being rather mean in making the proposals? Is it not the thin end of the charging wedge?

Does the Home Secretary feel that the White Paper goes far enough beyond the Charities Act 1985 in encouraging the large number of very small and ineffective charities to merge or to amalgamate?

Does he agree that rationalising the existing registration structure is still long overdue?

We welcome the proposal to allow the Charity Commission direct access to the courts for the first time instead of having to work through the Attorney-General. Will the Home Secretary tell the House how the relationship between the Attorney-General and the Charity Commission will work in practice?

Does the Home Secretary agree that if the commission is to be effective in tackling many of the unacceptable shortcomings in its organisation which were presented in the Woodfield report it will need resources? Will he assure the House that all the resources needed by the commission to modernise its organisation, including the means for regionalisation, will be made available?

Mr. Hurd: I am grateful to the hon. Gentleman, and will try to deal with his questions. His first point dealt with abuse. Chapter 5 of the White Paper sets out specific ways in which we believe that the powers of the Charity Commission could be strengthened, but there is a further and perhaps more substantial factor. It is not always understood that under the existing law the commissioners have the power to remove a body from the register of charities if there is evidence that it is pursuing its objectives in ways that are not to the public benefit. That is an important safeguard, and I believe that there is a strong case for clarifying it in law.

The hon. Gentleman talked about the legal definition of a charity, which is dealt with in chapter 2 of the White Paper. We have come to the tentative conclusion that the common law definition—the M'Naghten definition—is probably as good as any that could be worked out in statute, but the House and experts on the matter will no doubt wish to consider that conclusion.

If the hon. Gentleman examines the carefully regulated proposals for charging, I do not think that he will find that any charity, however small, could conceivably suffer financial hardship as a result of them. Yes, I believe that the 1985 Act deals adequately with the point about small charities.

We shall need to work out the exact procedures for the commission's direct access to the courts. If the hon. Gentleman wishes to pursue that point, I will gladly write to him.

Yes, the Charity Commission will need to strengthen its effort. A major part of the White Paper's purpose is to relieve the commission of a number of rather fiddling duties which are actually already the responsibility of the trustees of individual charities—I mentioned land transactions, for instance—so that it can deploy its resources for the important purpose of monitoring and investigation. That is already happening, in fact. The chief commissioner tells me that the commission has raised from 14 to 38 the number of people in the commission now engaged on that central task.

Mr. Tim Boswell (Daventry): I congratulate my right hon. Friend on the comprehensive approach to the reform

of charity law that he has set out this afternoon. Bearing in mind that this takes place on average once a generation, his apparent readiness to continue consultations widely until the very moment of the legislation is most welcome.

Will my right hon. Friend take into account one or two points of concern? The first relates to charging for the services of the Charity Commission. I accept that in principle, but will my right hon. Friend confirm that arrangements will be made in practice to ensure that the revenue is additional to that obtained by grant in aid so that the commissioners may use it, for example, for the promotion of development schemes and local reviews?

My second question relates to the linked issue of the review of funding of voluntary bodies. Will my right hon. Friend confirm that it is designed to secure more value for money rather than a reduction in the total amount paid to such bodies?

I understand that the White Paper contains no proposals relating to the Inland Revenue. Does my right hon. Friend accept that in the long run it must make sense to move towards a system whereby the registration of charities by the commission, and their acceptance of charitable status, is in parallel with and identical to their treatment by the Inland Revenue?

Mr. Hurd: I am grateful to my hon. Friend. He is right to stress the importance of the charitable sector, whose turnover is now £13 billion a year. A new charity comes to the commission for registration about every half hour of every working day; that is the scale of it.

I cannot give my hon. Friend the exact assurance for which he asks on charges. Charges will contribute about 10 per cent.—about £750,000—a year and will clearly add to the strength and effectiveness of the commission. My hon. Friend also raised the question of the Government's contributions to the voluntary sector. Our aim is to ensure that the taxpayer, whom we represent, receives value for money. The Government contribution is now running at £293 million a year. If we add in all public sector contributions to the voluntary sector, the figure is £2 billion a year, but £293 million is a big enough sum. We need to look closely at the way in which choices are made and the criteria that are used.

I did not deal with taxation issues, but my hon. Friend knows about the closer relationship that has developed in recent years between the Inland Revenue and the Charity Commission. Nothing in the proposals will impede that.

Mr. Robert MacLennan (Caithness and Sutherland): Does the Home Secretary propose to legislate to alter the rules and laws governing the right of charities to advertise and to broadcast direct appeals for funds, especially in view of the extensive use of telethons for fund-raising?

On the regulation of collections, does the Home Secretary accept that it would be undesirable that charities should have to accept more stringent control than other forms of collection? Does he intend to deal with that?

Mr. Hurd: My answer to the hon. Gentleman's first point is that we have no intention of dealing with that. Chapter 10 of the White Paper deals at length with the problem of fund-raising. The hon. Gentleman will know that there has been some concern about possible abuses of fund-raising. We propose certain changes, such as that all funds collected should be passed to the charity in whose name they have been collected and that there should be discussion about administrative expenses after that rather

[Mr. Hurd]

than deductions being made before the money has been passed to the charity. Chapter 10 contains one or two similar suggestions, but we are open to comments. I do not want to introduce unreasonable, extra regulations for charitable fund-raising, but there has been concern about it. If, when he looks at chapter 10, the hon. Gentleman feels that we have gone too far, or that we have not gone far enough, I am sure that he will let me know.

Dame Janet Fookes (Plymouth, Drake): What assurance can my right hon. Friend give us about adequate staffing for the Charity Commission? When the old Expenditure Committee looked at charity law, it found that there was not a single accountant to scrutinise accounts at that time.

Mr. Hurd: It is precisely those initial critical reports which led to the Woodfield scrutiny, which, in turn, led to the White Paper. The Woodfield scrutiny found that the Charity Commission was so bogged down in a number of relatively trivial duties imposed on it by statute that it was unable to do the job of monitoring and investigating, which was at the heart of its duty. That is why, without legislation, the Charity Commission has shifted its priorities and I gave the figures for those engaged in monitoring and investigation compared to the past. The commission understands the importance of accountancy and it employs members of that profession, as well as having access to the talents and activities of accountants whom it does not employ directly.

Mr. Robert Hughes (Aberdeen, North): As the chairman of a small but important charity, the Bishop Ambrose Reeves Trust, I want to ask the Home Secretary about definition. Will he confirm that the future definition will be broadly the same as the present one, and that there will be no redrafting to exclude charities already accepted by the Charity Commission?

Mr. Hurd: If the hon. Gentleman looks at chapter 2, on which we spent a great deal of effort, he will see an analysis of definitions, beginning with 1601 and going on to Lord M'Naghten's definition of the four main heads of charity in 1891. We are inclined to believe that the hon. Gentleman is right and that it is better to rest on that than to try to devise some new statutory definition. It is a matter on which there are differing views and we have set out our provisional conclusion.

Mr. Jack Ashley (Stoke-on-Trent, South): The Home Secretary has used the phrase "value for money", which is understandable, but will he assure the House that none of the proposals will bring undue pressure, financial or otherwise, to bear on the small charities, especially on those that help disabled people?

Mr. Hurd: When I used the phrase "value for money", I was talking about the £293 million that central Government give in different forms each year to the voluntary sector. That will be subject to the scrutiny that I announced in reply to a question from my hon. Friend the Member for Daventry (Mr. Boswell). Value for money for charities is a wider question and, although it does not involve value for money for the taxpayer in most cases, I can assure the right hon. Gentleman that nothing in the proposals will bear heavily on the smaller charities.

Indeed, the existence of a good up-to-date register and of proper safeguards against abuse will help to build up the general health of the charitable sector, including the small charities.

Sir Charles Morrison (Devizes): Is my right hon. Friend aware that if he were to step out of the corridors of power into the highways and byways he would discover that the taxpayer believes that he already receives good value for money from what he provides already to charities? Is he aware that, when my right hon. Friend introduces his welcome proposals to reduce abuse still further, the taxpayer will feel even happier without the necessity of the introduction of a charge which will upset the taxpayer as much as it will upset many small and medium-sized charities.

Mr. Hurd: The charging arrangements serve to provide a total of £750,000. This is a worthwhile exercise which will not bear heavily on the smaller charities as my hon. Friend will see if he looks at the proposed charges. Indeed, it will involve them usefully in the process. The £293 million that the taxpayer contributes direct to the voluntary sector is increasingly important. More and more we in the Home Office find activities that are performed best by the voluntary sector—indeed, better than they would be performed under a statutory scheme. However, we must ensure, both as regards our own voluntary service unit in the Home Office and more widely across central Government, that there are reasonable criteria and standards by which the money is expended. That is the purpose of the scrutiny.

Sir David Price (Eastleigh): Is my right hon. Friend standing on the answer that he gave both to the hon. Member for Kingston upon Hull, West (Mr. Randall) and to the hon. Member for Aberdeen, North (Mr. Hughes) that he is satisfied with the current legal definition of "charities"? Is he aware that many of us feel that the definition is drawn far too wide and that we all have evidence from our personal experiences of organisations, often of a dubious religious nature, which enjoy charitable status, but which many of us feel should not enjoy the tax advantages that genuine charities certainly should enjoy?

Mr. Hurd: My hon. Friend's objections probably do not arise so much from the professed objects of the charity as from the way in which they carry on their activities and from what they do. That is why it is important that the law should make it clear that the commissioners have the power to remove a body from the register where there is evidence that it is acting in pursuit of its objects in ways that are not for the public benefit. If we can make that clear and strengthen that power, as we propose in chapter 5, we have a hope of meeting my hon. Friend's point.

Mr. Eddie Loyden (Liverpool, Garston): Does the Home Secretary agree that the definition of "political activities" can differ widely depending on the way in which one wants to interpret the activities of certain charities? Will he give an assurance that those charitable organisations that "campaign" against certain activities of the Government, such as, from time to time, the citizens advice bureaux, will not be affected by any legislation to be proposed by the Government?

Mr. Hurd: We set that out for discussion in the White Paper. The Charity Commission's guidance on that point is perhaps worth reading. It is not very long. It is broadly to the effect that

"governing instruments should not include a power to exert political pressure except in a way which is ancillary to a charitable purpose;

—the powers and purposes of a charity should not include the power to bring pressure to bear on the Government to adopt, to alter, or to maintain a particular line of action, although charities may present reasoned argument and information to Government;

—where the objects of a charity include the advancement of education or the power to conduct research, care must be taken to ensure that both objectivity and balance is maintained and that propaganda is avoided."

That is the Charity Commission's existing guidance, and it appears to meet the case.

Mr. Ivan Lawrence (Burton): Is my right hon. Friend aware that his proposals will be especially welcome to all genuine charities in this country because, if there is greater public confidence that all the money given to charities will go to charitable ends and that the charities are properly run, obviously, in our affluent society more people will give? However, I am not sure about the effect of my right hon. Friend's answer to my hon. Friend the Member for Eastleigh (Sir D. Price). Can my right hon. Friend assure the House that action against charities whose activities are against the public interest, because they are anti-social or oppressive, will be easier to take than it has been hitherto?

Mr. Hurd: The powers exist, but I do not believe that they are widely recognised, which is why we put stress on them in the White Paper. We also propose to strengthen them. My hon. and learned Friend will find that in paragraph 5.11 especially of the White Paper we propose those powers which bear, as he knows, on what registered charities actually do rather than attempting to redefine the definition of a charity.

Mr. D. N. Campbell-Savours (Workington): Is the Home Secretary satisfied that the arrangements that he wishes to introduce will deal with the widespread failure of many charities nationally to present accounts to the Charity Commission, as identified in the reports of the Public Accounts Committee and the National Audit Office, and the Charity Commission's failure to examine the accounts of 96 per cent. of charities in a particular year at which the National Audit Office looked? Will the right hon. Gentleman assure us that all charities will be required to submit their returns annually and that, if they fail to do so, they will be subject to penalty? Will he also assure us that the Charity Commission will have the resources to examine the accounts of a far greater proportion of charities than is currently the position?

Mr. Hurd: As a result of the work mentioned by the hon. Gentleman, and in which he probably participated, and the Woodfield scrutiny, it is proposed in the White Paper, and it will be an obligation under the law, that registrable charities should make an annual return of their accounts to the Charity Commission, and in the case of all but the smallest those should be audited. I have already given the numbers and how they are employed, which show that in advance of legislation the Charity Commission is shifting its resources to deal with those accounts.

Mr. Ian Gow (Eastbourne): Did my right hon. Friend share my sense of shame when he read the report of the Comptroller and Auditor General and the Public Accounts Committee about the Charity Commission? Does he understand that, welcome and long overdue though these reforms are, they will amount to nothing unless my right hon. Friend is able at once to instill into the Charity Commission that level of competence and efficiency that has been so grievously lacking for far too long?

Mr. Hurd: I believe that that is already happening. If my hon. Friend went alongside the present Charity Commission—on behalf of the commission I warmly invite him to do so—he would find already a substantial change of the kind that he has advocated. Obviously it is limited in what it can do in advance of legislation, because the Charities Act 1960, to some extent imposed upon the commission a method of working and a choice of duties which are really not sensible in 1989, and probably my hon. Friend was right when he said that they have not been sensible for some years.

Mr. Tam Dalyell (Linlithgow): As one who called for the reform of charities during several Finance Bills, may I defend the Charity Commissioners, who have an extremely complex job to do? I welcome the fact that the Home Secretary has introduced this White Paper and the manner in which he has put the proposals before the House.

With regard to Scotland and paragraph 11.4, what investigation of abuse has taken place? I imagine that it is the same in Scotland as in England. What has the Home Office found to be the major cause of this most worrying abuse?

With regard to paragraph 4.11 and the question of malpractice what appropriate publicity will be given to default markings and how will that be arrived at?

The Home Secretary referred to charity land transactions, but will that cover the thorny problem of inalienability? Is inalienability to be respected in relation to land transactions?

The Home Secretary referred to acting not to the public benefit, but how is the public benefit to be defined?

With regard to paragraph 4.12, how will assets be assessed? It is easy to load logical schemes on charities, but given that they have limited resources, will not they be overwhelmed by the sheer difficulty of working out proposals, particularly on the estimation of assets as outlined in paragraph 4.12?

Mr. Hurd: I am grateful to the hon. Gentleman, but I do not intend to venture into Scotland, which has a different system without a Charity Commission. As I have said, my right hon. and learned Friend the Secretary of State for Scotland will be making his proposals on that known fairly shortly.

I cannot add to what the hon. Gentleman has already spotted in paragraph 4.11. Default markings are clearly intended to give publicity to a failure on the part of the trustees and we shall have to work out in greater detail what form that publicity takes.

Land transactions are meant not to touch on the question of alienability or inalienability, but simply to withdraw from the Charity Commission the duties which it has now and which to a large extent duplicate the trustees' present duties.

[Mr. Hurd]

I did not call on board the hon. Gentleman's final point about paragraph 4.12, but I will, and I shall write to him on it.

Mr. Michael Morris (Northampton, South): Is my right hon. Friend aware that one of the difficult areas in religious charities is created by the so-called cults, not so much because of their religious activities as such, but because of the way in which they impinge on society, families and individuals? I have not had the opportunity to see the White Paper, but is it his intention, under chapter 5, to address the rights of individuals and families within those organisations and how they may, in effect, escape from them?

Mr. Hurd: My hon. Friend puts that fairly. This matter has a long rather unhappy history. As he says, it is not so much the aim of a body that is called into question—it is difficult to argue about or define aims in statutes—but rather the way in which such organisations treat individuals. It is their activities in pursuit of the objectives that they define that is offensive to many people, and that is what we must concentrate on. The law already gives the commissioners stronger powers than most people realise to remove a body from the register if its activities are not for the public benefit, and we propose in chapter 5 to strengthen that in a number of ways.

Mr. Dennis Skinner (Bolsover): Does the Home Secretary recall the discovery about 12 months ago of the river companies that were laundering money to the Tory party? Under the proposals contained in the new report, will they be able to launder that money to the Tory party, disguised as charities? Has he noticed that the first recommendation says that the Chief Charity Commissioner should appoint a project officer? There is a charity in here that needs a job, a national charity—the leader of the SDP. Is he going to show some charity? Here is a man who appeals to everyone. He should think about it.

Mr. Hurd: I have no recollection of the first point about which the hon. Gentleman tries to remind me. I am not sure whether the right hon. Member for Plymouth, Devonport (Dr. Owen) has quite the necessary element of charity in his own nature to make him suitable for the appointment.

Mr. Roger Gale (Thanet, North): My right hon. Friend obviously recognises the genuine contribution made to charity by many religious organisations. Will he assure the House that he intends that the full weight of the law should now be brought, as it has not been previously, against quasi-religious and bogus cults which use charitable status as a tax haven and are nothing more than a front for international fraud?

Mr. Hurd: My hon. Friend will remember the statement that my right hon. and learned Friend the Attorney-General made about a particular case not long ago. I shall return to the central point of this issue; my hon. Friend was right about the concern that it arouses. We are talking about the activities of certain bodies which may have got on the charitable register. What we need to make clear and strengthen as the White Paper proposals

do, is the commissioners' power to remove an organisation from the register if it pursues its objectives in ways which do not benefit the public.

Mr. Alex Carlile (Montgomery): While it is reassuring to hear what the right hon. Gentleman said about the deregulation of cults that act against the public interest, does he recognise that, once registered, a cult can remain on the register for a considerable period, sometimes years, while it goes through a pyramid of legal procedures? Therefore, will he give the Charity Commission powers to examine and regulate religious charities before they are registered to ensure that they act in the public interest from the moment of registration?

Mr. Hurd: That is the purpose of registration. Due to the shift in its priorities, the Charity Commission will be increasingly able to monitor and investigate at an earlier stage. I shall look into the point made by the hon. and learned Gentleman about enforcement procedures because that is important.

Mr. Michael Latham (Rutland and Melton): Is my right hon. Friend aware that those of us who served on the Public Accounts Committee for some years thought that the inquiry into the Charity Commission came to some of the most woeful findings that we have seen, which is saying something. The commission was extraordinarily complacent and passive, and needed a jolly good boot up the backside. Is my right hon. Friend satisfied that the proposals will instill into the staff the new attitudes which are required and which were certainly lacking then?

Mr. Hurd: Yes, Sir, I am.

Mr. Ian McCartney (Makerfield): Will the Secretary of State give some assurances about those charities which operate in the front line of social controversy, particularly in view of the recent statement by the Secretary of State for Social Security about the Low Pay Unit, Child Poverty Action Group, Shelter and War on Want? Will he give an absolute assurance that, when dealing with cults, the Government will not widen the issue into an all-out attack on charities such as those which I support and which campaign for social justice in the United Kingdom?

Mr. Hurd: I have already read to the House, and shall forbear doing so again, the guidance which the Charity Commission puts out about the political activities of charities. It is crucial for the health and reputation of the charitable sector that it should respect this guidance and not tread beyond it. Many of us have occasionally been worried by charities which seemed to tread beyond the clear guidance which I have laid down.

Mr. Andrew Rowe (Mid-Kent): Is my right hon. Friend aware that after that trailer I cannot wait to read his interesting document? Will he consider the possibility that, when a charity is under investigation, its fund-raising activities might be suspended? Will he also consider the fact that when small charities are asked to return their accounts on an annual basis, those accounts should be accepted in a simple form? If they are not returned, will the power to suspend or roll up those charities be used? In the past, the problem has been that, although the powers existed, nothing was done.

Mr. Hurd: I will look at my hon. Friend's first point. It might be considered rather high-handed and, perhaps,

subject to judicial review, if the commission attempted to suspend a body's activities before making any findings against it.

As for my hon. Friend's second point, the whole purpose and thrust of the White Paper is precisely what some of my hon. Friends have urged that we should do—to brisk up the activities of the commission so as to strengthen its powers of investigation and enforcement.

Mr. Jonathan Sayeed (Bristol, East): My right hon. Friend will be aware that some organisations have used their charitable status to hoodwink and to milk a kind-hearted British public in order to line the pockets of the organisers. They have used their charitable status as a vehicle to evade the proper payment of taxation. When there is clear evidence of a major abuse, can my right hon. Friend confirm that draconian powers will be used—including the repayment of tax that has been avoided by a so-called charitable organisation, and quite possibly the imposition of Mareva injunctions to freeze assets and the institution of criminal proceedings against the organisers?

Mr. Hurd: These matters often depend on evidence, and if my hon. Friend has evidence about recent activities of this sort, I am sure that he will let us or the police know.

The whole point of the existing law, which, I acknowledge, is rusty and creaking, of the reinvigoration of the Charity Commission which has already started, of the proposals in the White Paper, and of the legislation that we hope to introduce after it has been digested, is to safeguard the charitable sector by making it easier to spot and then to deal severely with any charity or individual connected with a charity who is tempted to act in the way that my hon. Friend has criticised.

EUROPEAN COMMUNITY DOCUMENTS

Mr. Speaker: With the leave of the House, I shall put together the two motions relating to European Community documents.

Ordered,

That European Community Document No. 10449/88 relating to Community financial procedures be referred to a Standing Committee on European Community Documents.

That European Community Documents Nos. 5211/88 and 10166/88 relating to health and safety be referred to a Standing Committee on European Community Documents.
—[*Mr. Chapman.*]

Private Residential Special Schools (Registration)

4.11 pm

Mrs. Gillian Shephard (Norfolk, South-West): I beg to move,

That leave be given to bring in a Bill to require the registration with local authorities of private residential special schools in respect of their use and residential facilities.

I am grateful for this chance to raise this important and topical matter in the House. It is important because it is about the welfare of children who are amongst the most vulnerable people in society—those with learning or behavioural difficulties or with physical or mental handicaps. It is important, too, because it concerns their placement in such schools by local authorities at tax and ratepayers' expense, and it is topical because, although the vast majority of these schools in England and Wales do a very good job, there have been some notorious cases in the past few years and recently which illustrate that, because of the current state of the law, those responsible have been unable to prevent such cases from occurring, to discover them promptly, or to take swift and effective action when they have been discovered. This Bill seeks to suggest ways of putting that right.

Children in need of special residential education are dealt with in one of three ways. They can be educated in a special school run by a local authority; they can be maintained by a local authority in a non-maintained special school, of which there are now 88 in England and Wales—they are non-profit-making concerns, usually run by trusts and in receipt of direct grant from central Government; or they can be educated, often on placement by a local authority, in a private residential special school.

Stringent requirements, in the form of the Education (Approval of Special Schools) Regulations 1983, govern the setting up and running of special schools run by LEAs and non-maintained special schools. Among other things, these regulations require that schools and their government be approved by the Secretary of State; that the premises must satisfy statutory requirements; and that non-maintained schools must not be run for profit. There are also requirements governing pupils' health, diet and religious worship. Regular reports have to be made to LEAs on statemented children and the teaching and care staff must be "suitable and sufficient".

In the case of non-maintained schools access must be allowed to representatives of local authorities who maintain a child in school, and the Secretary of State may withdraw his approval of a school if it fails to comply with the requirements either in these regulations or those in force under either section 10 of the 1944 Education Act or section 27 of the 1980 Education Act.

The contrast between these requirements and the regulations for the third category of school, the private residential school, could hardly be more striking, yet the same vulnerable group of children is involved. Private residential special schools are merely required to register and make annual returns under the Education (Particulars of Independent Schools) Regulations 1982. These, with their schedule, require information on numbers of pupils, details of public examinations, change of ownership and address, and any dismissals of staff on the grounds of misconduct. The numbers of statemented pupils, with staff qualifications, also have to be reported.

[Mrs. Gillian Shephard]

Section 11 of the 1981 Education Act points out that where an LEA makes arrangements for the provision of a statemented child at an independent school, the Secretary of State must approve it as suitable for statemented children and must consent to the child being placed there. There are 170 such private residential special schools in England and Wales at the moment, and of these 135 are approved under this section.

Schools are approved as suitable as a result of an inspection by Her Majesty's inspectors, who expect the school to meet the same standards as local authority schools and, according to the Department of Education, the inspection covers all the arrangements for the welfare of the children outside the classroom. An inspector may be accompanied by members of the social services inspectorate.

I make no criticism of either Her Majesty's inspectors or social services inspectors, but it must be accepted that nowhere in the legislation are there any requirements other than those criteria laid down 40 years ago in section 71 of the 1944 Act, that registration may be refused or withdrawn if the premises are unsuitable; if the accommodation is unsuitable or inadequate; if efficient and suitable instruction is not provided; or if the proprietor or any teacher is not a proper person. There is no mention anywhere of the arrangements that should be made for the care and welfare of the children or for their physical or moral wellbeing.

I have already tried to draw the attention of the House to the contrast between the regulations for this category of school and those governing local authority or non-maintained special schools, but there is an even more striking contrast between the paucity of regulation of these special schools and the arrangements for registration, to be enacted, I hope, through part 8 of the Children Bill, now in Committee, for registered children's homes. These arrangements are comprehensive and drawn up in accordance with professional realities, and indeed, could apply to private residential special schools, were these not already registered under section 11 of the 1981 Education Act, yet, I repeat, the same group of vulnerable children is involved. If these children require the care and protection afforded to them by the provisions made for local authority and non-maintained special schools and for residential homes, they cannot and should not be denied that same care and protection if they happen to be placed by a local authority in a residential special school run privately.

Unfortunately, examples of disaster are not difficult to find. In Norfolk events at the Buxton Red House school five years ago and at the then Walker Foundation school

in Burston caused immense concern. In Suffolk, tragically, at the Four Elms school, consistent abuse of the children was discovered to have taken place over a long period, and eventually the home was closed, but not before one distraught parent, who had learned that her mentally handicapped child had been regularly abused, arrived at the home and shot the teacher and officer in charge. Only last week, according to a press release from the West Mercia police, the co-proprietor of the Castle Hill school in Ludlow appeared before Ludlow magistrates on 14 charges of serious child abuse.

The law must be changed to allow more control to be exercised more effectively and with more accountability. If the state places children, especially vulnerable children, in a school at public expense, the state must provide an effective legal framework to protect them. To expect Her Majesty's Inspectorate or social services inspectors to perform a monitoring role at such schools when the law does not require them to do so and, in any case, Her Majesty's Inspectorate does not have the necessary expertise, is simply unrealistic. What is needed is expert monitoring carried out locally and on a regular basis.

The Bill therefore proposes that the Secretary of State for Education through her Majesty's inspectorate should retain responsibility for the education in private, residential special schools. Requirements for them should be brought into line with those expected of local authority and non-maintained special schools. The responsibility for registering the care, residential and welfare facilities of such schools should be placed with the social services department of the local authority in which the school is situated. Such dual registration would be welcomed by social services, would provide a balanced appraisal of the schools, retain a consistent role for both the Secretary of State for Education and for social services departments and, most importantly, would protect the interests of these vulnerable children. I hope that the House will support the Bill.

Question put and agreed to.

Bill ordered to be brought in by Mrs. Gillian Shephard, Mr. Andrew Mitchell, Mr. Ian Taylor, Mr. Simon Burns, Miss Ann Widdecombe, Mr. Tim Boswell, Mr. Anthony Coombs, Mr. Steve Norris, Mr. Keith Mans, Mr. David Evans, Mr. David Davis and Mr. Christopher Gill.

PRIVATE RESIDENTIAL SPECIAL SCHOOLS (REGISTRATION) BILL

Mrs. Gillian Shephard accordingly presented a Bill to require the registration with local authorities of private residential special schools in respect of their use and residential facilities: And the same was read the First time; and ordered to be read a Second time upon Friday 7 July and to be printed. [Bill 141].

TO BE CHECKED
AGAINST DELIVERY

HOME SECRETARY STATEMENT ON
CHARITIES WHITE PAPER

With permission, Mr Speaker, I wish to make a statement about the Government's plans for charities legislation. I have laid a White Paper before the House today.

It is now about 30 years since the last major charities legislation. Since then the charitable world has seen substantial changes. The number of charities has grown enormously - with a corresponding increase in the funds flowing through them. This is welcome news. The part which charities and the voluntary sector play in meeting genuine need at home and abroad in increasingly impressive and important.

But this expansion makes safeguards essential. My Rt Hon friend the Chancellor of the Exchequer and I jointly commissioned in 1987 an efficiency scrutiny of the supervision of charities. The scrutiny team, led by Sir Philip Woodfield, submitted their report in June that year. The Government welcomed the report. The White Paper now sets out how we propose to implement it.

We have also taken the opportunity to raise some fundamental issues relating to charitable status. These are difficult issues. We invite views on them.

The White Paper concerns England and Wales. My Rt Hon friend, the Secretary of State for Scotland, will be putting forward proposals separately. We shall be considering to what extent the changes proposed in the White Paper should be extended to Northern Ireland.

Our aim has been to strike a balance between freedom and control. Charities should be able to go about their business without unreasonable interference but within a framework which ensures that they are properly accountable to the public.

At the core of the White Paper are proposals to give the Commissioners new powers in dealing with mismanagement and abuse. For example, there will be a new power for the Commission - in the last resort - to transfer a charity's assets to another charity.

To enable the Commissioners to concentrate on their new priorities we are proposing that the Commission should be relieved of some of its present statutory duties.

We propose to relieve the Official Custodian of his responsibilities for administering charity investments.

We are also proposing that the Commission should largely withdraw from their present responsibility for overseeing many charity land transactions.

Other major reforms are necessary to enable the Commission to monitor charities adequately. The Commission needs more information, and in particular financial information, about charities. In future all registered charities will have to submit fuller accounts to the Commission each year. Account of all but the smallest charities will need to be professionally audited or independently examined.

The Commission's register of charities has been criticised as out-of-date and of limited use. An accurate, up-to-date and accessible data base is needed in which the public can have confidence and which the Commission can use as its basic supervisory tool. The White Paper provides for this.

The Charities Act 1985 has improved the effectiveness of small charities. We believe that it would be right to build on the experience which has been gained by extending its effectiveness.

We have consulted widely on the reform of the law relating to fundraising. We are proposing measures to clarify and simplify the present law on public collections and to deal with malpractice. We look to voluntary efforts to regulate the newer means of charitable appeal, such as "telethons". But we propose to take powers to regulate these forms of appeal should this become necessary in future.

Charities should make some contribution towards the Charity Commission's costs - now over £7 million a year. We propose a registration fee of £25, and graduated charges for some other services. Small charities will continue to receive the Commission's services free. We calculate that some 90% of the Commission's costs will continue to be borne by the Exchequer.

The Commission has acted to implement Woodfield recommendations which do not require legislation. It has improved its management and the efficiency of its procedures; developed its capacity to monitor and deal with abuse; and is preparing the ground for computerisation. These changes will fit the Commission for the active exercise of the new powers we propose. The result will be a better service to public and charities alike.

The cost of the Commission is only a small part of the Government's contribution to charities, and to the voluntary sector more generally. The proposals which we are putting forward will help to provide a framework within which the health and integrity of charities can be assured. Our duties in respect of grants to individual organisations go beyond this. Here, our immediate concern must be to ensure, on behalf of taxpayers, that we get value for money and effective services in return. It is for this reason that I have today announced, in response to a Parliamentary Question

/from (name)

from my hon friend the Member for Daventry plans for a scrutiny of Government funding of the voluntary sector.

We shall take careful note of views expressed on the White Paper, both inside and outside the House. We hope then to bring forward legislation.

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NOTES FOR SUPPLEMENTARIES

CHARITABLE STATUS

Should charitable status be defined in statute?

It is not difficult to point to the occasional eccentric result from the law on charitable status. But it is, I think, irrefutable that the common law as it has evolved over 400 years has a number of distinct advantages. Its flexibility has served us well in the past, and I see no reason why it should not continue to do so. But I recognise that the arguments are not all one way, and we shall listen carefully to any views which are expressed.

PRIVATE SCHOOLS

How can the Minister justify charitable status for schools like Eton and Winchester?

I understand that it is now the policy of the party opposite to withdraw charitable status from private schools. They may find that more difficult than they anticipate. The advancement of education has been a charitable object for hundreds of years, and I cannot think of an object more clearly of public benefit.

But for fee paying schools?

Charitable status is a matter for the courts. They have clearly held that fee paying schools are of public benefit, and therefore charitable.

CULTS

Disappointed that White Paper contains no proposals for dealing with cults, in particular the Moonies.

I understand the concern about the activities of some religious movements - and would welcome views. This is not a subject that can be approached lightly. The difficulties are very great. Our own view - expressed in the White Paper - is that, while there may be problems in obtaining sufficient evidence, the law is in principle already adequate to deal with the problems which they present. We shall, however, be looking closely at the wording of the present Act to see whether we can make it clearer that an organisation's activities may disqualify it from charitable status.

But what about the Attorney General's case against the Moonies? My rt hon and learned Friend the Attorney General withdrew his case against the Unification Church because he was advised that on the evidence available to him he was unlikely to win the case. What was at stake in this context was the charitable status of two trusts established by the Unification Church. Rt hon and hon Members should be under no illusions that if charitable status were to be withdrawn from these two trusts the activities of the Unification Church would cease.

Legislation needed on political activities?

I am aware of concern that a few charities are overstepping the line between acceptable comment and unacceptable political campaigning, and we have considered this carefully in the context of the White Paper. But most charities do not find it difficult to draw the line between legitimate and illegitimate political activity, and we are therefore not persuaded that any change in the law is required.

Is there not a need for a suitor's fund (ie legal aid for charities) to help speed up the development of the law?

There are very great difficulties in the way of a fund of this kind. In principle, legal aid is granted to individuals rather than to organisations. It is also one purpose of the Charity Commission to avoid the need for charities to go to court. It would seem inconsistent, therefore, to provide public money for charities wishing to embark on litigation.

Charitable status: individual cases

Obviously it is not for me to comment, today or any other day, on individual cases, which are for the Commissioners and the courts.

Proposals of the Parliamentary Panel on Charity Law

We welcome the interest the Parliamentary Panel is taking in the whole question of charity law reform. I / the Home Secretary look(s) forward to meeting the Panel to discuss with them the issues set out in the White Paper.

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Proposal to give the Home Secretary power to remove charitable status from "anti-social" or "oppressive" religious organisations
As the Panel know I have strong reservations about this proposal.
I do not, for one thing, think it would be right to bring questions of charitable status into the political arena.

CHARITIES GENERAL

TIMING OF LEGISLATION?

As I have said, we hope to put forward legislation later in the lifetime of this Parliament. I cannot add to that.

Is the problem not one of resources?

We accept in the White Paper that more resources may be needed in the short-term if the Commission is to press ahead with the introduction of essential new technology. But resources are only one element. As the White Paper makes clear, the Commission needs new powers, and to be relieved of some of its present duties.

Will the Government provide the resources necessary to make this programme effective?

Like any other Government department, the Commission will have to justify its need for resources in the light of the demands placed upon it. But we accept that reforms are needed. The White Paper makes this quite clear.

Government support for charities - a substitute for state welfare provision?

There is no question of the Government ducking its responsibilities for welfare. What we say in the White Paper is that, because of their capacity to act swiftly and flexibly, charities, and other voluntary organisations, are often in a better position to spot and fill gaps in provision and to provide the first means of dealing with new problems. What we seek is a partnership in which each partner contributes what it does best.

The Charity Commission should make better use of the powers which it already has

We accept that the Commission will in future need to be more active in monitoring charities and rooting out abuse. The new powers we propose, together with the internal changes the Commission has in hand, will enable them to provide a much better service.

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What steps are being taken by the Commission in advance of legislation?

The Charity Commission has moved swiftly to implement those of Woodfield's recommendations which do not require legislation. It has improved its management and the efficiency of its procedures; developed its capacity to monitor for and deal with abuse and is well advanced in preparing the ground for computerisation. This is a heavy programme of work by any standards and I am encouraged by the progress that has been made.

CHAPTER 3: THE REGISTER

How quickly will the Charity Commission's register of charities be computerised?

As soon as possible, consistent with getting it right. Consultants have been brought in to study precisely what is required. They will be reporting soon. Thereafter the Commission will move ahead as quickly as possible.

Are the sanctions for failure to register adequate?

Registration does not confer charitable status, but simply confirms a fact of law. Sanctions must be consistent with this position. The Commission can already order registration, and we do not believe that it would be right to penalise the funds of charities for the failures of trustees.

System of exemptions and exceptions

The White Paper focuses on registered charities, which are our immediate concern. We shall be looking at the supervisory arrangements for other charities, but we are not disposed to alter these unless it proves necessary. There would be little point in the Commission supervising bodies for which satisfactory arrangements already exist.

CHAPTER 4: CHARITY ACCOUNTS

Adequacy of sanctions for the non-submission of accounts

We believe that the system of marking the register which we propose will be effective, bearing in mind the publicity which will accompany it and the fact that in serious cases a mark on the register will signal the possible use by the Commissioners of their considerable powers of intervention.

Proposals on accounts: graduated accounting requirements; accounting standards; audit arrangements

Our proposals take account of responses to the Charity Commission's consultation document. In our view they strike a reasonable balance between accountability and the need to keep costs down and to avoid placing unreasonable burdens on trustees.

Local charities for the relief of poverty should still be required to submit their accounts to the appropriate local authority

If accounts are to be made available to the public on request we think it unnecessary that they should also be sent as a matter of routine to local authorities. It will, of course, be open to local authorities to ask for accounts where they are interested.

CHAPTER 5: POWERS TO DEAL WITH ABUSE

Some of the Commission's new powers, especially that enabling it to transfer a charity's assets to another charity, are draconian. We recognise that the power to transfer a charity's assets to another charity is a drastic one, but we are convinced that there will be cases where this is necessary. Such action will, of course, be possible only after a full formal investigation and where the Commissioners are satisfied that this is the best way of protecting the charity's property.

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CHAPTER 6: LOCAL REVIEWS, THE CHARITIES ACT 1985 AND SCHEME-MAKING

Is it not too soon to start tinkering with the 1985 Act?

The 1985 Act has proved of great benefit. Given the opportunity of legislation what we propose is to build on the principles it laid down, and to make its benefits more widely available.

CHAPTER 7: CONSENT TO LAND TRANSACTIONS

The Commission's withdrawal from this area will place unreasonable burdens on trustees, and increase the scope for abuse. Trustees are duty bound to act in their charity's best interests. It follows that they should already be taking the steps required by the Commission. The new statutory requirements we propose are those already followed by charities dealing with land under excepting orders made by the Commissioners. Experience has shown that they work well. The Commission will remain responsible for overseeing transactions where there is a significant danger of abuse.

CHAPTER 8: DIVESTING THE OFFICIAL CUSTODIAN FOR CHARITIES

Divestment will add to the burdens on trustees

We recognise that divestment will involve more work for the trustees of some charities. But these are duties which are consonant with the full exercise by trustees of their responsibilities for charity property.

Stock by stock divestment awkward, especially for larger charities

We recognise that this divestment method will not be ideal as far as some of the larger charities are concerned. But, from soundings taken by the Commission, it is clear that the difficulties are not insuperable. The resource arguments are very powerful.

Sale of undated fixed interest securities an infringement of the rights of trustees?

This type of security is fine if it is actively managed, but it is not suitable for permanent capital funds. We recognise that returning charity investments in cash will temporarily curtail the freedom of some trustees. But again there are powerful resource arguments. And we believe that it is consistent with the Charity Commission's fundamental purpose that this once and for all opportunity should be taken to encourage small charities to consider their investment policy more closely.

How long will it take to divest the Official Custodian?

We estimate that it will take 5 years from legislation. There will be significant savings from year 3.

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CHAPTER 9: CHARGING BY THE CHARITY COMMISSION

Unreasonable to charge for Commission's services?

Woodfield saw nothing against charging in principle, nor do we. The charges we propose are extremely modest. Income from them can be expected to cover no more than about 10% of the Commission's total costs.

CHAPTER 10: CHARITABLE APPEALS

The proposals don't go far enough

As I have said, our aim throughout has been to strike a balance between freedom and control. It is important not to discourage honest fundraisers by imposing mountains of bureaucracy.

It seems sensible to model our proposals first of all on legislation already operating in Scotland. This has proved successful and provides a clearer framework than we have in England and Wales. As the White Paper explains there will need to be some differences.

I am conscious of the concerns prompted by the activities of a few fundraisers. The malpractice of a few can do untold damage to the reputation and fundraising efforts of charities as a whole. I am not at present convinced that immediate legislation is required to regulate the newer forms of fundraising. In some cases, such as telethon campaigns, legislation would in any event be difficult to frame and to enforce. The charitable sector is moving towards better self regulation in this area, and I believe it right that we should first of all encourage these efforts. The White Paper contains strong signals as to standards of behaviour and accountability we should like to see upheld, and I propose to take powers to introduce regulations in future should this become necessary.

EFFICIENCY SCRUTINY OF GOVERNMENT FUNDING OF THE VOLUNTARY SECTOR: BULL POINTS**A. MAIN POINTS**

Amount of funding	Government is a substantial supporter of the voluntary sector. £290 million pounds in grants from departments, which is an increase in real terms of 92% since 1979. Overall Government support of over £2 billion.
Range	Wide range of Government funding programmes: employment, housing, health, the environment, overseas aid, sport, crime prevention.
Tax relief	Government also provides £600 million in tax relief to registered charities.
Cuts?	This is not a cost-cutting exercise. It is an exercise to ensure funds are used to the best advantage.
Impact on voluntary organisations	Focus of scrutiny will be on arrangements within Government departments. Will be concerned with how voluntary organisations manage their own affairs only in so far as this relates to their proper and efficient use of public money.

B. DEFENSIVE POINTS

Political activity	Need to be sure that public funds are not improperly used for political purposes.
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Drawing Government's attention to problems is legitimate. Campaigning with a party political slant is not.

Voluntary v.
statutory
services

Voluntary activity is valuable in its own right and Government supports it for that reason, not because it wants it to replace statutory services.

Efficiency

Promotion of efficiency in voluntary organisations is an interest which Government and the voluntary sector share.

Active
citizenship

Better use of Government funding by voluntary organisations will help develop active citizenship.

Charities

Our action to improve the monitoring and supervision of the activities of charities by the Charity Commission is a separate but parallel exercise. White Paper published today.

SCRUTINIES: GENERAL

What is a scrutiny?

A scrutiny is a method of reviewing an area quickly and in depth and taking a fresh look at issues.

Why are scrutinies carried out?

To help Departments secure greater value for money from their resources.

What are the aims of a scrutiny?

To look for speedy improvements in value for money and to seek to identify necessary wider reforms. The focus is on priorities for improvement.

Who carries out a scrutiny?

An examining officer who comes from within the Department but not from the area to be reviewed. He or she is independent and reports direct to the Minister and Permanent Secretary. The examining officer may be supported by a small team.

What role does the Efficiency Unit play?

The Efficiency Unit is involved throughout the process. The Unit provides the examining officer with support and advice; comments on the report and specification action plan and its implementation.

What is a scrutiny's timetable?

The scrutiny process has a tight schedule. Up to 90 working days is normally allowed to carry out the investigation and produce a report and a further 3 months for the action plan to be drawn up. The report is expected to be converted into results within 2 years of the start of the process.

What other scrutinies have there been?

There is a continuing programme of scrutinies in Government Departments. Other recent topics in the Home Office have been: the supervision of charities, review by Sir Philip Woodfield in 1987; the Section 11 grants which examined the payment of grants to local

authorities under the Local Government Act 1966 and the management and organisational structure of magistrates' courts.

Is the scrutiny merely a paper exercise?

No. First hand observation is used in collecting evidence which forms the basis for recommendations.

VOLUNTARY SECTOR

Why is this scrutiny being carried out?

We wish to ensure on behalf of tax payers that we get value for money and effective services in return for the grants we make to voluntary organisations.

Is this scrutiny unusual?

Only in so far as its wide range across the interests of a number of Government Departments is concerned. It is for this reason that although Home Office led, the examining officer will be supported by a team of officials from a number of Government Departments and a group of Ministers will be supervising the scrutiny. The scrutiny will take place using a standard procedure which has been developed under the auspices of the Government Efficiency Unit.

Will the findings be published?

Scrutiny reports are published wherever possible. It is too early to say in this case. The aim is to complete the scrutiny by September. Ministers will then consider what action to take.

When will the investigation be complete?

The team aim to report to Ministers in September.

How will the voluntary sector be involved?

The scrutiny will be examining procedures of Government Departments but will take account of the views of voluntary organisations as customers. The scrutiny will be concerned with how voluntary organisations manage their own affairs only to the extent that this relates to their proper and efficient use of public money.

Will people be able to make representations?

Yes, on matters within the team's terms of reference by 30 June.

Is the Government proposing to cut the level of funding to the voluntary sector?

No. The aim of the scrutiny is to ensure the Government obtain proper value for the money that it makes available rather than to achieve changes in the overall level of such funding.

Is the Government proposing to replace statutory services with voluntary services?

No. Voluntary activity is supported by Government because it is valuable in its own right. We will continue to provide funding where and when it is right to do so.

What is the present level of Government funding of the voluntary sector?

We have given a high priority to strengthening the voluntary sector. In 1987/88 central Government grants of almost £293 million were made to voluntary bodies. Between 1979/80 and 1987/88 the level of Government grants to voluntary bodies has risen by almost 92% in real terms. Overall Government support is over £2 billion. Government also provides £600 million in tax relief to registered charities.

The level of Government support of the voluntary sector is announced each year by the Prime Minister in answer to a Parliamentary Question (attached).

What kind of Government funding programmes are there?

A wide range, eg: employment, housing, health, environment, overseas aid, sport, crime prevention etc.

Will the scrutiny address the question of Government funded organisations that criticise the Government?

Among the matters to which the scrutiny is required to have regard are the ways in which departments ensure that funds are applied

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properly and without waste; and the need for standard conditions in respect of political activities and campaigning.

Why is the Government concerned about political activities of voluntary bodies?

We need to ensure that public funds are not improperly used for political activities. Drawing attention to problems is legitimate; campaigning with a party political slant is not.

Why should the drive for efficiency be focused on the voluntary sector?

Promotion of efficiency in voluntary organisations is an interest which Government and the voluntary sector share.

What is the link between this scrutiny and the charities White Paper?

Our action to improve the monitoring and supervision of the activities of charities by the Charity Commission is a separate but parallel exercise.

Why is the Government continuing to give funds to [specified organisation] which has criticised Government policy?

[As I have said] it is legitimate for an organisation receiving Government funding to draw attention to the effect on those it is seeking to help of changes in policy. It is not legitimate for it to indulge in party political campaigning. The decision whether a particular organisation or project should continue to be funded will depend on the nature of any public stance that organisation has taken and must reflect the circumstances of the individual case.

Will the scrutiny address the question of [specified organisation/project/programme] whose funding has been cut/withdrawn?

The scrutiny will take a sample of funding programmes as a basis for its examination. It will be for the scrutiny team to decide which programmes to select.

E.R.

Why is [specified organisation/project] not being funded?

The criteria which determine whether a particular organisation or project is funded vary from case to case and a number of different factors will be involved. It is not for me to comment on particular decisions which other Government Departments may reach on their own programmes. [IF HOME OFFICE FUNDING]: I will write to the hon. Member about [organisation/project].

LOTTERIES

Charities and lotteries

Public lotteries promoted under the Lotteries and Amusements Act 1976 can be a useful source of income for charities registered as societies under the Act. The Act limits the proceeds and prizes in lotteries to modest levels for a number of reasons. The monetary limits aim to prevent the undue stimulation of what is, after all, a gambling activity. But they also allow societies, including charities, with only a small organisation to compete with larger ones. I understand that lotteries under the current law can raise sums which, whilst small compared to the proceeds of other gambling, can be vital to the charities and other societies concerned.

Increases in monetary limits

I propose to increase some of the monetary limits, to encourage a worthwhile if modest revival in lotteries' activity. A range of interests, including the Institute of Charity Fund Raising Managers, have welcomed my proposal to increase the limits on the maximum prize which may be offered by up to 150%.

"Multiple" lotteries/National Hospital Trust lottery

At the turn of the year I made regulations under the 1976 Act to prohibit "multiple" lotteries. The regulations are now in force. I understand that some charities hoped to promote such lotteries, where a person who had entered several lotteries at the same time would be certain to win a prize in them all if he won in one.

TAX

Reliefs

All charities whether registered or not are entitled to reliefs from Income Tax, Corporation Tax and Capital Gains Tax. They are exempt from Inheritance Tax. They also have (very) limited relief from VAT. The Inland Revenue allows relief on income expended for charitable purposes. Tax relief may thus be withdrawn on any income which the Revenue considers has been spent for non-charitable purposes, or on funds which are hoarded and not spent.

Individuals and companies can obtain tax relief on covenants and single donations and on deductions through the payroll giving scheme.

Charities are entitled to 50% rate relief and can obtain up to 100% if the local authority agrees.

Withdrawing tax relief for failure to register, or failing to conform with the requirements of registration

It is sometimes suggested that charities should lose their tax exempt status for failing to register or, for example, failing to return their accounts to the Charity Commission. There are three basic problems with this suggestion:

- it would be inequitable because only about three-fifths of charities need to register with the Commission;
- it would penalise the funds of charities for the defaults of trustees; and
- it would be immensely bureaucratic to administer.

Amount of tax relief

Tax reliefs to charities are estimated now at over £500 million a year. This does not include rate relief.

Arrangements for co-operation between the Inland Revenue and the
Charity Commission

The 1986 Finance Act introduced new arrangements allowing the Inland Revenue to pass to the Commission information it came across which suggested that charities might be using their funds improperly. These arrangements have worked well - over 100 cases are now in hand, some of them involving substantial amounts of money.

REGISTRATION OF CHARITIES

Under the 1960 Act all charities are obliged to register unless they are "excepted" or "exempt".

CHARITABLE STATUS IS A FACT OF LAW AND IS NOT CONFERRED BY REGISTRATION. REGISTRATION DOES, HOWEVER, SERVE AS A CONCLUSIVE PRESUMPTION OF CHARITABLE STATUS UNLESS AND UNTIL IT IS SUCCESSFULLY CHALLENGED IN COURT.

"Excepted" charities

These charities are under the purview of the Charity Commission but are relieved of some of the Commission's normal requirements - for example, from the need to register, from the need to return accounts, or from the need to obtain the Commission's consent to dispose of land.

Broadly charities are "excepted" because:

- they are too small to bother with; or
- they are deemed to be adequately covered by other supervisory arrangements - for example registered places of worship are on a separate register and some organisations, eg. the Boy Scouts have a firm federal structure making unnecessary the registration of every troop.

"Exempt" charities

These charities are exempt altogether from the jurisdiction of the Commissioners. Exemptions are listed in Schedule 2 of the 1960 Act and include:

- virtually all universities and university colleges;
- Eton and Winchester colleges;
- the Church Commissioners and institutions administered by them;
- some major museums (including the British Museum); and

- charitable societies registered under the Friendly Societies Act 1974 and other Acts.

Most "exempt" charities are large institutions which were already exempt from the Commissioner's jurisdiction before 1960 because other statutory arrangements for supervision were in place.

The White Paper

The White Paper makes no proposals to alter the present system of exceptions and exemptions. It does, however, seek views on whether, for example, all charities should make copies of their accounts available to the public on request. It also commits the Government to looking at the present arrangements before legislation to make sure that the rationale for them remains acceptable, and that they continue to provide the proper degree of supervision and accountability.

SCOTLAND AND NORTHERN IRELAND

Scotland

To date Scotland has had no means of supervising charities except directly by the courts. The Woodfield Report noted that this situation carried the danger that undesirable bodies would concentrate their efforts in Scotland to avoid supervision by the Charity Commission. The Report recommended that the Secretary of State for Scotland should be advised on the future arrangements there.

Following extensive consultation the Secretary of State for Scotland has accepted that arrangements for supervising charities in Scotland need to be introduced. A separate announcement will be made soon.

Line to take

An announcement will be made soon about the arrangements for Scotland. They are a matter for rt hon and learned Friend the Secretary of State for Scotland in the light of the consultations he has carried out. It would not be right for me to comment at this stage.

Northern Ireland

The arrangements in Northern Ireland are more extensive than those in Scotland but fall short of those in England and Wales. For example, there is no statutory register of Charities in Northern Ireland nor any equivalent of the Commission. The administration of charity law is the responsibility of a Northern Ireland Government department - the Department of Finance and Personnel. This Department carries out many of the functions of the Charity Commission.

Charity law would fall to a Northern Ireland legislature should devolved Government return to the Province. The Government will in the meantime consider the extent to which the White Papers' proposals should be extended to Northern Ireland.

NEW POWERS OF INVESTIGATION AND REMEDY FOR THE CHARITY
COMMISSION

The Commission has powers under section 6 of the 1960 Act to investigate charities and where a number of criteria are satisfied can subsequently take remedial action under section 20 of the Act. Broadly, section 20 allows the Commission to freeze or otherwise protect charity assets and suspend or remove charity trustees or employees.

The proposals in the White Paper would enable the Commission for the first time to take temporary action in circumstances where mismanagement or the misuse of charity property is apparent but has not yet been formally or fully investigated. This will enable them to act more swiftly to protect property.

The Commission will also be empowered for the first time to go direct to court to recover charity property or enforce obligations owed to charities. (At present the Attorney General has this function.)

The White Paper also proposes the following new powers for the Commissioners:

- a power to appoint a receiver and manager;
- a power to make a legal scheme altering a charity's trusts without an application from the trustees;
- power to appoint trustees over and above those required in the trust deed;
- a power to wind up a charity and transfer its property to another charity;
- an extension of the Commissioner's powers to obtain information for use in their investigations.

Undesirable trusts

The White Paper proposes to exclude from trusteeship persons convicted of fraud or other dishonesty. It would be a criminal offence to act as a trustee whilst knowingly disqualified.

CHARITY COMMISSION EXPECTED TO USE THEIR POWERS

We recognise that in future the Commission will need to be more active in monitoring charities and rooting out abuse. The difficulty in the past has been that they have had to spread their efforts too thinly. Our aim is to return some responsibilities, notably those for dealing in land and administering investments, to those to whom they more properly belong - that is the trustees. This will enable the Commission to concentrate on those functions which only it can carry out. We are confident that with the new powers we propose, and the great efforts the Commission is making to get itself in better shape, we shall see a better service to charities in future.

CHARGING

The White Paper puts forward proposals for charges which take account of the great range in the size of charities and their ability to pay.

There will be a flat-rate registration fee of £25 and graduated charges for filing annual accounts and for schemes and orders. Work on land transactions for the Commission's consent will still be required and will be charged at the normal professional rates with a cut-off point for small transactions. The public and others will be asked to pay a small fee for searching the Register, and the Commission will be able to charge for its leaflets.

MOST OF THESE CHARGES WILL BE EXTREMELY MODEST - EG. THE LARGEST CHARITIES WILL BE ASKED TO PAY ONLY £10 FOR FILING THEIR ACCOUNTS - AND SMALL CHARITIES (THOSE WITH AN INCOME OF UNDER £5,000 PER ANNUM) WILL CONTINUE TO RECEIVE THE COMMISSION'S SERVICES FREE. THE INCOME FROM THE CHARGES PROPOSED WILL RAISE AN ESTIMATED £0.75 MILLION, OR ABOUT 10% OF THE COMMISSION'S PRESENT ANNUAL COST.

MEASURES TO RESTRICT UNSCRUPULOUS FUNDRAISERS

The White Paper makes three proposals designed to curb the activities of unscrupulous professional fundraisers. These are:

- a requirement that all those who receive funds raised for or on behalf of a charity should remit the full amount to the charity without deducting fees or expenses (para 10.18);
- a requirement that members of the public buying goods or services on the understanding that the proceeds will go to charity should be clearly informed of what proportion of their donation will reach the charity (paras 10.19-10.20);
and
- a provision enabling a charity to take legal action to prevent the unauthorised use of its name as an inducement to donors (para 10.21). (The Charity Commission will also be able to decline to register a charity under a name which it considers too similar to that of another charity.)

Precisely how these proposals will operate remains to be worked out.

WILL THERE BE A DEBATE ON THE WHITE PAPER?

There is clearly much in the White Paper on which rt hon and hon Members in this House and those outside will wish to comment. There are, in addition, certain issues raised in the White Paper on which we have specifically invited comments. The arrangement of debates is a matter for my rt hon Friend the Leader of the House but I suggest that the question of a debate on the White paper might best be left until after it has been fully considered. We have not set a formal timetable for receiving comments but we think it would be helpful to allow people a reasonable time during the summer to consider the issues raised in this substantial document.



me fm
(21)

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

16 May 1989

CHARITIES AND GRANTS TO VOLUNTARY BODIES

Thank you for your letter of 15 May which the Prime Minister has seen. She was grateful for a sight of the material you enclosed.

I am copying this letter to Sir Angus Fraser.

Paul Gray

Miss Catherine Bannister,
Home Office.

fm

PRIME MINISTER

CHARITIES AND GRANTS TO VOLUNTARY BODIES

You asked last month that the Home Office should co-ordinate various announcements on the same day:

- the White Paper on charities;
- announcement of a scrutiny of Government funding of the voluntary sector;
- the annual PQ Answer you give concerning the level of grants to voluntary bodies.

All these events are being planned to take place tomorrow. Andy is putting in the box separately the Question for you to answer on grants to voluntary bodies. But you may also like to glance at the material the Home Secretary will be using:

- at Flag A his statement in the House on the charities White Paper; ✓
- at Flag B the PQ Answer on the scrutiny of funding. The second paragraph of the reply takes account of your earlier comments (with some minor amendments to the precise wording as a result of advice from the lawyers); ✓
- at Flag C some bull points Home Office Ministers will be using on the efficiency scrutiny;
- at Flag D the text of the White Paper itself. ✓

Paul
(PAUL GRAY)

15 May 1989

cf/0



HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

15 May 1989

Dear Paul

CHARITIES AND GRANTS TO VOLUNTARY BODIES

(Belovitch P.)

Your letter of 24 April conveyed the Prime Minister's wish that the two proposed Parliamentary Questions on grants to voluntary bodies and the scrutiny of Government funding of the voluntary sector be announced at the same time as the White Paper on Charities.

The Prime Minister and Ministers have now agreed to publication of the White Paper. This has been fixed for tomorrow, Tuesday 16 May. I enclose the text of the statement the Home Secretary proposes to make in the House on the White Paper. This will be repeated in the House of Lords by Lord Ferrers.

The Parliamentary Question on the scrutiny will be tabled later today. We have discussed further the wording of the second paragraph of the Answer, about which the Prime Minister was concerned. I enclose a copy of the revised version.

We should be most grateful if you would now arrange for the Parliamentary Question on amounts of grants to be tabled at the same time: the text is unchanged from that sent to you with my letter of 18 April.

I also enclose some "bull points" on which the Home Secretary and Mr Patten will draw in responding to questions about the scrutiny.

Copies of this letter go to Stephen Wall (Foreign & Commonwealth Office), Paul Stockton (Lord Chancellor's Department), Alex Allan (Treasury), Stephen Williams (Welsh Office), Brian Hawtin (Ministry of Defence), Clive Norris (Department of Employment), Stephen Leach (Northern Ireland Office), Roger Bright (Department of the Environment), Neil Thornton (Department of Trade & Industry), Shirley Stagg (Ministry of Agriculture, Fisheries & Food), David Crawley (Scottish Office), Roy Griffins (Department of Transport), Andy McKeon (Department of Health), Gill Littlehales (Department of Social Security), Steven Catling (Lord President's Office), Nick Gibbons (Lord Privy Seal's Office), Stephen Haddrill (Department of Energy), Michael Saunders (Attorney General's Office), Douglas Slater (Government Whips Office, House of Lords), Murdo Maclean (Chief Whip's Office), Malcolm Buckler (Paymaster General's Office), Myles Wickstead (Overseas Development Administration), Martin le Jeune (Office of Arts and Libraries) and to Sir Angus Fraser.

Yours
Catherine

MISS C J BANNISTER

A
AHOME SECRETARY STATEMENT ON
CHARITIES WHITE PAPER

With permission, Mr Speaker, I wish to make a statement about the Government's plans for charities legislation. I have laid a White Paper before the House today.

It is now about 30 years since the last major charities legislation. Since then the charitable world has seen substantial changes. The number of charities has grown enormously - with a corresponding increase in the funds flowing through them. This is welcome news. The part which charities and the voluntary sector play in meeting genuine need at home and abroad is increasingly impressive and important.

But this expansion makes safeguards essential. My Rt Hon friend the Chancellor of the Exchequer and I jointly commissioned in 1987 an efficiency scrutiny of the supervision of charities. The scrutiny team, led by Sir Philip Woodfield, submitted their report in June that year. The Government welcomed the report. The White Paper now sets out how we propose to implement it.

We have also taken the opportunity to raise some fundamental issues relating to charitable status. These are difficult issues. We invite views on them.

The White Paper concerns England and Wales. My Rt Hon friend, the Secretary of State for Scotland, will be putting forward proposals separately. We shall be considering to what extent the changes proposed in the White Paper should be extended to Northern Ireland.

Our aim has been to strike a balance between freedom and control. Charities should be able to go about their business without unreasonable interference but within a framework which ensures that they are properly accountable to the public.

At the core of the White Paper are proposals to give the Commissioners new powers in dealing with mismanagement and abuse. For example, there will be a new power for the Commission - in the last resort - to transfer a charity's assets to another charity.

To enable the Commissioners to concentrate on their new priorities we are proposing that the Commission should be relieved of some of its present statutory duties.

We propose to relieve the Official Custodian of his responsibilities for administering charity investments.

We are also proposing that the Commission should largely withdraw from their present responsibility for overseeing many charity land transactions.

Other major reforms are necessary to enable the Commission to monitor charities adequately. The Commission needs more information, and in particular financial information, about charities. In future all registered charities will have to submit fuller accounts to the Commission each year. Accounts will need to be professionally audited or independently examined.

The Commission's register of charities has been criticised as out-of-date and of limited use. An accurate, up-to-date and accessible data base is needed in which the public can have confidence and which the Commission can use as its basic supervisory tool. The White Paper provides for this.

The Charities Act 1985 has improved the effectiveness of small charities. We believe that it would be right to build on the experience which has been gained by extending its effectiveness.

We have consulted widely on the reform of the law relating to fundraising. We are proposing measures to clarify and simplify the present law on public collections and to deal with malpractice. We look to voluntary efforts to regulate the newer means of charitable appeal, such as "telethons". But we propose to take powers to regulate these forms of appeal should this become necessary in future.

Charities should make some contribution towards the Charity Commission's costs - now over £7 million a year. We propose a registration fee of £25, and graduated charges for some other services. Small charities will continue to receive the Commission's services free. We calculate that some 90% of the Commission's costs will continue to be borne by the Exchequer.

The Commission has acted to implement Woodfield recommendations which do not require legislation. It has improved its management and the efficiency of its procedures; developed its capacity to monitor and deal with abuse; and is preparing the ground for computerisation. These changes will fit the Commission for the active exercise of the new powers we propose. The result will be a better service to public and charities alike.

The cost of the Commission is only a small part of the Government's contribution to charities, and to the voluntary sector more generally. The proposals which we are putting forward will help to provide a framework within which the health and integrity of charities can be assured. Our duties in respect of grants to individual organisations go beyond this. Here, our immediate concern must be to ensure, on behalf of taxpayers, that we get value for money and effective services in return. It is for this reason that I have today announced, in response to a Parliamentary Question

/from (name)

from [NAME] plans for a scrutiny of Government funding of the voluntary sector.

We shall take careful note of views expressed on the White Paper, both inside and outside the House. We hope then to bring forward legislation.

✓
JP

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DRAFT PARLIAMENTARY QUESTION ON THE SCRUTINY OF GOVERNMENT FUNDING OF THE VOLUNTARY SECTOR

TO BE TABLED ON MONDAY 15 MAY FOR ANSWER ON TUESDAY 16 MAY

[Mr James Pawsey (Rugby and Kenilworth)]: To ask the Secretary of State for the Home Department what plans he has for a review of Government funding of the voluntary sector.

DRAFT REPLY

Government funding of the voluntary sector has risen steadily over the last decade and now amounts to some £2 billion. It serves a wide variety of valuable purposes in areas ranging from health care to employment and training and to the environment. The Government acknowledges the voluntary sector's important position as a third force alongside the public and private sectors of the economy and the valuable contribution which it makes.

The Government has concluded that it would be timely to examine its funding of the voluntary sector with a view to ensuring that the purposes for which grants are made are properly defined and have a beneficial purpose; and that funds are being effectively and efficiently deployed in a way which is of practical help and achieves the benefits intended.

The Government has decided, therefore, to set in hand an Efficiency Scrutiny of Government funding of the voluntary sector. Its terms of reference will be to examine:

- i) the full range of programmes for Government funding of the voluntary sector;
- ii) the purposes for which financial provision is made under these programmes;
- iii) the different types of funding employed;
- iv) arrangements for the identification and selection of suitable voluntary organisations for particular tasks, for the setting of objectives and the monitoring and review of performance and results;
- v) arrangements for the administration of the programmes;

and to make recommendations for achieving cost effective improvements where necessary.

The matters to which the scrutiny will have regard include:

- i) the need for improvements in the procedures for agreeing payment of grants and in the conditions under which grants are awarded, to ensure that Government funds are applied properly and without waste;

- ii) the need for standard conditions in respect of political activities, campaigning, equal opportunities etc;
- iii) whether there is scope for standard criteria to be followed in agreeing grant applications and setting priorities;
- iv) ways of improving the setting of objectives both for particular projects and for continuing funding;
- v) the scope for improving the arrangements for evaluation and monitoring of the work carried out with Government funds by (a) periodic review and (b) regular monitoring;
- vi) methods of devising measures of performance both for continuing and short-term grants;
- vii) the levels at which financial authority is exercised under various programmes;
- viii) the information about the purposes of a particular programme made available (prior to application) to those seeking funding;
- ix) the benefits or otherwise of standard grant application procedures, taking account of the different circumstances where there is open application and where a single organisation is supported.

Such a wide-ranging scrutiny is unprecedented. It has therefore been agreed that it will be carried out by a team of officials from a number of Government Departments led by Mrs Juliet Reisz (Home Office) under the Ministerial supervision of a group of Ministers chaired by my hon Friend the Member for Oxford West and Abingdon (Mr Patten). I expect to receive the scrutiny report in September.

EFFICIENCY SCRUTINY OF GOVERNMENT FUNDING OF THE VOLUNTARY SECTOR: BULL POINTS

A. MAIN POINTS

- | | |
|-----------------------------------|--|
| Amount of funding | Government is a substantial supporter of the voluntary sector. £290 million pounds in grants from departments, which is an increase in real terms of 92% since 1979. Overall Government support of over £2 billion. |
| Range | Wide range of Government funding programmes: employment, housing, health, the environment, overseas aid, sport, crime prevention. |
| Tax relief | Government also provides £600 million in tax relief to registered charities. |
| Cuts? | This is not a cost-cutting exercise. It is an exercise to ensure funds are used to the best advantage. |
| Impact on voluntary organisations | Focus of scrutiny will be on arrangements within Government departments. Will be concerned with how voluntary organisations manage their own affairs only in so far as this relates to their proper and efficient use of public money. |

B. DEFENSIVE POINTS

- | | |
|--------------------|---|
| Political activity | Need to be sure that public funds are not improperly used for political purposes. |
|--------------------|---|

Drawing Government's attention to problems is legitimate. Campaigning with a party political slant is not.

Voluntary v.
statutory
services

Voluntary activity is valuable in its own right and Government supports it for that reason, not because it wants it to replace statutory services.

Efficiency

Promotion of efficiency in voluntary organisations is an interest which Government and the voluntary sector share.

Active
citizenship

Better use of Government funding by voluntary organisations will help develop active citizenship.

Charities

Our action to improve the monitoring and supervision of the activities of charities by the Charity Commission is a separate but parallel exercise. White Paper published today.

Scan Pa.

Charities : March 85



NOTES FOR SUPPLEMENTARIES

CHARITABLE STATUS

Should charitable status be defined in statute?

It is not difficult to point to the occasional eccentric result from the law on charitable status. But it is, I think, irrefutable that the common law as it has evolved over 400 years has a number of distinct advantages. Its flexibility has served us well in the past, and I see no reason why it should not continue to do so. But I recognise that the arguments are not all one way, and we shall listen carefully to any views which are expressed.

PRIVATE SCHOOLS

How can the Minister justify charitable status for schools like Eton and Winchester?

I understand that it is now the policy of the party opposite to withdraw charitable status from private schools. They may find that more difficult than they anticipate. The advancement of education has been a charitable object for hundreds of years, and I cannot think of an object more clearly of public benefit.

But for fee paying schools?

Charitable status is a matter for the courts. They have clearly held that fee paying schools are of public benefit, and therefore charitable.

CULTS

Disappointed that White Paper contains no proposals for dealing with cults, in particular the Moonies.

I understand the concern about the activities of some religious movements - and would welcome views. This is not a subject that can be approached lightly. The difficulties are very great. Our own view - expressed in the White Paper - is that, while there may be problems in obtaining sufficient evidence, the law is in principle already adequate to deal with the problems which they present. We shall, however, be looking closely at the wording of the present Act to see whether we can make it clearer that an organisation's activities may disqualify it from charitable status.

But what about the Attorney General's case against the Moonies? My rt hon and learned Friend the Attorney General withdrew his case against the Unification Church because he was advised that on the evidence available to him he was unlikely to win the case. What was at stake in this context was the charitable status of two trusts established by the Unification Church. Rt hon and hon Members should be under no illusions that if charitable status were to be withdrawn from these two trusts the activities of the Unification Church would cease.

Legislation needed on political activities?

I am aware of concern that a few charities are overstepping the line between acceptable comment and unacceptable political campaigning, and we have considered this carefully in the context of the White Paper. But most charities do not find it difficult to draw the line between legitimate and illegitimate political activity, and we are therefore not persuaded that any change in the law is required.

Is there not a need for a suitor's fund (ie legal aid for charities) to help speed up the development of the law?

There are very great difficulties in the way of a fund of this kind. In principle, legal aid is granted to individuals rather than to organisations. It is also one purpose of the Charity Commission to avoid the need for charities to go to court. It would seem inconsistent, therefore, to provide public money for charities wishing to embark on litigation.

Charitable status: individual cases

Obviously it is not for me to comment, today or any other day, on individual cases, which are for the Commissioners and the courts.

Proposals of the Parliamentary Panel on Charity Law

We welcome the interest the Parliamentary Panel is taking in the whole question of charity law reform. I / the Home Secretary look(s) forward to meeting the Panel to discuss with them the issues set out in the White Paper.

Proposal to give the Home Secretary power to remove charitable status from "anti-social" or "oppressive" religious organisations
As the Panel know I have strong reservations about this proposal.
I do not, for one thing, think it would be right to bring questions of charitable status into the political arena.

CHARITIES GENERAL

TIMING OF LEGISLATION?

As I have said, we hope to put forward legislation later in the lifetime of this Parliament. I cannot add to that.

Is the problem not one of resources?

We accept in the White Paper that more resources may be needed in the short-term if the Commission is to press ahead with the introduction of essential new technology. But resources are only one element. As the White Paper makes clear, the Commission needs new powers, and to be relieved of some of its present duties.

Will the Government provide the resources necessary to make this programme effective?

Like any other Government department, the Commission will have to justify its need for resources in the light of the demands placed upon it. But we accept that reforms are needed. The White Paper makes this quite clear.

Government support for charities - a substitute for state welfare provision?

There is no question of the Government ducking its responsibilities for welfare. What we say in the White Paper is that, because of their capacity to act swiftly and flexibly, charities, and other voluntary organisations, are often in a better position to spot and fill gaps in provision and to provide the first means of dealing with new problems. What we seek is a partnership in which each partner contributes what it does best.

The Charity Commission should make better use of the powers which it already has

We accept that the Commission will in future need to be more active in monitoring charities and rooting out abuse. The new powers we propose, together with the internal changes the Commission has in hand, will enable them to provide a much better service.

What steps are being taken by the Commission in advance of legislation?

The Charity Commission has moved swiftly to implement those of Woodfield's recommendations which do not require legislation. It has improved its management and the efficiency of its procedures; developed its capacity to monitor for and deal with abuse and is well advanced in preparing the ground for computerisation. This is a heavy programme of work by any standards and I am encouraged by the progress that has been made.

CHAPTER 3: THE REGISTER

How quickly will the Charity Commission's register of charities be computerised?

As soon as possible, consistent with getting it right. Consultants have been brought in to study precisely what is required. They will be reporting soon. Thereafter the Commission will move ahead as quickly as possible.

Are the sanctions for failure to register adequate?

Registration does not confer charitable status, but simply confirms a fact of law. Sanctions must be consistent with this position. The Commission can already order registration, and we do not believe that it would be right to penalise the funds of charities for the failures of trustees.

System of exemptions and exceptions

The White Paper focuses on registered charities, which are our immediate concern. We shall be looking at the supervisory arrangements for other charities, but we are not disposed to alter these unless it proves necessary. There would be little point in the Commission supervising bodies for which satisfactory arrangements already exist.

CHAPTER 4: CHARITY ACCOUNTS

Adequacy of sanctions for the non-submission of accounts

We believe that the system of marking the register which we propose will be effective, bearing in mind the publicity which will accompany it and the fact that in serious cases a mark on the register will signal the possible use by the Commissioners of their considerable powers of intervention.

Proposals on accounts: graduated accounting requirements; accounting standards; audit arrangements

Our proposals take account of responses to the Charity Commission's consultation document. In our view they strike a reasonable balance between accountability and the need to keep costs down and to avoid placing unreasonable burdens on trustees.

Local charities for the relief of poverty should still be required to submit their accounts to the appropriate local authority

If accounts are to be made available to the public on request we think it unnecessary that they should also be sent as a matter of routine to local authorities. It will, of course, be open to local authorities to ask for accounts where they are interested.

CHAPTER 5: POWERS TO DEAL WITH ABUSE

Some of the Commission's new powers, especially that enabling it to transfer a charity's assets to another charity, are draconian. We recognise that the power to transfer a charity's assets to another charity is a drastic one, but we are convinced that there will be cases where this is necessary. Such action will, of course, be possible only after a full formal investigation and where the Commissioners are satisfied that this is the best way of protecting the charity's property.

CHAPTER 6: LOCAL REVIEWS, THE CHARITIES ACT 1985 AND SCHEME-MAKING

Is it not too soon to start tinkering with the 1985 Act?

The 1985 Act has proved of great benefit. Given the opportunity of legislation what we propose is to build on the principles it laid down, and to make its benefits more widely available.

CHAPTER 7: CONSENT TO LAND TRANSACTIONS

The Commission's withdrawal from this area will place unreasonable burdens on trustees, and increase the scope for abuse. Trustees are duty bound to act in their charity's best interests. It follows that they should already be taking the steps required by the Commission. The new statutory requirements we propose are those already followed by charities dealing with land under excepting orders made by the Commissioners. Experience has shown that they work well. The Commission will remain responsible for overseeing transactions where there is a significant danger of abuse.



CHAPTER 8: DIVESTING THE OFFICIAL CUSTODIAN FOR CHARITIES

Divestment will add to the burdens on trustees

We recognise that divestment will involve more work for the trustees of some charities. But these are duties which are consonant with the full exercise by trustees of their responsibilities for charity property.

Stock by stock divestment awkward, especially for larger charities

We recognise that this divestment method will not be ideal as far as some of the larger charities are concerned. But, from soundings taken by the Commission, it is clear that the difficulties are not insuperable. The resource arguments are very powerful.

Sale of undated fixed interest securities an infringement of the rights of trustees?

This type of security is fine if it is actively managed, but it is not suitable for permanent capital funds. We recognise that returning charity investments in cash will temporarily curtail the freedom of some trustees. But again there are powerful resource arguments. And we believe that it is consistent with the Charity Commission's fundamental purpose that this once and for all opportunity should be taken to encourage small charities to consider their investment policy more closely.

How long will it take to divest the Official Custodian?

We estimate that it will take 5 years from legislation. There will be significant savings from year 3.

CHAPTER 9: CHARGING BY THE CHARITY COMMISSION

Unreasonable to charge for Commission's services?

Woodfield saw nothing against charging in principle, nor do we. The charges we propose are extremely modest. Income from them can be expected to cover no more than about 10% of the Commission's total costs.

CHAPTER 10: CHARITABLE APPEALS

The proposals don't go far enough

As I have said, our aim throughout has been to strike a balance between freedom and control. It is important not to discourage honest fundraisers by imposing mountains of bureaucracy.

It seems sensible to model our proposals first of all on legislation already operating in Scotland. This has proved successful and provides a clearer framework than we have in England and Wales. As the White Paper explains there will need to be some differences.

I am conscious of the concerns prompted by the activities of a few fundraisers. The malpractice of a few can do untold damage to the reputation and fundraising efforts of charities as a whole. I am not at present convinced that immediate legislation is required to regulate the newer forms of fundraising. In some cases, such as telethon campaigns, legislation would in any event be difficult to frame and to enforce. The charitable sector is moving towards better self regulation in this area, and I believe it right that we should first of all encourage these efforts. The White Paper contains strong signals as to standards of behaviour and accountability we should like to see upheld, and I propose to take powers to introduce regulations in future should this become necessary.

**EFFICIENCY SCRUTINY OF GOVERNMENT FUNDING OF THE VOLUNTARY
SECTOR: BULL POINTS**

A. MAIN POINTS

Amount of funding	Government is a substantial supporter of the voluntary sector. £290 million pounds in grants from departments, which is an increase in real terms of 92% since 1979. Overall Government support of over £2 billion.
Range	Wide range of Government funding programmes: employment, housing, health, the environment, overseas aid, sport, crime prevention.
Tax relief	Government also provides £600 million in tax relief to registered charities.
Cuts?	This is not a cost-cutting exercise. It is an exercise to ensure funds are used to the best advantage.
Impact on voluntary organisations	Focus of scrutiny will be on arrangements within Government departments. Will be concerned with how voluntary organisations manage their own affairs only in so far as this relates to their proper and efficient use of public money.

B. DEFENSIVE POINTS

Political activity	Need to be sure that public funds are not improperly used for political purposes.
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Drawing Government's attention to problems is legitimate. Campaigning with a party political slant is not.

Voluntary v.
statutory
services

Voluntary activity is valuable in its own right and Government supports it for that reason, not because it wants it to replace statutory services.

Efficiency

Promotion of efficiency in voluntary organisations is an interest which Government and the voluntary sector share.

Active
citizenship

Better use of Government funding by voluntary organisations will help develop active citizenship.

Charities

Our action to improve the monitoring and supervision of the activities of charities by the Charity Commission is a separate but parallel exercise. White Paper published today.

SCRUTINIES: GENERAL

What is a scrutiny?

A scrutiny is a method of reviewing an area quickly and in depth and taking a fresh look at issues.

Why are scrutinies carried out?

To help Departments secure greater value for money from their resources.

What are the aims of a scrutiny?

To look for speedy improvements in value for money and to seek to identify necessary wider reforms. The focus is on priorities for improvement.

Who carries out a scrutiny?

An examining officer who comes from within the Department but not from the area to be reviewed. He or she is independent and reports direct to the Minister and Permanent Secretary. The examining officer may be supported by a small team.

What role does the Efficiency Unit play?

The Efficiency Unit is involved throughout the process. The Unit provides the examining officer with support and advice; comments on the report and specification action plan and its implementation.

What is a scrutiny's timetable?

The scrutiny process has a tight schedule. Up to 90 working days is normally allowed to carry out the investigation and produce a report and a further 3 months for the action plan to be drawn up. The report is expected to be converted into results within 2 years of the start of the process.

What other scrutinies have there been?

There is a continuing programme of scrutinies in Government Departments. Other recent topics in the Home Office have been: the supervision of charities, review by Sir Philip Woodfield in 1987; the Section 11 grants which examined the payment of grants to local

authorities under the Local Government Act 1966 and the management and organisational structure of magistrates' courts.

Is the scrutiny merely a paper exercise?

No. First hand observation is used in collecting evidence which forms the basis for recommendations.

VOLUNTARY SECTOR

Why is this scrutiny being carried out?

We wish to ensure on behalf of tax payers that we get value for money and effective services in return for the grants we make to voluntary organisations.

Is this scrutiny unusual?

Only in so far as its wide range across the interests of a number of Government Departments is concerned. It is for this reason that although Home Office led, the examining officer will be supported by a team of officials from a number of Government Departments and a group of Ministers will be supervising the scrutiny. The scrutiny will take place using a standard procedure which has been developed under the auspices of the Government Efficiency Unit.

Will the findings be published?

Scrutiny reports are published wherever possible. It is too early to say in this case. The aim is to complete the scrutiny by September. Ministers will then consider what action to take.

When will the investigation be complete?

The team aim to report to Ministers in September.

How will the voluntary sector be involved?

The scrutiny will be examining procedures of Government Departments but will take account of the views of voluntary organisations as customers. The scrutiny will be concerned with how voluntary organisations manage their own affairs only to the extent that this relates to their proper and efficient use of public money.

Will people be able to make representations?

Yes, on matters within the team's terms of reference by 30 June.

Is the Government proposing to cut the level of funding to the voluntary sector?

No. The aim of the scrutiny is to ensure the Government obtain proper value for the money that it makes available rather than to achieve changes in the overall level of such funding.

Is the Government proposing to replace statutory services with voluntary services?

No. Voluntary activity is supported by Government because it is valuable in its own right. We will continue to provide funding where and when it is right to do so.

What is the present level of Government funding of the voluntary sector?

We have given a high priority to strengthening the voluntary sector. In 1987/88 central Government grants of almost £293 million were made to voluntary bodies. Between 1979/80 and 1987/88 the level of Government grants to voluntary bodies has risen by almost 92% in real terms. Overall Government support is over £2 billion. Government also provides £600 million in tax relief to registered charities.

The level of Government support of the voluntary sector is announced each year by the Prime Minister in answer to a Parliamentary Question (attached).

What kind of Government funding programmes are there?

A wide range, eg: employment, housing, health, environment, overseas aid, sport, crime prevention etc.

Will the scrutiny address the question of Government funded organisations that criticise the Government?

Among the matters to which the scrutiny is required to have regard are the ways in which departments ensure that funds are applied

properly and without waste; and the need for standard conditions in respect of political activities and campaigning.

Why is the Government concerned about political activities of voluntary bodies?

We need to ensure that public funds are not improperly used for political activities. Drawing attention to problems is legitimate; campaigning with a party political slant is not.

Why should the drive for efficiency be focused on the voluntary sector?

Promotion of efficiency in voluntary organisations is an interest which Government and the voluntary sector share.

What is the link between this scrutiny and the charities White Paper?

Our action to improve the monitoring and supervision of the activities of charities by the Charity Commission is a separate but parallel exercise.

Why is the Government continuing to give funds to [specified organisation] which has criticised Government policy?

[As I have said] it is legitimate for an organisation receiving Government funding to draw attention to the effect on those it is seeking to help of changes in policy. It is not legitimate for it to indulge in party political campaigning. The decision whether a particular organisation or project should continue to be funded will depend on the nature of any public stance that organisation has taken and must reflect the circumstances of the individual case.

Will the scrutiny address the question of [specified organisation/project/programme] whose funding has been cut/withdrawn?

The scrutiny will take a sample of funding programmes as a basis for its examination. It will be for the scrutiny team to decide which programmes to select.

Why is [specified organisation/project] not being funded?

The criteria which determine whether a particular organisation or project is funded vary from case to case and a number of different factors will be involved. It is not for me to comment on particular decisions which other Government Departments may reach on their own programmes. [IF HOME OFFICE FUNDING]: I will write to the hon. Member about [organisation/project].

LOTTERIES

Charities and lotteries

Public lotteries promoted under the Lotteries and Amusements Act 1976 can be a useful source of income for charities registered as societies under the Act. The Act limits the proceeds and prizes in lotteries to modest levels for a number of reasons. The monetary limits aim to prevent the undue stimulation of what is, after all, a gambling activity. But they also allow societies, including charities, with only a small organisation to compete with larger ones. I understand that lotteries under the current law can raise sums which, whilst small compared to the proceeds of other gambling, can be vital to the charities and other societies concerned.

Increases in monetary limits

I propose to increase some of the monetary limits, to encourage a worthwhile if modest revival in lotteries' activity. A range of interests, including the Institute of Charity Fund Raising Managers, have welcomed my proposal to increase the limits on the maximum prize which may be offered by up to 150%.

"Multiple" lotteries/National Hospital Trust lottery

At the turn of the year I made regulations under the 1976 Act to prohibit "multiple" lotteries. The regulations are now in force. I understand that some charities hoped to promote such lotteries, where a person who had entered several lotteries at the same time would be certain to win a prize in them all if he won in one.

TAX

Reliefs

All charities whether registered or not are entitled to reliefs from Income Tax, Corporation Tax and Capital Gains Tax. They are exempt from Inheritance Tax. They also have (very) limited relief from VAT. The Inland Revenue allows relief on income expended for charitable purposes. Tax relief may thus be withdrawn on any income which the Revenue considers has been spent for non-charitable purposes, or on funds which are hoarded and not spent.

Individuals and companies can obtain tax relief on covenants and single donations and on deductions through the payroll giving scheme.

Charities are entitled to 50% rate relief and can obtain up to 100% if the local authority agrees.

Withdrawing tax relief for failure to register, or failing to conform with the requirements of registration

It is sometimes suggested that charities should lose their tax exempt status for failing to register or, for example, failing to return their accounts to the Charity Commission. There are three basic problems with this suggestion:

- it would be inequitable because only about three-fifths of charities need to register with the Commission;
- it would penalise the funds of charities for the defaults of trustees; and
- it would be immensely bureaucratic to administer.

Amount of tax relief

Tax reliefs to charities are estimated now at over £500 million a year. This does not include rate relief.

Arrangements for co-operation between the Inland Revenue and the
Charity Commission

The 1986 Finance Act introduced new arrangements allowing the
Inland Revenue to pass to the Commission information it came
across which suggested that charities might be using their funds
improperly. These arrangements have worked well - over 100
cases are now in hand, some of them involving substantial
amounts of money.

REGISTRATION OF CHARITIES

Under the 1960 Act all charities are obliged to register unless they are "excepted" or "exempt".

CHARITABLE STATUS IS A FACT OF LAW AND IS NOT CONFERRED BY REGISTRATION. REGISTRATION DOES, HOWEVER, SERVE AS A CONCLUSIVE PRESUMPTION OF CHARITABLE STATUS UNLESS AND UNTIL IT IS SUCCESSFULLY CHALLENGED IN COURT.

"Excepted" charities

These charities are under the purview of the Charity Commission but are relieved of some of the Commission's normal requirements - for example, from the need to register, from the need to return accounts, or from the need to obtain the Commission's consent to dispose of land.

Broadly charities are "excepted" because:

- they are too small to bother with; or
- they are deemed to be adequately covered by other supervisory arrangements - for example registered places of worship are on a separate register and some organisations, eg. the Boy Scouts have a firm federal structure making unnecessary the registration of every troop.

"Exempt" charities

These charities are exempt altogether from the jurisdiction of the Commissioners. Exemptions are listed in Schedule 2 of the 1960 Act and include:

- virtually all universities and university colleges;
- Eton and Winchester colleges;
- the Church Commissioners and institutions administered by them;
- some major museums (including the British Museum); and

- charitable societies registered under the Friendly Societies Act 1974 and other Acts.

Most "exempt" charities are large institutions which were already exempt from the Commissioner's jurisdiction before 1960 because other statutory arrangements for supervision were in place.

The White Paper

The White Paper makes no proposals to alter the present system of exceptions and exemptions. It does, however, seek views on whether, for example, all charities should make copies of their accounts available to the public on request. It also commits the Government to looking at the present arrangements before legislation to make sure that the rationale for them remains acceptable, and that they continue to provide the proper degree of supervision and accountability.

SCOTLAND AND NORTHERN IRELAND

Scotland

To date Scotland has had no means of supervising charities except directly by the courts. The Woodfield Report noted that this situation carried the danger that undesirable bodies would concentrate their efforts in Scotland to avoid supervision by the Charity Commission. The Report recommended that the Secretary of State for Scotland should be advised on the future arrangements there.

Following extensive consultation the Secretary of State for Scotland has accepted that arrangements for supervising charities in Scotland need to be introduced. A separate announcement will be made soon.

Line to take

An announcement will be made soon about the arrangements for Scotland. They are a matter for rt hon and learned Friend the Secretary of State for Scotland in the light of the consultations he has carried out. It would not be right for me to comment at this stage.

Northern Ireland

The arrangements in Northern Ireland are more extensive than those in Scotland but fall short of those in England and Wales. For example, there is no statutory register of Charities in Northern Ireland nor any equivalent of the Commission. The administration of charity law is the responsibility of a Northern Ireland Government department - the Department of Finance and Personnel. This Department carries out many of the functions of the Charity Commission.

Charity law would fall to a Northern Ireland legislature should devolved Government return to the Province. The Government will in the meantime consider the extent to which the White Papers' proposals should be extended to Northern Ireland.

NEW POWERS OF INVESTIGATION AND REMEDY FOR THE CHARITY
COMMISSION

The Commission has powers under section 6 of the 1960 Act to investigate charities and where a number of criteria are satisfied can subsequently take remedial action under section 20 of the Act. Broadly, section 20 allows the Commission to freeze or otherwise protect charity assets and suspend or remove charity trustees or employees.

The proposals in the White Paper would enable the Commission for the first time to take temporary action in circumstances where mismanagement or the misuse of charity property is apparent but has not yet been formally or fully investigated. This will enable them to act more swiftly to protect property.

The Commission will also be empowered for the first time to go direct to court to recover charity property or enforce obligations owed to charities. (At present the Attorney General has this function.)

The White Paper also proposes the following new powers for the Commissioners:

- a power to appoint a receiver and manager;
- a power to make a legal scheme altering a charity's trusts without an application from the trustees;
- power to appoint trustees over and above those required in the trust deed;
- a power to wind up a charity and transfer its property to another charity;
- an extension of the Commissioner's powers to obtain information for use in their investigations.

Undesirable trusts

The White Paper proposes to exclude from trusteeship persons convicted of fraud or other dishonesty. It would be a criminal offence to act as a trustee whilst knowingly disqualified.

CHARITY COMMISSION EXPECTED TO USE THEIR POWERS

We recognise that in future the Commission will need to be more active in monitoring charities and rooting out abuse. The difficulty in the past has been that they have had to spread their efforts too thinly. Our aim is to return some responsibilities, notably those for dealing in land and administering investments, to those to whom they more properly belong - that is the trustees. This will enable the Commission to concentrate on those functions which only it can carry out. We are confident that with the new powers we propose, and the great efforts the Commission is making to get itself in better shape, we shall see a better service to charities in future.

CHARGING

The White Paper puts forward proposals for charges which take account of the great range in the size of charities and their ability to pay.

There will be a flat-rate registration fee of £25 and graduated charges for filing annual accounts and for schemes and orders. Work on land transactions for the Commission's consent will still be required and will be charged at the normal professional rates with a cut-off point for small transactions. The public and others will be asked to pay a small fee for searching the Register, and the Commission will be able to charge for its leaflets.

MOST OF THESE CHARGES WILL BE EXTREMELY MODEST - EG. THE LARGEST CHARITIES WILL BE ASKED TO PAY ONLY £10 FOR FILING THEIR ACCOUNTS - AND SMALL CHARITIES (THOSE WITH AN INCOME OF UNDER £5,000 PER ANNUM) WILL CONTINUE TO RECEIVE THE COMMISSION'S SERVICES FREE. THE INCOME FROM THE CHARGES PROPOSED WILL RAISE AN ESTIMATED £0.75 MILLION, OR ABOUT 10% OF THE COMMISSION'S PRESENT ANNUAL COST.

MEASURES TO RESTRICT UNSCRUPULOUS FUNDRAISERS

The White Paper makes three proposals designed to curb the activities of unscrupulous professional fundraisers. These are:

- a requirement that all those who receive funds raised for or on behalf of a charity should remit the full amount to the charity without deducting fees or expenses (para 10.18);
- a requirement that members of the public buying goods or services on the understanding that the proceeds will go to charity should be clearly informed of what proportion of their donation will reach the charity (paras 10.19-10.20); and
- a provision enabling a charity to take legal action to prevent the unauthorised use of its name as an inducement to donors (para 10.21). (The Charity Commission will also be able to decline to register a charity under a name which it considers too similar to that of another charity.)

Precisely how these proposals will operate remains to be worked out.

WILL THERE BE A DEBATE ON THE WHITE PAPER?

There is clearly much in the White Paper on which rt hon and hon Members in this House and those outside will wish to comment. There are, in addition, certain issues raised in the White Paper on which we have specifically invited comments. The arrangement of debates is a matter for my rt hon Friend the Leader of the House but I suggest that the question of a debate on the White paper might best be left until after it has been fully considered. We have not set a formal timetable for receiving comments but we think it would be helpful to allow people a reasonable time during the summer to consider the issues raised in this substantial document.

cgf



MSB
File 6
11/5

Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Douglas Hurd CBE MP
Secretary of State
Home Office
50 Queen Anne's Gate
LONDON SW1H 9AT

11 May 1989

Dear Douglas,

WHITE PAPER ON CHARITIES: DRAFT TEXT

flap

Thank you for the copy of your letter of 3 May to John Wakeham. John Major has asked me to reply.

I am content with the draft of the Charities White Paper. I think we can now expect a lively debate on the issues raised in it. I would be grateful if your officials could keep in touch with mine on the line to take when the White Paper is published about the resource implications of its proposals. Those implications will, of course, need to be discussed in the 1989 Survey. For the present I would not expect any public commitment to be made going beyond what is already included in our public expenditure plans published earlier this year.

I am copying this letter to the Prime Minister, Geoffrey Howe, David Young, John MacGregor and colleagues on H Committee.

Lms ever
Pm

PETER BROOKE

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Elon POL: Tax of churches March
1985.



celu



FCS/89/083

NBM

R226

10/5

HOME SECRETARYWhite Paper on Charities: Draft Text

file into PG

1. Thank you for copying to me your letter of 3 May to John Wakeham and the enclosed draft.
2. As you know, the Indian Government have frequently drawn to our attention their concern at alleged abuses of charitable status by Sikh temples in the UK. Our readiness to take action clearly remains for the Indians a touchstone of our commitment against Sikh terrorism. The proposed additional powers of the Charity Commission should go some way to meet Indian preoccupations and help to convince them that we are taking their concerns seriously.
3. I understand that my officials are in touch with yours about the need to give our High Commission in New Delhi material to brief the Indians as soon as the White Paper is published.
4. I am copying this minute to recipients of your letter.

(GEOFFREY HOWE)

Foreign and Commonwealth Office
10 May 1989

Econ Pdr Tap on Charities



dti

the department for Enterprise

celu

The Rt. Hon. Lord Young of Graffham
Secretary of State for Trade and Industry

The Rt Hon Douglas Hurd MP
Home Secretary
Home Office
Queen Anne's Gate
LONDON
SW1H 9AT

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MBM
Recd
10/5

Direct line 215 5422
Our ref MM2AMW
Your ref
Date 10 May 1989

John Taylor

file with PC

DRAFT WHITE PAPER ON CHARITIES

Thank you for your letter of 3 May seeking my agreement to the draft text of the White Paper.

You asked me to look particularly at the part of Chapter 5 dealing with the proposal for a new form of incorporation for a charitable company. I do not have any objections to the text of the draft White Paper at paragraphs 5.21 and 5.22, but it clearly will be important that officials from my Department are fully involved in the further consideration which is proposed before any specific conclusions are reached. The same goes for the preparation of the powers (paragraph 5.18) that will be needed to regulate the appointment of a receiver and manager by the Charity Commissioners.

I am sending a copy of this letter as you did to the Prime Minister, John Wakeham, Geoffrey Howe, John MacGregor and to colleagues on H Committee.

John Taylor



Econ Pd - Chartres





SCOTTISH OFFICE
WHITEHALL, LONDON SW1A 2AU

celb

NBA

*RRG
OK*

The Rt Hon Douglas Hurd Esq CBE MP
Home Secretary
50 Queen Anne's Gate
LONDON
SW1H 9AT

9 May 1989

Dear Douglas,

WHITE PAPER ON CHARITIES: DRAFT TEXT

Har

Thank you very much for copying to me your letter of 3 May to John Wakeham together with the text of your proposed White Paper on Charities.

As your letter makes clear much of the White Paper is concerned with a shift in emphasis in the work of the Charities Commission and about ways of improving their effectiveness. The Commission's remit does not of course extend to Scotland and I have no comments on these aspects.

I am however committed to improving the supervision of charities in Scotland and expect to be largely following the line in Chapter 4 on Charity Accounts. Although I will not be adopting the detail of your proposals for dealing with abuse and for allowing small charities to reorganise, the thrust of my approach is likely to be similar.

I was interested to note that in relation to the future regulation of charity appeals you envisaged something along the lines of a provision in the Civic Government (Scotland) Act 1982. I can confirm that from my experience this legislation has worked well and has given rise to very few difficulties.

As noted in Chapter 11 which summarises the current Scottish position, I hope to announce shortly the main features of the improvements I wish to introduce. I shall of course circulate my main proposals for comment by colleagues prior to making an announcement.

Finally I confirm that I am content for you to publish the White Paper on 18 May.

I am copying this letter to the Prime Minister, Geoffrey Howe, David Young, John MacGregor, John Wakeham and to colleagues on 'H' Committee.

MALCOLM RIFKIND

ECON POL: Taxation + Change

Mar 03





NBPM

cc Pj
✓

*Pr c6
10/5*

MINISTRY OF DEFENCE WHITEHALL LONDON SW1A 2HB

TELEPHONE 01-218 9000

DIRECT DIALLING 01-218

MO 21/1E

8th May 1989

Dear Douglas,

file into Po

I have received a copy of your letter of 3rd May to John Wakeham covering a draft of the White Paper on charities.

While I realise that my Department does not have a central role to play in formulating policy on charities, you will appreciate that there are a large number of Services and Services associated charities all of which could be affected by any changes in the supervisory legislation. I am therefore pleased that although my officials were not consulted during the drafting, my Department has now had the opportunity to look at the draft before publication, although in the very short time available it has not been possible to consider the impact of the proposals on Service charities in any detail. However, as Service charities are currently exempt from registration under the terms of Statutory Order 1056 of 1965 I have particularly noted the proposal to carefully examine the rationale for existing exemptions and to consider whether the arrangements for the supervision and public accountability of exempt charities remain adequate and appropriate.

I believe that the constitutions and arrangements, especially the stringent supervisory arrangements and audit procedures, already

The Rt Hon Douglas Hurd CBE MP



applied to Service charities are already sufficient to provide all the necessary safeguards against abuse. I would therefore expect that the existing exemption should remain in force, and I would ask that my officials be fully consulted when the examination of existing exemptions is undertaken.

I am copying my letter to the Prime Minister, Geoffrey Howe, David Young, John MacGregor, and to the members of H Committee.

to us we,
George.

George Younger

Econ Pd - Tax of Cheaters . Mar 15





PM3A05

apu

10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

8 May 1989

Dear Catherine,

WHITE PAPER ON CHARITIES: DRAFT TEXT

The Prime Minister has seen the Home Secretary's letter of 3 May to the Lord President and enclosed draft White Paper. She is content with the Home Secretary's plan to publish the White Paper on 18 May. But she would be grateful if the following changes could be made to the first chapter:

- end of paragraph 1.3, second sentence, delete "and is the mark of a caring society".
- amend the last sentence in paragraph 1.3 to read, "engaging in voluntary activity is a most important way for people to make a positive contribution....."
- amend the first and second sentence of paragraph 1.4 to read, "the voluntary sector plays a crucial role in engaging and directing the efforts of individuals who wish to help those in need both at home and overseas. Individuals and groups can act more flexibly..."

I am copying this letter to the Private Secretaries to members of 'H' Committee, Stephen Wall (Foreign and Commonwealth Office), Neil Thornton (Department of Trade and Industry), Shirley Stagg (Ministry of Agriculture, Fisheries and Food) and Trevor Woolley (Cabinet Office).

*Yan.
Paul*

PAUL GRAY

Miss Catherine Bannister,
Home Office.

PRIME MINISTER

WHITE PAPER ON CHARITIES

You recently agreed to the line Douglas Hurd proposes to take in chapter 2 of his forthcoming White Paper on Charities (concerning charitable status). You also asked him to hold up the announcement of the proposed scrutiny of Government funding to the voluntary sector so that this could be co-ordinated with the publication of the White Paper.

Douglas Hurd has now circulated a draft text of the full White Paper (Flag A). Carolyn Sinclair (Flag B) suggests it is not worth your while ploughing through this. But she draws attention to a number of points, and recommends some detailed drafting changes in the first chapter.

Content to agree publication of the White Paper as proposed on 18 May, subject to the detailed drafting points Carolyn suggests?

Recd.

P. GRAY
5 MAY 1989

*See comments about drafting
on Carolyn's proposals.*

*Agree with her - the
jargon needs thinning out.*

MRMAAK

WHITE PAPER ON CHARITIES

You have already seen the chapter discussing charitable status (Chapter 2). Douglas Hurd has now circulated the rest of the White Paper setting out proposals to reform the supervision of charities.

You asked that the two Parliamentary Questions on

- (i) the level of Government grants to voluntary bodies; and
- (ii) the proposed scrutiny of Government funding of the voluntary sector

should not be answered until the Charities White Paper had been published. Douglas Hurd is seeking agreement to publish it on 18 May.

There is no need to object to publication. But the drafting of Chapter 1 - which sets out the Government's view of the voluntary sector - could be improved in a few places.

BACKGROUND

At the Government's instigation, Sir Philip Woodfield carried out a scrutiny of the Charity Commission's functions. His report was welcomed as a balanced and persuasive analysis of the weaknesses in the current regime. In January 1988 Douglas Hurd announced the Government's acceptance of Woodfield, and expressed the hope that legislation to implement the report's recommendations would be put forward in the lifetime of this Parliament.

The White Paper translates the Woodfield recommendations into proposals for legislation. The ensuing Bill will be the most important piece of charity legislation since 1960.

Most of the White Paper consists of important, but technical, details. It is not worth ploughing through, but you will want to be aware of some points:

- It is proposed to computerise the Charity Commission's register of charities. This is long overdue, and will help the Commission to operate more efficiently and with fewer delays.
- Computerisation will enable the Commission to enforce the requirement on charities to file annual accounts (professionally audited in the cases of the larger ones).
- Charges will be introduced for the first time for services carried out by the Charity Commission (such as registration). The poorest charities will not be charged. Charges are expected to raise £0.75 million a year. The Charity Commission costs £7 million a year to run.
- The Charity Commission will in future have direct access to the Courts instead of having to ask the Attorney General to act on their behalf.

Chapter 1

This chapter, together with Chapter 2 which you have already approved, will be of most interest to the general reader.

The content of Chapter 1 is fine. But in places it lapses into jargon and loses dignity.

Extract attached.
Pr 6 5/5

Paragraph 1.3

"compassionate" would be better than "caring" in the second sentence.

Letter part of sentence not needed at all -
other words "and in the mode of a true community spirit".

The last sentence of this paragraph implies that many people either do not have jobs, or get little satisfaction out of them. This is probably unintentional. The sentence would read better thus:

"Engaging in voluntary activity is an important way for people to make a positive contribution to the community, and have an influence on it."

Agreed

Paragraph 1.4

First sentence - replace

"active and concerned citizens in tackling the needs of disadvantaged people" by !!!

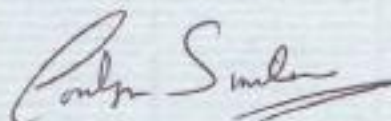
"individuals who wish to help those in need". agreed

Second sentence - delete "concerned".

agreed

Conclusion

- Agree to publication subject to the drafting change to Chapter 1 proposed above.



CAROLYN SINCLAIR

1.3 The Government is committed to encouraging a healthy and growing voluntary sector. The impulse to help others in need or distress, or to join with them for some common purpose, is deeply rooted in human nature, ^{compassion} and is the mark of a caring society. ^{deliberate} Joining in voluntary activity helps to create a sense of belonging and of community, at home, in the workplace or at recreation. ~~For many people,~~ ^{For people} engaging in voluntary activity is ^{at} the most important way in which they make a positive contribution to the community, and have an influence on it.

1.4 The voluntary sector plays a crucial role in engaging and directing the efforts of ^{individuals who wish to help those in need} ~~active and concerned citizens in~~ ^e ~~tackling the needs of disadvantaged people~~ both at home and overseas. ~~Concerned~~ individuals and groups can act more flexibly than central bureaucracies and can spot and fill gaps in provision more quickly. The service they offer can, in the nature of things, be better tailored to individual needs and be more personal. Often the pioneering efforts of the voluntary sector, working hand in hand with the mainstream services, provide the first means for dealing with problems which arise suddenly or rapidly escalate. AIDS is a good example of a new problem where the expertise and dedication of the voluntary sector has been of crucial help to the Government in catering for the needs of people with AIDS or HIV related illness and in developing sound policies for the future.



A
Cep

QUEEN ANNE'S GATE LONDON SW1H 9AT

3 May 1989

no
Dear John,

WHITE PAPER ON CHARITIES: DRAFT TEXT

As you know, we hope to introduce legislation to reform the supervision of charities before the end of this Parliament. We have promised a White Paper setting out the Government's proposals.

IN ATTACHED FOLDER

... I attach a draft of the White Paper on which I would be grateful for your views and those of colleagues. The text has been the subject of detailed discussions between officials.

Our commitment to legislate, and the White Paper, follow the Woodfield Report, 'Efficiency Scrutiny of the Supervision of Charities', which was published in Summer 1987. The Report concluded that the fundamentals of the present system for supervising charities remained sound but that a number of reforms were needed to take account of important developments in the charity world since the present Act was passed in 1960.

Taken as a whole, the Report's proposals were designed to:

- improve the quantity and quality of information available to the Charity Commission;
- foster among charity trustees a greater awareness of their duties and responsibilities; and above all, to
- shift the Charity Commission's focus towards dealing more actively with abuse and mismanagement.

To achieve this new focus the Report recommended that on the one hand the Commission be given a number of new powers, and on the other that it should be relieved of some of its present statutory duties.

/The Woodfield Report

The Rt Hon John Wakeham, MP
Lord President

The Woodfield Report was widely welcomed as a balanced and persuasive analysis of what is wrong and what needs to be done. Since its publication the Public Accounts Committee have broadly confirmed its findings and added their weight to the pressure for change.

The bulk of the White Paper is concerned with translating the recommendations of the Woodfield Report into proposals for legislation. But we have also taken the opportunity to discuss and seek views on certain fundamental issues arising from the present common law on charitable status. These issues are set out in Chapter 2.

This Chapter may well prove controversial especially where it concerns cults. For this reason, as you know, I have already circulated it to the Prime Minister and other colleagues with the greatest interest in the subject matter or in the handling of Parliamentary discussion.

The draft falls into two distinct parts. Part 1 contains a statement of Government policy towards the voluntary sector (Chapter 1); and the Chapter (2) on charitable status. This is the material on which I would expect general readers to be most interested. Part II (Chapters 3-11) contains detailed proposals for legislation. Of necessity some of this material is technical, but we have tried to cater for general readers by introducing each Chapter with a simple outline of what follows.

In view of the broad consensus achieved by the Woodfield Report I would not expect any of the proposals in the White Paper to be controversial in a party political sense, though some issues may provoke a good deal of discussion, particularly, in the House of Lords. There may well, for example, be some resistance to the proposals for reducing Charity Commission involvement in certain charity land transactions (Chapter 7); for withdrawing the Official Custodian's investment services (Chapter 8); and for introducing modest charges for some of the Commission's services (Chapter 9). I regard all these proposals as essential if we are to get the balance right.

At a number of points the White Paper signals further work to be done. The most difficult area still to be reviewed is the whole question of whether the present system of exemptions and exceptions from Charity Commission jurisdiction (summarised in Chapter 3, paragraphs 3.13 and 3.14) should continue. I think it most unlikely that we shall want significantly to disturb the present position, though some changes around the margins may be desirable. John MacGregor may, for example, wish to consider the arrangement whereby MAFF are responsible for the trusts of Eton and Winchester Colleges.

The White Paper also gives an undertaking (Chapter 5, paragraph 21ff) to look further at the interface between charity and company law with a view to ensuring that the Commission's supervisory purchase on charitable companies is adequate. I would be grateful if David Young could look at the text here. I propose that officials should look to see if there are any changes which might be made in charities legislation to the legal position of charitable companies.

Further work also remains to be done to refine the proposals in Chapter 10 for the future regulation of charitable appeals. What we are proposing, on the basis of extensive consultations with outside interests, is a major consolidation and revision of the present legislation along the lines of section 119 of the Civic Government Scotland Act (1982). As the White Paper explains, further consultation is needed before we can go firm on all aspects of the legislation. But the outlines are clear. I am not proposing, at this stage, to introduce controls on newer forms of fundraising not at present covered by specific legislation.

Colleagues will have noted that the Prime Minister wishes the announcement of the scrutiny of Government funding of the voluntary sector to coincide with the publication of the White Paper. I am keen to press ahead with the scrutiny as soon as possible not least to avoid damaging speculation in the voluntary sector. I would therefore like, if at all possible, to publish the White Paper on 18 May. This is the date on which the Charity Commission's Annual Report for 1988, is also due to be published.

I would be grateful if colleagues could help in meeting this deadline by letting me know by Monday 8 May if they are content with the draft.

I am copying both letter and text to the Prime Minister, Geoffrey Howe, David Young, John MacGregor, and to colleagues on H Committee.

Yours
David Young.

ETON Poi Hauke March 1985



CCP/10

QUEEN ANNE'S GATE LONDON SW1H 9AT

3 May 1989

ABM

Page

3/5

Dear Peter,

WHITE PAPER ON CHARITIES; CHAPTER ON CHARITABLE STATUS

Thank you for your letter of 17 April.

at flap

I have today circulated a full text of the White Paper, including the 'Green' chapter (now Chapter 2), under cover of a separate letter to members of 'H' Committee, including John Major. I thought, however, that I should write to you individually explaining why I have not taken on board your point about the position in the text of the section on political activities by charities.

I fully take your point that the approach we adopt will put the burden of supervising and investigating political activity firmly on the Commission, and in the light of your comments we have included a specific reference to Chapter 5 at the end of Chapter 2. However, I think we are bound to discuss in the White Paper the basic law on political activities and not just the Commission's application of it. To my mind this discussion belongs more naturally in Chapter 2. I hope that you will agree with this conclusion once you have seen the full text.

I am copying this letter to the Prime Minister, James Mackay, John Wakeham, John Belstead, Patrick Mayhew, Bertie Denham and David Waddington.

Yours,
Douglas

The Rt Hon Peter Brooke, MP
Paymaster General
HM Treasury

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Donations

March 85



Page

Re your letter at flap.

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R to H.O. 24.4.89

Content?

No - It is permitted.

H.O told 19.5.89

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cc EFFICIENCY UNIT

10 DOWNING STREET

LONDON SW1A 2AA

24 April 1989

From the Private Secretary

Dear Catherine,

CHARITIES AND GRANTS TO VOLUNTARY BODIES

The Prime Minister has now had the opportunity to study the material circulated with the Home Secretary's letter of 10 April to the Attorney-General on the White Paper on Charities, together with your letter of 18 April to Dominic Morris concerning grants to voluntary organisations.

The Prime Minister is content with the terms of the proposed "green" chapter in the White Paper. As regards grants to voluntary bodies she thinks that the two proposed Parliamentary Questions should be delayed so that they can be answered at the same time as publication of the White Paper; this will enable the announcement of the scrutiny of Government funding of the voluntary sector to be viewed within the context of the White Paper. On the terms of the proposed answer announcing the scrutiny, the Prime Minister thinks that the existing second paragraph could be mis-construed; she wishes this to be redrafted as follows:

"The Government has concluded that it would be timely to examine its funding of the voluntary sector with a view to ensuring that the purpose for which grants are made are properly defined and have a beneficial purpose; and that funds are being effectively and efficiently deployed in a way which gives practical help to those who are the object of the beneficial purpose".

and achieve the benefits intended.

I am copying this letter to Stephen Wall (Foreign and Commonwealth Office), Paul Stockton (Lord Chancellor's Department), Stephen Williams (Welsh Office), Brian Hawtin (Ministry of Defence), Clive Norris (Department of Employment), Stephen Leach (Northern Ireland Office), Roger Bright (Department of the Environment), Neil Thornton (Department of Trade and Industry), Tom Jeffery (Department of Education and Science), Shirley Stagg (Ministry of Agriculture, Fisheries and Food), David Crawley (Scottish Office), Roy Griffins (Department of Transport), Andy McKeon (Department of Health), Gill Littlehales (Department of Social Security), Steven Catling (Lord President's Office), Nick Gibbons (Lord Privy Seal's office), Stephen Haddrill (Department of Energy), Michael Saunders (Attorney General's Office), Douglas Slater (Government Whips Office, House of

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Lords), Murdo Maclean (Chief Whip's Office), Malcolm Buckler (Paymaster General's Office) and Myles Wickstead (Overseas Development Administration).

Yan,
Paul

(PAUL GRAY)

Miss Catherine Bannister,
Home Office.

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ECON POL: Tax on chemicals
March '85.

CONFIDENTIAL

PRIME MINISTER

CHARITIES AND GRANTS TO VOLUNTARY BODIES

When you saw the attached papers earlier in the week you asked me to re-submit them for the weekend box.

You will see that the Home Office had been seeking agreement to table two Parliamentary Questions earlier this week on grants to voluntary bodies. I stopped them doing this pending your consideration of the papers.

Content for me now to minute out in the terms recommended by the Policy Unit, as summarised in my earlier note below?

① I agree with Carolyn Sinclair that the White Paper should be published together with the two P.Q.s.

② The P.Q. about review - the Dept. says about grants govt only do those whose purposes are 'consonant' with wider Govt objectives" is colaritative because it could be construed as political.

③ This is such an important subject that I think we should discuss it in strategic terms i.e. in one of the Economic Committees. It costs £2bn.

CONFIDENTIAL

PLG

(PAUL GRAY)

21 April 1989

not



10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

19 April 1989

Thank you for your letter of 18 April to Dominic Morris about the two proposed Written Answers on grants to voluntary organisations and the scrutiny of Government funding of the voluntary sector.

The Prime Minister had your letter, together with the Home Secretary's letter of 10 April about the White Paper on charities, in her box last night, but has asked to see the papers again over the weekend. Against that background it will not be possible for either of the proposed Parliamentary Questions to be tabled this week; I hope to let you know early next week how the Prime Minister would wish matters to proceed.

(PAUL GRAY)

Miss Catherine Bannister,
Home Office.

KK

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

18 April 1989

Dear Dominic

Pl. your note at Prop.

As you know each year the Home Office Voluntary Services Unit collects details of the annual expenditure of Government Departments on grants to voluntary organisations. This information, showing separately the contribution of individual Departments, has usually been made public through an arranged Parliamentary Question to the Prime Minister. I enclose a copy of last year's reply.

This year a more detailed information gathering exercise has been carried out as a preliminary to a possible Efficiency Scrutiny of Government funding of the voluntary sector.

Ministerial colleagues in charge of departments responsible for such funding have now endorsed the agreement reached by the Ministerial Group on the Voluntary Sector which Mr John Patten chairs (and which Professor Griffiths attends) that an Efficiency Scrutiny of Government funding of the voluntary sector should indeed be set up. The Home Secretary plans to announce the start of the scrutiny on 20 April. I enclose a copy of the proposed arranged Question and Answer and of the specification for the scrutiny.

The Home Secretary hopes that the Prime Minister will be willing to answer an Arranged Question on the amount of Government funding in the usual terms. A draft, following the model of previous years, is attached. The figures reveal a continuing high volume of Government support to the voluntary sector, although in real terms there has been a decrease overall of 0.6% from 1986-87. As agreed, the Home Office will provide the Prime Minister's office with a detailed list of voluntary organisations receiving Government funding in 1987/88. This will be sent as soon as it has been collated.

The Home Secretary thinks that it would be sensible for the two Questions to be answered on the same day if possible. If the Prime Minister is content to proceed in this way I should be grateful if you would let me know by tomorrow morning so that we can co-ordinate the tabling of the Questions tomorrow.

/I am copying

Dominic Morris, Esq
Private Secretary

I am copying this to Private Secretaries to the Chancellor of the Exchequer, Secretaries of State of Departments responsible for funding voluntary organisations, Sir Robin Butler and to Professor Griffiths and Sir Angus Fraser.

Yours sincerely

Catherine Bannister

MISS C J BANNISTER

The Prime Minister: Final figures for 1987-88 are not yet available. The latest estimate of the total cost is £9,739.

Official Residences (Costs)

Mr. Tony Banks: To ask the Prime Minister if she will provide the final figure for 1987-88 for (a) the cost of maintaining and running 10 Downing street and additional costs at Chequers; (b) the grant-in-aid to the Chequers Trust; and (c) the costs on a consistent basis and expressed at constant 1984-85 prices.

The Prime Minister: Final figures for 1987-88 are not yet available. The latest estimates of the figures requested are:

	£
a: cost of maintaining and running 10 Downing street and additional costs at Chequers ^{1,2,3}	5,278,618
b: the grant-in-aid to the Chequers Trust	224,000
c: figures at a. and b. in 1984-85 price terms ⁴	a: 4,593,956 b: 194,946

Notes:

¹ The figures include costs at both 10 Downing street and Chequers. The information is not available by location.

² Salaries and wages, notional pension liability, administration costs, the costs of office services and the grant-in-aid to the Chequers Trust are included. The salary of the Prime Minister is excluded.

³ This total is calculated on a consistent basis with the total for 1986-87 given in sub-paragraph (a) of the reply to the hon. Member on 23 October 1987, at column 846. If office services costs are excluded (to produce a figure consistent with those at sub-paragraph (c) of that reply) the total for 1987-88 is £4,774,143 (£4,154,914 at constant 1984-85 prices).

⁴ Constant costs have been calculated using the Treasury's GDP deflator for 1986-87 rebased to 1984-85.

Official Expenditure

Mr. Tony Banks: To ask the Prime Minister what was the total cost to public funds of all her offices, duties, accommodation and expenses in the year 1987-88.

The Prime Minister: Final figures for 1987-88 are not yet available. The latest estimate of the total cost of all my offices in 1987-88 is £5,312,016¹.

Note:

¹ Salaries and wages, notional pension liability, administration costs and the grant-in-aid to the Chequers Trust are included. My salary as a Cabinet Minister is also included. My pay and allowances as a Member of this House are excluded.

Voluntary Bodies (Grants)

Mr. Pawsey: To ask the Prime Minister if she will list the total amounts paid in grants by Government Departments to voluntary bodies during the financial year 1986-87; and if she will make a statement.

The Prime Minister: The figures are shown in the table. The total amount provided in 1986-87 represents a cash increase of 4.4 per cent. (in real terms 1.1 per cent.) on the level of provision in 1985-86. In the period between 1979-80 and 1986-87 the level of Government support to voluntary bodies has risen by about 221 per cent. (in real terms 92.4 per cent.).

Grants by Government Departments in 1986-87

	£
*Agriculture, Fisheries and Food	171,700
*Defence	4,825,762
Education and Science	16,229,814
Employment	33,294,000
Energy	1,118,000
Environment—direct grants	3,612,417
—urban programme	76,011,000
*Foreign and Commonwealth Office	880,626
Overseas Development Administration ¹	26,825,713
Health and Social Security	35,075,544
Home Office	19,541,336
Lord Chancellor's Department	726,743
Northern Ireland Department	14,974,781
Scottish Office—direct grants	8,970,443
—urban programme	16,600,000
Trade and Industry	8,689,088
Transport	636,000
Welsh Office—direct grants	8,467,801
—urban programme	2,850,000

¹ During 1986-87 there was a decrease in requests from voluntary agencies for grants in support of disaster, refugee and other emergency relief measures. This programme is, by its nature, reactive rather than planned. The other forms of support from the aid programme for voluntary agencies for their longer term development work increased substantially during 1986-87.

Employment

In addition, payments were made directly to voluntary bodies under various employment programmes.

	£
Manpower Services Commission	
Community Programme	430,000,000
Voluntary Projects Programme	8,250,000
Youth Training Scheme	125,000,000

The MSC makes payments to voluntary bodies under other programmes, but these cannot be given in detail except at disproportionate cost.

	£
Northern Ireland Office (Department of Economic Development)	
Community Workshops	15,500,572
Action for Community Employment Scheme	24,474,008
Community Volunteering Scheme	654,718
Youth Community Projects	724,191
Youth Help	712,303

Departments also made grants and payments to housing associations and societies, these are as follows:

	£
Department of the Environment	642,700,000
Northern Ireland Office (Department of the Environment)	41,571,238
Scottish Office	107,571,238
Welsh Office	56,600,213

Grants made to voluntary bodies in 1986-87 by non-departmental public bodies include the following:

	£
Equal Opportunities Commission	41,866
Commission for Racial Equality	1,835,210
Countryside Commission	2,825,000
Countryside Commission for Scotland	342,491
Health Education Council	738,000
Highlands and Islands Development Board	666,895
Nature Conservancy Council	1,765,072
Sports Council	15,446,000

	£
Sports Council for Northern Ireland	405,189
Sports Council for Scotland	2,454,891
Sports Council for Wales	1,576,465

10 Downing Street (Staff)

Mr. Tony Banks: To ask the Prime Minister what was the staff complement of No. 10 Downing Street in 1987-88, and how many were registered disabled.

The Prime Minister: The total staff complement of 10 Downing Street in 1987-88 was 67. None was registered disabled.

Official Travel

Mr. Tony Banks: To ask the Prime Minister what was the total cost to public funds of travel by the Prime Minister and accompanying officials in 1987-88.

The Prime Minister: Final figures are not yet available and cannot be provided in the precise form requested. The latest estimate of the total cost of my travel and that of my staff in 1987-88 is £26,712.

Ms. Tony Banks: To ask the Prime Minister if she will make it her policy to use British Rail trains for travelling on official occasions, and if she will make a statement.

The Prime Minister: I regret that for reasons of practicality and security it is difficult for me to travel by rail on official business. I do so when a suitable opportunity arises.

NATIONAL FINANCE

Taxation Incentives

4 Mr. Cryer: To ask the Chancellor of the Exchequer if he will make a statement on the effect of taxation incentives on the economy.

Mr. Brooke: High taxes discourage the effort, enterprise and initiative which are essential for a strong and growing economy.

Capital Taxation

11 Mr. Bevan: To ask the Chancellor of the Exchequer what responses he has received to his Budget proposals for changes in capital taxation.

68 Mr. Carrington: To ask the Chancellor of the Exchequer what responses he has received to his Budget proposals for changes in capital taxation.

Mr. Lilley: My right hon. Friend's proposals have been well received.

Income Tax

19 Mr. John M. Taylor: To ask the Chancellor of the Exchequer what has been the real increase in the yield of income tax from the top 5 per cent. of taxpayers since 1978-79.

Mr. Norman Lamont: Compared with 1978-79, the income tax liability of the top 5 per cent. of taxpayers was some £3 billion higher in real terms in 1987-88.

24 Mr. Oppenheim: To ask the Chancellor of the Exchequer how the income tax revenue received from the

top 5 per cent. of income earners has changed in each year from 1983, and what is his estimate for the coming financial year.

Mr. Norman Lamont: The income tax paid by the top 5 per cent. of taxpayers in each year since 1983 is as follows:

	£ billion	£ billion at 1988-89 prices
1983-84	8.5	10.3
1984-85	9.3	11.0
1985-86	11.2	12.5
1986-87	12.1	13.1
1987-88	13.2	13.7
1988-89	12.5	12.5

34 Mr. Henderson: To ask the Chancellor of the Exchequer what representations he has received from the CBI on the tax reductions for top taxpayers announced in the Budget.

Mr. Norman Lamont: The CBI's Budget document called for cuts in the top marginal rates of income tax to improve incentives. Commenting on the Budget the CBI president said:

"This is the Budget we have been waiting for. It will help maintain the momentum of Britain's economic recovery. It reflects CBI priorities... in particular it will provide greater incentives for all in British business."

35 Mr. Anthony Coombs: To ask the Chancellor of the Exchequer by how much he expects the income tax revenue from the top 5 per cent. of income earners to rise following the announcement in his Budget, and what proportion he estimates this will be of total income tax revenue.

Mr. Norman Lamont: The top 5 per cent. of taxpayers paid £13.2 billion income tax in 1987-88, 30 per cent. of the yield, while in 1988-89 the top 5 per cent. of taxpayers are expected to pay £12.5 billion, 28 per cent. of the yield. The calculation makes no allowance for any changes in taxpayers' behaviour as a result of the changes in the Budget.

36 Mr. Patrick Thompson: To ask the Chancellor of the Exchequer what proportion of total income tax he expects to be paid by the top 5 per cent. of taxpayers in 1988-89, and what was the equivalent figure in 1978-79.

44 Mr. Neil Hamilton: To ask the Chancellor of the Exchequer what proportion of total income tax he expects to be paid by the top 5 per cent. of taxpayers in 1988-89, and what was the equivalent figure in 1978-79.

66 Mr. Tim Smith: To ask the Chancellor of the Exchequer what proportion of total income tax he expects to be paid by the top 5 per cent. of taxpayers in 1988-89, and what was the equivalent figure in 1978-79.

Mr. Norman Lamont: It is estimated that in 1988-89 the top 5 per cent. of taxpayers will pay 28 per cent. of total income tax. The corresponding figure for 1978-79 was 24 per cent. The estimate for 1988-89 is provisional.

41 Mr. Squire: To ask the Chancellor of the Exchequer what representations he has received in favour of introducing an initial rate of income tax at a lower level than the proposed standard rate.

Mr. Norman Lamont: My right hon. Friend has received very few representations on this subject.

DRAFT PARLIAMENTARY QUESTION ON THE SCRUTINY OF GOVERNMENT FUNDING OF THE VOLUNTARY SECTOR

TO BE TABLED ON *WED* 19 APRIL] FOR ANSWER ON *THURS* 20 APRIL]

[Mr James Pawsey (Rugby and Kenilworth): To ask the Secretary of State for the Home Department what plans he has for a review of Government funding of the voluntary sector.

DRAFT REPLY

Government funding of the voluntary sector has risen steadily over the last decade and now amounts to some £2 billion. It serves a wide variety of valuable purposes in areas ranging from health care to employment and training and to the environment. The Government acknowledges the voluntary sector's important position as a third force alongside the public and private sectors of the economy and the valuable contribution which it makes.

The Government has concluded that it would timely to examine its funding of the voluntary sector with a view to ensuring that the purposes for which grants are made are properly defined and *by have a beneficial purpose* consonant with wider Government objectives; and that funds are being effectively and efficiently deployed. *in a way which gives practical help to those who are the object of that purpose.*

The Government has decided, therefore, to set in hand an Efficiency Scrutiny of Government funding of the voluntary sector. Its terms of reference will be to examine:

- i) the full range of programmes for Government funding of the voluntary sector;
- ii) the purposes for which financial provision is made under these programmes;
- iii) the different types of funding employed;
- iv) arrangements for the identification and selection of suitable voluntary organisations for particular tasks, for the setting of objectives and the monitoring and review of performance and results;
- v) arrangements for the administration of the programmes;

and to make recommendations for achieving cost effective improvements where necessary.

The matters to which the scrutiny will have regard include:

- i) the need for improvements in the procedures for agreeing payment of grants and in the conditions under which grants are awarded, to ensure that Government funds are applied properly and without waste;

- ii) the need for standard conditions in respect of political activities, campaigning, equal opportunities etc;
- iii) whether there is scope for standard criteria to be followed in agreeing grant applications and setting priorities;
- iv) ways of improving the setting of objectives both for particular projects and for continuing funding;
- v) the scope for improving the arrangements for evaluation and monitoring of the work carried out with Government funds by (a) periodic review and (b) regular monitoring;
- vi) methods of devising measures of performance both for continuing and short-term grants;
- vii) the levels at which financial authority is exercised under various programmes;
- viii) the information about the purposes of a particular programme made available (prior to application) to those seeking funding;
- ix) the benefits or otherwise of standard grant application procedures, taking account of the different circumstances where there is open application and where a single organisation is supported.

Such a wide-ranging scrutiny is unprecedented. It has therefore been agreed that it will be carried out by a team of officials from a number of Government Departments led by Mrs Juliet Reisz (Home Office) under the Ministerial supervision of a group of Ministers chaired by my hon Friend the Member for Oxford West and Abingdon (Mr Patten). I expect to receive the scrutiny report in September.

✓ as amended JP.

B

DRAFT QUESTION

To ask the Prime Minister if she will list the total amounts paid in grants by Government Departments to voluntary bodies during the financial year 1987/88; and if she will make a statement.

DRAFT REPLY

The figures are shown in the table. The total amount provided in 1987/88 represents a cash increase of 4.6 per cent on the level of provision in 1986/87. In the period between 1979-80 and 1987-88 the level of Government support to voluntary bodies has risen by 237 per cent (or in real terms 91.6 per cent).

Grants by Government Departments in 1987/88

	£
Agriculture, Fisheries and Food	187,765
Defence	5,297,319
Education and Science ⁽¹⁾	7,207,000
Employment	40,289,647
Energy	1,067,187
Environment - direct grants	6,160,502
- urban programme	66,644,000
Foreign and Commonwealth Office	1,202,750
Overseas Development Administration	42,475,571
Health and Social Security	36,571,661
Home Office	21,945,889
Lord Chancellor's Department	712,000
Northern Ireland Department	14,263,793
Scottish Office - direct grants	9,790,137
- urban programme	20,400,000
Trade and Industry	9,069,000
Transport	671,000
Welsh Office - direct grants	5,530,466
- urban programme	3,430,000
<hr/> Total	<hr/> 292,915,687

(1) The 1979/80 figure for DES included £3,736,000 paid to certain adult education bodies. These have been excluded in later years as not being strictly speaking, grants to voluntary organisations. In addition the sum listed for DES grants is lower than in previous years because i) responsibility for grants to village halls and community centres has now been transferred to local government; and ii) a number of other bodies included hitherto are no longer classified as voluntary bodies.

Employment

In addition, payments were made directly to voluntary bodies under various employment programmes.

	£
Training Agency (formerly Manpower Services Commission):	
- Community Programme	564,400,000
- Voluntary Projects Programme	8,700,000
- Youth Training Scheme	118,305,000
	<hr/>
Total	691,405,000

The MSC and the Department of Employment made payments to voluntary bodies under other programmes but these cannot be given in detail except at disproportionate cost.

Northern Ireland, Department of Economic Development

	£
Action for Community Employment	27,674,880
Community Workshops	16,180,266
Community Volunteering Scheme	645,000
Youth Community Project	757,000
Youth Help	750,295
	<hr/>
Total	46,007,441

Departments also made grants and payments to housing associations and societies, these are as follows.

Department of Environment	923,040,000
Northern Ireland Office	
(Department of the Environment)	43,000,000
Scottish Office	115,319,000
Welsh Office	56,600,000
	<hr/>
Total	1,137,959,000

Grants made to voluntary bodies in 1987/88 by non-departmental public bodies include the following.

	£
Equal Opportunities Commission	69,044
Commission for Racial Equality	1,884,358
Countryside Commission	2,900,000
Countryside Commission for Scotland	502,310
Health Education Council	729,000
Highlands and Islands Development Board	797,920
Nature Conservancy Council	2,140,501
Sports Council	16,203,000
Sports Council for Northern Ireland	431,232
Sports Council for Scotland	2,319,285
Sports Council for Wales	1,486,347
Total	29,462,997

Grand total 2,197,750,125

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Copies

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CONFIDENTIAL

PRIME MINISTER

18 April 1989

WHITE PAPER ON CHARITIES

The Government will shortly be responding to the report of the Woodfield Committee which scrutinised the Charity Commission. The White Paper and subsequent legislation will be a major event in the charity world.

Much of the White Paper will be taken up with important but detailed matters concerning the financial regulation of charities, and the role and power of the Charity Commission. It is essential that the Commission are given up-to-date powers and means to supervise charities effectively. The public need to have confidence that their money is being used for the ends for which it was given.

But the first part of the White Paper, which Douglas Hurd has just circulated, deals with a different set of issues:

- (1) the legal definition of charities;
- (2) cults;
- (3) political activities by charities.

He describes these as the "green chapter".

Efficiency scrutiny of voluntary sector

Douglas Hurd has circulated separately a draft Question and Answer announcing an efficiency scrutiny of Government funding of the voluntary sector. He proposes that this should be answered this week, at the same time as you answer the annual question on the level of Departmental grants to voluntary bodies.

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There is a strong argument for holding up both Questions until the Charities White Paper is published in May. This is explained below.

The legal definition of charities

This is based on an Elizabethan statute, made more practical by a classification pronounced by Lord Macnaughten in 1891.

People have regularly questioned a legal definition which includes the public schools, and religious groups such as the Moonies. It is worry about the latter - financed with the help of tax reliefs available to all charities - which has led most recently to pressure to change the law.

Douglas Hurd argues that any new definition would be bound to leave some perfectly respectable charities on the wrong side of the definition. He has reached this conclusion after detailed discussions with voluntary bodies and solicitors working in the field. Lawyers feel that any new statutory definition which involved discarding existing case law would make matters worse. But if the existing case law continued to be relevant, there would seem little point in changing the statutory definition.

The White Paper concludes that there would be few advantages in attempting a new definition of charitable status, and many disadvantages in trying to do so. But it says that the Government's mind is not entirely closed, and invites comments.

Cults

Because the pressure for change in the law mostly comes from those who are concerned about the activities of some very doubtful religious groups, paragraphs 18 - 36 of the

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White Paper considers whether the law might at least be amended to exclude from charitable status religious organisations whose activities are deemed undesirable. It concludes that this would be very difficult. It would either involve removing charitable status for trusts set up to advance religion; or requiring various religious bodies to demonstrate that the advancement of their religion was a positive public good. Both courses would be fraught with difficulty.

The White Paper argues that the way to tackle groups such as the Moonies is through greater use of the Charity Commission's powers to investigate conduct which is in breach of trust, or marginal to an organisation's objects.

Action of this kind was started against the Moonies. It fell because of lack of evidence. Hence the White Paper's emphasis (in paragraph 34) on the need for determined pursuit of evidence.

Political activities by charities

Here the White Paper reiterates the guidance issued by the Charity Commission, which in turn reflects the present law. It says that this provides an adequate framework for the future. In the words of the White Paper

'The decision on what is permissible in the way of political activities is best left to the good judgement of the trustees of individual charities who know that, in cases where the restrictions appear to be breached, the Charity Commissioners will take vigorous action with the support of the Attorney General.'

Comment

The arguments in the section of the White Paper which Douglas Hurd has sent you are broadly right. An attempt to redefine

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what is, and what is not, a charity would be enormously contentious. It is not clear that we would end up with a more satisfactory definition at the end of the day.

The reaffirmation of the present legal position on the political activities of charities will be an important background to the proposed scrutiny of Government funding of the voluntary sector.

Scrutiny

This arose out of the concern you expressed last year at the haphazard arrangements whereby individual Government Departments make grants to a wide range of voluntary bodies. The terms of reference of the scrutiny say that the Government will examine its funding of the voluntary sector.

"with a view to ensuring that the purposes for which grants are made are properly defined and consonant with wider Government objectives; and that funds are being effectively and efficiently deployed".

free practical help to whom who are the beneficiaries of the charitable purpose.

This could be interpreted as possible

There is a subtle point here which could easily be misrepresented.

- The Government is saying that it reserves the right to remove its money where this is being used in ways which are contrary to the Government's wider objectives.
- But as the White Paper makes clear, the Government is not proposing to take a tougher line on the charitable status of voluntary bodies which express unsympathetic political views.

The scrutiny is timely, and well-justified. But it will be misrepresented by some as an attack on charities who criticise the Government.

You - i - will

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It would be helpful to be able to refer to the White Paper's clear line on political activities in order to scotch such mischief-making. This points to answering the two Questions immediately after the publication of the White Paper in May.

Peter Brooke has written suggesting that the section on political activities should be taken out of the chapter "What is a charity" and put in the section on "Powers to deal with abuse". This looks unwise.

The scrutiny will give the clearest possible signal to charities in receipt of Government funds. This is likely to prove more telling than the threat of investigation of political activities by the Charity Commission. It has the added advantage of avoiding putting the Government in the position of appearing partisan in its interpretation of charity law. (Peter Brooke's approach gets close to this). All the Government would be saying was that it did not choose to fund activities which were contrary to its objectives.

Conclusion

- Agree that the "green" chapter of the White Paper on charities can be published as drafted.
- But ask that the draft Questions and Answers on the scrutiny, and on the total amounts paid by Government to voluntary bodies, be held up until the White Paper has been published.
- This will allow any misconceptions about the purpose of the scrutiny to be met by reference to the White Paper's clear restatement of the present law on the political activities of charities.



CAROLYN SINCLAIR

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PRIME MINISTER

*Weekend base.
mt*

CHARITIES AND GRANTS TO VOLUNTARY BODIES

Papers are now available on two inter-related issues:

At Flag A: Douglas Hurd has circulated a draft of a chapter of his forthcoming White Paper on charities. This addresses the issues of the legal definition of charities, cults and political activities by charities. He seeks agreement to a slightly 'green' chapter which concludes against any fundamental change in the law in these areas.

At Flag B: is a further letter from Douglas Hurd's office seeking agreement to simultaneous Written Answers:

- giving the usual details of annual expenditure by Government departments on grants to voluntary organisations;
- announcing the establishment of an efficiency scrutiny of Government funding of the voluntary sector (this is in response to your earlier concerns about the hap-hazard arrangements for grants to voluntary bodies).

The timetable Douglas Hurd envisages for these exercises is to publish his charities White Paper in May, but to give the Parliamentary Answers on grants to voluntary bodies and the scrutiny on 20 April. The Policy Unit are concerned about this lack of co-ordination. Carolyn Sinclair's note at Flag C advises:

- that the terms of the PQ Answer announcing the scrutiny could be misconstrued if these cannot be set in the context of the charities White Paper;

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- 2 -

- it would therefore be better to defer the two PQ Answers until the White Paper is published;
- but that the proposed terms of the 'green' chapter of the charities White Paper are acceptable;
- the material on political activities should be retained in the 'green' chapter of the White Paper rather than being moved to a 'white' chapter as the Paymaster General has advocated (Flag D).

Content for me to minute out in the terms recommended by the Policy Unit?

AGG.

PAUL GRAY

18 April 1989

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HOUSE OF LORDS,
LONDON SW1A 0PW

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18 April 1989

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Dear Douglas,

White Paper on Charities : Chapter on Charitable Status

You copied to me your letter of 10th April *file with RG* addressed to Sir Patrick Mayhew enclosing this draft chapter. I am pleased to have had the opportunity of looking at this. I have no comments to make. I look forward to seeing the remainder of the White Paper in due course.

I am copying this letter to those who received your letter.

Yours ever,
James.

The Right Honourable
Douglas Hurd CBE MP
Home Office
Queen Anne's Gate
London SW1H 9AT

Econ P51 Taxation of charities

March 1985



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ROYAL COURTS OF JUSTICE

LONDON, WC2A 2LL

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The Rt Hon Douglas Hurd CBE MP
Secretary of State for the Home Department
Home Office
Queen Anne's Gate
London
SW1H 9AT

17 April 1989

Dear Douglas:

WHITE PAPER ON CHARITIES:
CHAPTER ON CHARITABLE STATUS

will PR?

Thank you for your letter of 10 April. I warmly support the terms of the "Green" chapter you propose to include in the White Paper. I agree that a case has not been made out for any fundamental change in the law, and that we should not distract attention from the recommendations of the Woodfield efficiency scrutiny.

The question of the control of religious charitable organisations is, I expect, bound to be of considerable public interest but I am sure that it is right to canvass the option of increasing the Charity Commissioners powers to the limited extent outlined and not to seek any greater measures of regulation.

My only comment on the text of the "Green" chapter is to suggest that the citation from Cross J. at paragraph 20 might usefully be followed by a reference to the more recent case in the High Court of Australia, Church of the New Faith v Commissioner of Pay-roll Tax (Victoria) (1983) 83 A.T.C. 4652 (the Australian Scientology case), which would

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certainly be a persuasive authority in England. In that case Mason A.C.J. and Brennan J. said,

"There can be no acceptable discrimination between institutions which take their character from religions which the majority of the community recognises as religious and institutions which take their character from religions which lack that general recognition".

I attach a suggested revision of paragraph 20 to take account of this case.

I am copying this letter to the **Prime Minister**, to Nigel Lawson, James Mackay, John Wakeham, John Belstead, Bertie Denham, and to David Waddington.

Lawson

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Appendix

para. 20 - first six lines unchanged.

Insert 'More recently, in the Australian Scientology Case³, Mason A.C.J. and Brennan J. of the High Court of Australia said that:

"There can be no acceptable discrimination between institutions which take their character from religions which the majority of the community recognises as religious and institutions which take their character from religions which lack that general recognition".

These dicta are important.....' (rest unchanged).

3. Church of the New Faith v Commissioner of Pay-roll Tax (Victoria) (1983) 83 A.J.C. 4652.

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Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Douglas Hurd CBE MP
Secretary of State
Home Office
50 Queen Anne's Gate
LONDON SW1H 9AT

17 April 1989

Dear Douglas,

Thank you for letting me see your proposed draft "green" chapter on the statutory definition of charity, cults, and political activities by charities.

I agree that it would be useful to open up the discussion of these wider issues at this stage. This should mean that we will have a clearer run in the passage of legislation later in this Parliament on the new supervisory powers for the Charity Commission.

I am doubtful however about the inclusion of the issue of political activities by charities in this otherwise "green" chapter. I believe that this might give the impression of hesitancy in tackling this problem, although I recognise that this is far from your intention.

In my view it would be more effective if the discussion of political activities were included in the "white" chapter on "Powers to deal with Abuse". You may also like to strengthen your proposed approach by making it clearer that, with its new powers, the Commission will take a proactive role in monitoring possible political abuse and will give this form of abuse a higher priority in its investigative activities.

I am copying this letter to the Prime Minister, James Mackay, John Wakeham, John Belstead, Patrick Mayhew, Bertie Denham and David Waddington.

L. Hurd

Pm

PETER BROOKE

ECON POL: Taxation of
Charities
Mar 25





10 DOWNING STREET

C.F.

I have agreed with Carly-
Sinden etc with date be
first choice ~~at~~ until
we receive a separate note
from the Secretary regarding
a proposed scouting of
the voluntary seats / charities.
Pl. look at the hat note and
let ~~me~~ me, rather than one of
the other PSs, take it to the
carriers. B/F is any case
a Wednesday.

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QUEEN ANNE'S GATE LONDON SW1H 9AT

10 April 1989

Dear Patrick

WHITE PAPER ON CHARITIES: CHAPTER ON CHARITABLE STATUS

As you know, we have been preparing a White Paper on charities in anticipation of legislation before the end of the life of this Parliament.

The bulk of the White Paper will be devoted to proposals for implementing the recommendations of Sir Philip Woodfield's Efficiency Scrutiny of the Supervision of Charities. But we clearly need to look also at certain more fundamental issues.

Three of these stand out:

- the statutory definition of charity;
- cults;
- political activities by charities.

I propose that the White Paper should include a 'green' chapter discussing these issues, and would be grateful for your views, and those of colleagues, on the attached draft. I shall circulate the entire text of the White Paper in due course, but I thought it would be best to seek preliminary reactions on what is likely to be, politically, the most sensitive material.

only officials?
Charitable status is a highly technical matter, and the draft is the product of extensive consultation and lengthy and detailed discussions between our officials and others. The consensus which has emerged, and by which I am persuaded, is against any fundamental change in the law. I also have in mind that radical proposals in this area might well distract attention from what I regard as the more pressing need to reform the Charity Commission and give it sharper teeth. The arguments are not, however, all

/one way,

The Rt Hon Sir Patrick Mayhew, QC, MP
Attorney General

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one way, and we need to take account of the strong feelings which have been expressed, particularly about cults. In recognition of this the chapter exposes the difficulties and indicates the Government's view but does not commit us irrevocably to any particular position. Our aim has been to make the implications of change clear to lay readers who are interested in the issues but who may have a limited understanding of the law.

I am copying this letter and the enclosure to the Prime Minister, and to Nigel Lawson, James Mackay, John Wakeham, John Belstead, Bertie Denham and David Waddington.

I should be grateful for an early reply.

Yours,
Douglas.

'GREEN' CHAPTER ON CHARITABLE STATUS

The Efficiency Scrutiny which preceded this White Paper examined the whole range of statutory requirements in England and Wales which govern the setting up, registration and supervision of charities. Sir Philip Woodfield was asked to conduct his review on the assumption that there was to be no change in the law relating to the definition of charitable status, or in the fiscal reliefs available to charities.

2. This White Paper does not deal at all with the question of fiscal relief for charities. That is not its purpose. The great majority of its proposals relate to the implementation of those of Woodfield's recommendations which require legislation. The Government have, however, thought it right to consider whether the law on charitable status should be clarified and simplified, and in particular whether the time has now come to put it on a statutory basis.

3. In considering the question of charitable status the Government have taken note of the deliberations of the Nathan and Goodman Committees, both of which went into the subject in some depth. They have also taken into account the views expressed more recently at seminars which have been held by the Home Secretary and the Charity Commission. These seminars were designed to test opinion in the legal and charitable worlds and were attended, amongst others, by Chancery judges.

4. The view of the legal experts and of others who were present on these occasions was not, as might be expected, unanimous on all points, but was quite clearly against any substantive change in the present law. The Government incline to agree with this view, which accords with the majority of opinions put to them by voluntary and other interested bodies. Nevertheless, the Government's mind is not entirely closed. They would welcome the views of others on the issues which follow.

5. The starting point for the modern law of England and Wales is found in the preamble to the Statute of Elizabeth I (the Charitable Uses Act, 1601). Guidance on what was to be considered charitable was found there in a list of objects which included:

'relief of aged impotent and poor people the maintenance of sick and maimed soldiers and mariners, schools of learning, free schools and scholars in universities, the repair of bridges, ports, havens, causeways, churches' and others.

6. For all practical purposes the courts have, for many years, accepted the classification which was made by Lord Macnaghten in 1891 in what has now become well known as the 'Pemsel' case.¹ This classification (which does not constitute a definition) reads as follows:

¹ Income Tax Special Purposes Commissioners v Pemsel [1891] A C 531

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"Charity in its legal sense comprises four principal divisions - trusts for the relief of poverty, trusts for the advancement of education, trusts for the advancement of religion, and trusts for other purposes beneficial to the community, not falling under any of the previous heads."

Lord Macnaghten's classification has largely superseded the 1601 preamble, though, in doubtful cases which arise under the head of "purposes beneficial to the community", the courts still refer to the preamble for guidance.

Development of the law

7. The loose framework, which was set by the 1601 preamble and clarified by Lord Macnaghten, has enabled the courts over the years to develop the law in a way which has been sensitive to changing needs whilst maintaining the fundamental principles on which the concept of charity rests. It has been argued that on the whole, given the increasing complexity of society, this development has been remarkably coherent and consistent. The scope of education, for example, has been gradually extended to cover not just free schooling but a whole range of objects of a broadly educational nature, such as research and information services, which are considered to be of public benefit.

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8. The scope of charity, as it applies to organisations concerned with the advancement of religion, has been similarly widened in response to increasing religious toleration and to cultural diversity. Under the fourth head, in particular, the courts have admitted, under the umbrella of charity, a remarkable range of bodies which have been established by benefactors who have discerned new public needs and who have responded to them.

9. If the main lines of the law's development are clear, it is fair to say that its results in detail are not always tidy and can sometimes be confusing, even to experts. It is perhaps not surprising that, as the threads reaching back to 1601 get longer and as the analogies which the courts employ become more extended, so the rationale for decisions on charitable status should not always be immediately apparent. This has undoubtedly led to a degree of uncertainty about the interpretation of the law which can inhibit innovative bodies from seeking charitable status. Some critics, however, go further. The law, they say, is now so complex and tangled that it is bound to lead to some decisions which can only be described as illogical or capricious.

10. Against this background, it has been proposed from time to time, that a definition of charity should be formulated and given statutory effect. This might be achieved in one of the following ways:

- i) by listing the purposes which are deemed to be charitable;

- ii) by enacting a definition of charity based on Lord Macnaghten's classification; or
- iii) by defining "charitable purposes" as "purposes beneficial to the community."

11. The Government consider that an attempt to define charity by any of these means would be fraught with difficulty, and might put at risk the flexibility of the present law which is both its greatest strength and its most valuable feature. In particular, they consider that there would be great dangers in attempting to specify in statute those objects which are to be regarded as charitable.

12. Even if it was possible to draw up a list which could command a reasonable measure of agreement it might well lead to the exclusion of trusts which have long been treated as charitable, depriving them of any means of enforcement. A list might be inflexible and quickly outdated by changing public opinion. Listing the details in statute would not evade for long the problems which are inherent in any system of case law. Disputes would undoubtedly quickly arise on which the courts would be asked to adjudicate. There is no reason to believe that a new body of case law would be any less complex than the old.

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13. In the Government's view, it would be scarcely less difficult to try to enact the whole of Lord Macnaghten's classification. As a classification, the formulation has proved of enduring use. As a definition, its advantages are much less compelling.

14. Unless it were proposed to preserve the present case law, the incorporation of Lord Macnaghten's classification into statute would throw the law into confusion and uncertainty by depriving the courts of recourse to previous decisions when they were asked to interpret the new statutory provisions. On the other hand, if some form of words were to be found which would successfully preserve the present valuable case law, it is hard to see what the new definition would achieve.

15. Defining "charitable purposes" as "purposes beneficial to the community" would have the merit of simplicity but this would also be open to major objections. Such a definition would allow the courts to admit to charitable status virtually any organisation which was not obviously for private benefit or profit. A definition on these simple lines, which was intended to supersede existing case law, would greatly expand the ambit of charity in ways which might be far from desirable. It would be notably subjective and would be likely to give rise to a great deal of litigation.

16. An attempt might be made to make clearer exactly what is meant by 'public benefit' by reference to existing case law and by incorporating

the other heads of charity into the general formula. The more that detail becomes added in this way, however, the fewer appear the advantages of a new definition. Instead of being simplified the law would be ossified.

17. There would appear, therefore, to be few advantages in attempting a wholesale redefinition of charitable status - and many real dangers in doing so. Nevertheless, it might be desirable to make one or two minor adjustments to the present law. The Government have considered whether useful changes could be made in two areas - the advancement of religion and political activities.

Religion

18. Although, for historical reasons, it received only indirect mention in the preamble to the 1601 statute, the advancement of religion has always been a charitable object. Indeed, the very concept of charity is essentially religious in origin.

19. With the growth in religious toleration, and with the development of a multi-cultural society in the United Kingdom, the courts have progressively admitted to charitable status a variety of Christian and other religious faiths. Gifts to dissenting Protestant churches and for the advancement of the Jewish and Roman Catholic faiths have been upheld by the courts as being of charitable purpose. The Commissioners have

also registered trusts for the advancement of the Hindu, Sikh, Islamic and Buddhist religions.

20. The present position is that any religious body is entitled to charitable status so long as its tenets are not morally subversive and so long as its purposes are directed to the benefit of the public. The modern attitude of the courts is summed up in the often quoted remark of Mr Justice Cross: "As between religions the law stands neutral, but it assumes that any religion is at least likely to be better than none."¹² . This dictum is important in drawing attention to the understandable reluctance of the courts to judge the relative worth of different religions or the truth of competing religious doctrines, all of which may have a place in a tolerant and culturally diverse society.

21. The importance of religion as a fundamental spring of charity can scarcely be overestimated. It is part of the make up of Man to want to give. It is part of the ethics of most religions to encourage that.

22. Trusts for the advancement of religion have contributed much to the spiritual welfare of generations of individuals and to the sound development of our society. Nevertheless, the question has been raised from time to time as to whether trusts which are set up to further certain religious groups should be entitled to charitable status. Anxieties have been expressed, in particular, about a number of organisations whose

² Neville Estates Ltd v Madden [1962] Ch 832, at 853

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influence over their followers, especially the young, is seen as destructive of family life and, in some cases, as tantamount to brainwashing.

23. The Government have considerable sympathies for these anxieties. They have considered whether it might be possible to amend the law in such a way as to exclude those religious organisations whose activities are deemed undesirable. Their conclusion is that there are great difficulties in the way of doing so, but they would welcome views as to how this might be achieved, and in particular on the suggestions which follow.

24. It has been suggested that the problem would be solved if charitable status were removed from all trusts which are established to advance religion - of whatever type and without exception. This proposal has, at least, the merit of simplicity. It would also avoid the need to make invidious comparisons between different religions. While the advancement of religion might cease to be a charitable object, religious organisations would still remain free to propagate their doctrines and, if they so wished, to promote and to administer trusts for such purposes as the relief of poverty which would remain charitable as before.

25. The Government finds the whole concept of removing charitable status from religious trusts unattractive and believes that it would be resisted vigorously, not just by the religious bodies who would be affected, but also by the great majority of the public. The removal of religion as

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a head of charity would leave many existing trusts, some of which are of considerable antiquity, in an impossible legal limbo. The legal difficulties of resolving the subsequent uncertainties would be immense and might well prove insuperable. It is true that these difficulties could largely be avoided if trusts which were already in existence were preserved, and loss of charitable status was confined to organisations which were established after legislation. Drawing a line under religion in this way would, though, be difficult to justify: there would be little justification for denying charitable status to new trusts for religious purposes of an existing denomination. Such a policy would, in any event, do nothing to deal with the problems presented by organisations which already exist and which have acquired charitable status.

26. Alternative suggestions for tightening the law concentrate on the criterion of 'public benefit'. A trust for the advancement of religion is presumed to be for the public benefit unless that presumption is rebutted by evidence to the contrary. This presumption reflects the reluctance of the courts to enter into questions of the comparative worth of different religions. Although the courts will not prefer one religion to another, they will decide in the light of evidence which is placed before them whether or not there is a benefit to the community from the religious activity in question.

27. For some critics the neutrality of the law is objectionable, and suggestions have been made from time to time that the presumption of

public benefit should be removed and that it should be replaced with a positive test of worth. The Goodman Committee, for example, suggested that those who seek charitable status for the promotion of religious movements should be required to satisfy the Charity Commissioners or the court that their advancement was for the benefit of the community "according to certain basic concepts which should be established". In summing up, the Committee proposed that religions which were "considered detrimental to the community's moral welfare" should be excluded from charitable status. However, the Committee offered no guidance on the content of the "basic concepts" which it had in mind. The Government would not regard it as satisfactory, nor do they consider that it would be likely to be acceptable to Parliament, that these concepts should be undefined and that they should be left to the interpretation of the Charity Commissioners or to the courts.

28. The difficulties of principle which the Goodman Committee encountered, in considering what criteria might be applied to religions, are formidable. So also are the practical difficulties which vary with the nature of the particular movement in question. If its aims are clearly not for the public benefit, that is in itself sufficient reason for refusing to register as a charity any trust which is established in order to advance them.

29. In some cases the undesirability of a doctrine may be clear enough. Sometimes, however, the objectionable feature may be only one element

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in a complex body of doctrine. The question would then arise whether that one element alone should be enough to justify refusal to register, bearing in mind that, in religious matters, it is often a single doctrinal element which is the cause of controversy.

30. Furthermore, with religious movements of the kind about which public anxiety has been expressed, it is not usually a question of whether their objects are contrary to the public interest. The question is whether, if the actual conduct of the movement causes harm, a trust which is set up to advance its beliefs should be deprived of charitable status on the grounds that they are not of public benefit.

31. The Charity Commissioners already have powers of inquiry available to them under section 6 of the 1960 Act. Where it appears that the charity's conduct is not in accord with its objects, and there has, therefore, been a breach of trust, the Commissioners can refer the matter to the Attorney General or use their powers under section 20. Chapter [] of this White Paper outlines the Government's proposals for strengthening these powers.

32. Where conduct is in breach of trust, or is marginal to the pursuit of an organisation's objects, action can generally be taken to restrain the trustees or their agents. Action of this kind does not affect an organisation's charitable status. But in exceptional cases where from a careful examination of all the circumstances the activities complained of

appeared to them to be directly and essentially expressive of the objects and tenets of a particular movement, the Charity Commissioners might nevertheless conclude that the pursuit of those objects was not beneficial, and hence not therefore being directed to charitable purposes. Should they reach this conclusion the Commission could remove the organisation from the register of charities under section 4(3) of the 1960 Act on the grounds that it no longer appeared to them to be a charity. Under section 5(3) of the Act the Attorney General can appeal against any decision of the Commissioners to remove or not to remove an organisation from the register.

33. The trustees of any organisation which is removed from the register may themselves appeal against that decision to the High Court under section 5(3). The Commissioners cannot take action under section 4(3) unless there is evidence which shows that such as exceptional course is justified. This is a sensitive area. Some religious movements evidently demand uncritical adherence from their members. Evidence of sufficient weight and cogency to justify removal from the register can be difficult to obtain.

34. Frustration with the difficulty of obtaining evidence against undesirable religious movements has led some commentators to suggest a change in the law. But no acceptable or relevant change in the law on charitable status would remove the need for evidence. Indeed, evidence which would be sufficient to refuse registration as a charity would be

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more, not less, difficult to obtain at the pre-registration stage when for practical purposes the organisation might not yet have begun to operate. In the light of this, the Government doubt whether it would be wise to attempt to introduce any new principle into the law. Their view is that the existing law is adequate. What is needed now is the determined pursuit of evidence in order to justify the bold use by the Commissioners of their powers of investigation and remedy.

35. The Government acknowledge the concern which underlies much of the recent public comment on the position of cults. Calls to strengthen the law may, however, rest on a mistaken view of what the law allows. This may be a reflection not just of the undoubted complexity of charity law, especially where it concerns charitable status, but also of the present wording of section 4(3) of the 1960 Act.

36. It is important both for the Commissioners and for trustees that the law in this area should be fully understood. The Government will, therefore, be considering whether it would be possible, whilst preserving the underlying principles involved, to amend section 4(3) in order to make it explicit that the Commissioners have the power to remove a body from the register where there is evidence that it is acting in pursuit of its objects in ways which are not for the public benefit.

Political activities by charities

37. There is a crucial difference between charities and non-charitable voluntary bodies. Any non-charitable voluntary organisation is entirely, and quite properly, free to support any cause which it wishes to support, and in any manner in which it wishes to do so, as long as it keeps within the law. In contrast, charities cannot have political objects. They are constrained by law to the reasonable advocacy of causes which directly further their non-political objects and which are ancillary to their achieving those. In this context, 'politics' does not mean only 'party politics' but political activity as it has been defined by the High Court in many cases which have been decided over the years. Charities may not, therefore, seek to influence the policies of local or central Government either at home or abroad. Nor may they advocate changes in the existing law, or even its retention, in a way which would not be in furtherance of their purposes.

38. The precise extent to which a charity may properly seek to influence Government and public attitudes is a difficult question. It turns, in individual cases, on the trusts of the particular charity concerned and on the manner and the context in which it proposes to bring issues into public discussion. The courts have, however, laid down certain basic principles. These were set out in the Charity Commissioners' Annual Report for 1981 and they have since been issued in the form of a booklet "Political Activities by Charities" which is intended for the guidance of trustees.

39. The Charity Commission's guidance is, broadly, to the effect that:

- governing instruments should not include a power to exert political pressure except in a way which is ancillary to a charitable purpose;
- the powers and purposes of a charity should not include the power to bring pressure to bear on the Government to adopt, to alter, or to maintain a particular line of action, although charities may present reasoned argument and information to Government.
- where the objects of a charity include the advancement of education or the power to conduct research, care must be taken to ensure that both objectivity and balance is maintained and that propaganda is avoided.

40. It follows from this guidance that charities are precluded from direct or indirect financial or other support of, or opposition to, any political party or individual or group which seeks elective office or any organisation which has a political object. Charities must not allow the proportion of effort and resources, which are devoted to persuasion, to become greater than that which is devoted directly to meeting its objects.

In other respects, the guidance at present allows considerable latitude.

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Charities can, for example, quite properly respond to invitations from Government to comment on proposed changes in the law. Where a Bill is being debated, they can legitimately supply members of either House with such relevant information and arguments as they believe will assist the attainment of their objects. Where this kind of action is in furtherance of their purposes, charities are free to present to government departments reasoned memoranda advocating changes in the law.

41. The Government believes that the safeguards which the law provides are indispensable to prevent what are essentially political factions or pressure groups from assuming the guise of charity. It is vital, in the long term interests of the public and charities alike, that political and charitable purposes should remain distinct. It would be wrong if taxpayers, through the Government, were to find themselves unwittingly distorting the democratic process by subsidising bodies whose true purpose was to campaign not so much for their beneficiaries as for some political end. Nor do the Government believe that the public would for long continue to display their generosity if charities were to ally themselves to causes with which individual donors might well differ strongly on political grounds.

42. There is no reason to believe that the vast majority of charities experience any great difficulty in complying with the law. There are, however, some signs that the public is anxious that the behaviour of a few charities may, on occasions, stray beyond the bounds of what is

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permissible or desirable. The Government have accordingly considered whether the law could with advantage be tightened.

43. Ministers welcome the advice and the guidance which charities can offer to Members of Parliament, to central and local government, and to other public authorities on a wide range of social problems. Charities should feel free to take the initiative in offering advice and opinions and in proposing changes in the law and should not need to wait to be invited to do so. The Government firmly believe, however, that such activities must remain ancillary to a charity's primary purposes, which must be clearly charitable and nonpolitical. Such activities must be kept subordinate to the non-political work of the organisation. They must not be allowed to predominate.

44. The Government's view is that this approach commands general agreement. The guidance issued by the Charity Commission, which derives from the present law, provides an adequate framework for the future. There is bound to be difficulty, and room for dispute, over the application of general guidance to particular instances. But, to alter the guidance by legislation could well have the disadvantage of laying down inflexible rules, instead of allowing the law to develop in the light of particular cases which may present features which cannot now be foreseen. Of course, there are at present some difficult borderline cases, but that would be so whatever general rules might be laid down.

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45. The Government's view is, therefore, that a rigid approach would not be sensible. The decision on what is permissible in the way of political activity is best left to the good judgment of the trustees of individual charities who know that, in cases where the restrictions appear to be breached, the Charity Commissioners will take vigorous action with the support of the Attorney General.

46. In cases of doubt, trustees can seek the guidance of the Charity Commission. Such guidance should be freely given, as it is at present. For trustees who unwisely insist on engaging in illegitimate political activity the powers of the Commissioners and the Attorney General are considerable. Trustees who stray too far can be held personally liable to repay to the charity any funds which have been spent on political activities. The Government's proposal to sharpen the Commissioners' powers of investigation, in order to enforce a remedy, will greatly strengthen their hand in imposing the proper degree of control.

ECON POL. Farah and Charles

March 1985





10 DOWNING STREET

Paul

You asked to see
this file today. See
top enclosure.

John

21/3/88.

Re: NFA now; I think
we just let Hartley's note rest
on the Ob. RRCC 21/3

Prime Minister
Do you want to follow up any
of Hartley's conclusions on PAs 7-8?

REC 6 12/2

PRIME MINISTER

12 February 1988

CHARITIES ROUND-UP

Over the last few years, as you probably know, I have tried to map out a coherent policy proposal on charities. I went to President Reagan's Private Sector Initiative Conference in Paris in 1986 which discussed what the Americans were doing. I carried this further when I went to America last September and I have kept this matter under review.

Last week the Home Secretary had a meeting on the Woodfield Report on Charities which I attended. Last July when you discussed this matter briefly with me in your study you asked what more you could do! I now set out my conclusions:

- (i) Reasons for having a policy
 - (ii) Objectives to this policy
 - (iii) Underlying problems
 - (iv) United Kingdom
 - (v) Europe
 - (vi) United States of America
 - (vii) Proposals to achieve the objectives
 - (viii) Conclusion
-

(i) Reasons for having a policy

- (a) Expediency: More people have more money in their pockets to give.
- (b) Philosophy: The political philosophy of enhanced personal freedom carries increased personal responsibilities (to him to whom much is given much will be expected!) Douglas Hurd has been calling for more personal responsibility at the Church of England Synod this week.
- (c) The face of capitalism: If capitalism is to retain the hearts and minds of middle Britain, it must be seen as an effective instrument to supply needs. Arguably, part of this is corporate giving both of time and money.
- (d) Efficiency: Abuses of charity rules harm the system.

(ii) Objectives of a Policy on Charities

- (a) To stimulate giving.
- (b) To stimulate volunteer work and corporate secondment.
- (c) To create the culture in which giving and working for charity is considered an automatic part of most people's adult lives.
- (d) Spreading good practice.
- (e) The promotion of partnership between the public and private sector for community and charity.
- (f) To avoid duplication.

(g) To avoid abuses of charity law.

(iii) The Underlying Problems

(a) Problem: Should Government openly say that any of the functions it performs should return wholly or in part to private charitable provision? Hospitals and schools for example were all previously charitable. Should charity step in as an extension of privatisation? This is largely unaddressed by Government. Ministerial statements have led to the usual answer, no in the case of hospitals, but yes in some areas in both hospitals and schools. Mildmay Mission Hospital (charitable) is taking over AIDS care and hospices (charitable) supplement the system. CTCs will join Church Schools as registered Charitable Trusts. But these are all add-ons to the system. The public are probably deeply divided over whether existing provision should return to charitable funding.

(b) Problem: Should the underlying culture of charities be made more candid? Should openly acknowledge an element of self-interest that is almost invariably present in charitable giving. This question needs to be addressed because if accepted, then this would almost certainly provide a big boost to charitable support as far more donors would see "what was in it for them"! However, this lack of "purity" might deeply offend some people in Britain. Others would argue that answering this question candidly was merely being honest and was avoiding current hypocrisy.

(c) Problem: Some companies are still unhappy that charitable giving should be done out of shareholders money.

(iv) The United Kingdom

This week the Attorney General told the House that he was not contesting the fact that the "Moonies" have charitable status in UK law! However, the "Charity World" in the UK (ie Charities Aid Foundation, the National Council for Voluntary Organisations etc) would probably not want any change in the law that might cut out the Moonies. They have just advised the Home Secretary that they strongly resist any move to redefine "Charity". That they say would "open a can of worms".

Sir Philip Woodfield's "Efficiency Scrutiny on the Supervision of Charities" recently concluded that the UK's 275,000 charities were in need of "extensive reform" (Annex A) by this was meant efficiency reforms rather than root and branch changes.

UK giving is climbing helped by the present Government initiatives. I put in to you the growth in what we called the "White Economy" last year (Annex B). However, pay roll from the last budget giving has so far been comparatively poor.

(v) Europe

- (a) France: Charity status is granted by Government decree on direct application. There is a strong tendency for political interference to take place in the granting of charity status. This political overview of charitable work means that French charitable bodies would find it difficult to work across the frontiers with other member states in Europe.

- (b) The Netherlands: There is a strong tendency for the Dutch charitable work to be done in secret, for example C & A stores give a vast amount to charity, but maintain the Christian principle that the left hand should not know what the right is doing and therefore do not publicise it.
- (c) Germany: Here the tendency is for corporate giving to sponsor health and provision for their own work force, for example Mercedes carefully look after their own people, but this company as with many other German companies does not usually give to causes outside their own ambit.
- (d) Italy: Here there is a long tradition of patronage of both welfare and of the arts by wealthy individuals and big companies, but this is less true of the smaller corporations. There is an increasing tendency for charities to step in to help the chaotic public sector provision.
- (e) Belgium: There is a strong tradition for giving charitably to educational causes.

(vi) United States of America

Charity collection is big business. Huge community foundations exist to help revive run down inner cities - Eley Lilly - Indianapolis, Rockefeller - Cleveland etc. These and other charities have been built up on bigger tax breaks than we have ever countenanced.

One US idea that we might use is the President's charity initiative which we trial below in Proposal!

(viii) Proposals

1. How to boost giving (objectives a, c and d).

We could allow charities to advertise on commercial TV and radio. The Home Office is investigating this.

- Charity tax relief - we do not suggest an extra tax relief so near the budget but existing relief needs more publicity and some future consideration could be made to permit companies to give more than 3% of dividends in any year to charities. American experience supports the proposition that companies can well give more than this.
- More publicity and better dissemination of information. There is disagreement as to whether the Chancellor has a role in publicising the pay role giving scheme. Much more needs to be done and probably the Home Office is the Department to do it. I have spoken to Douglas Hurd who probably would like to help.

2. How to encourage volunteers and secondments (b and c).

- Incentives have not been thought through fully. We fall back on Honours. Douglas Hurd, who is now interested, could be asked to help here. As Kenneth Clarke has a strong desire to find more volunteers to help inner cities, he too could be brought into a discussion.
- The biggest unused lever is the power employers have to insist that when they hire or promote their staff the applicants can produce details of their community or charity work. You could have the CBI and Institute of Directors chiefs in to a mini-seminar and encourage them to make speeches.

- The President's initiative also helps this objective. I refer to this at 3.

3. How to promote partnership, avoid duplication and help dissemination (objectives d, e and f).

- All these are promoted by President Reagan on Private Sector Initiatives. Hector Laing and I have sketched this in outline to you. You are to meet the leaders of this initiative of them on 3 May. Translating what it would involve would mean a small team, maybe only one or two people, should be appointed close to you in the centre of Government (maybe in the Cabinet Office), possibly themselves from the charity world and volunteers for the post who could ensure ways of partnership between private and public sector were improved. In Britain we could avoid the confusion created by different Government Departments requesting help from the same companies. It would ensure that best charitable practice was recorded and multiplied. It would publicise Government charity support schemes and relief. Indeed, its main function in promoting efficiency might allow you to put these individuals in or beside the Efficiency Unit. Once a year you might present awards for best practice.

4. How to avoid abuses (objective g).

Fortunately Government has well in hand through Douglas Hurd.

Conclusions

- You could raise the suggestion concerning the President Initiative and the Cabinet Office role with Robin Butler.

- You might invite a mini-seminar of CBI, Institute of Directors, Charities Aid Journalism etc to see how employers could promote charitable or voluntary involvement.
- You might raise this whole topic at your next bilateral with Douglas Hurd.

A handwritten signature in blue ink, consisting of stylized initials 'HB' followed by a period.

HARTLEY BOOTH



21 January 1988

50 Queen Anne's Gate London SW1H 9AT
(Night line 01-273 4595)

Contact Number: 01-273 4600

GOVERNMENT ACCEPTS WOODFIELD PROPOSALS ON CHARITIES

The Home Secretary, the Rt Hon Douglas Hurd CBE MP, announced today in answer to a Parliamentary Question from Mr Paddy Ashdown MP and Mr Nicholas Baker MP that the Government accepts the recommendations of the Woodfield Report on the supervision of charities and will be putting forward proposals for legislation to implement the Report later in the life of this Parliament.

Mr Hurd said:

"The Government has warmly welcomed the Report by Sir Philip Woodfield of his efficiency scrutiny of the supervision of charities. We accept the Report's conclusion that, while the essentials of the present supervisory framework are still necessary, the system is in need of extensive reform. The Report's proposals to strengthen the Charity Commission's powers, and in particular its capacity to deal with abuse, provide a sound basis for the future.

"The great majority of the Report's recommendations concerning the procedures and internal management of the Commission are already being put into effect. Those recommendations affecting the extent and nature of the Commission's powers cannot, however, be implemented except by way of primary legislation. We would, therefore, hope to put forward proposals for legislation later in the life of this Parliament".

Commenting later Mr Hurd said that his reply was indicative of the Government's continuing encouragement of a healthy and vigorous charitable sector. Mr Hurd said:

"This Government has significantly improved the tax privileges from which charities benefit. Only last April we introduced tax-free payroll giving, making it easier for the public to donate money on a regular

basis. And our direct support for the voluntary sector has increased very significantly in real terms over our period of Office. The charitable and voluntary sector plays a crucial role in mobilising the interests and energies of active and concerned citizens in tackling the problems of weak, disabled and disadvantaged people both at home and overseas. Their efforts can often be more flexible and innovative in helping those who fall through the net than can statutory agencies which have to follow bureaucratic rules and procedures.

"The amount of money donated directly by the public has grown enormously in recent years. The law must keep pace to ensure that charitable funds are protected from abuse and that there is an effective framework of supervision. Sir Philip Woodfield's proposals provide a sound basis for that framework".

THE 'WHITE ECONOMY'
INCOME FOR UK CHARITIES

(Per Charities Aid Foundation)

1 Gross sources of Charitable Income
(including public sector incentives and funding)

	1981	1985	
	£m	£m	
Household charitable giving	783	1000	*1
Companies	80	200	
Legacies	107	200	
Trust & Foundations	330	450	
Fees, Charges, Sales & Commercial	5825	7000	*2
Rents, Investments	<u>886</u>	<u>1000</u>	
	8.1	9.8	

*1 Average figure between several estimates

*2 A highly conservative estimate

2 Public Funding of Charities

	1981	1985
	£m	£m
Quangos	719.8	966
MSC to charities	138	414
Central Government	139	224
Local Authority	173	429
Tax concession	<u>430</u>	<u>525</u>
Charities total income	<u>1599.8</u>	<u>2558</u>

des


CABINET OFFICE
OFFICE of the MINISTER
for the CIVIL SERVICE

The Minister of State
Privy Council Office
The Rt. Hon. Richard Luce MP

NBM
PRG
9/2
Horse Guards Road
London SW1P 3AL
Telephone: 01-270 5929

C88/695

The Rt Hon Sir Geoffrey Howe QC MP
Secretary of State for Foreign Affairs
Downing Street
LONDON
SW1A 2AL

8 February 1988

Dear Geoffrey

PAYROLL GIVING TO CHARITIES

You will recall that, in his 1986 Budget, the Chancellor of the Exchequer announced a Payroll Giving Scheme, enabling employees to make charitable donations of up to £120 a year and get tax relief on them. Schemes are now underway in most Government departments; a House of Commons scheme has just been introduced; and the House of Lords will not be far behind.

Ministers will of course be free to join either their departmental scheme or the appropriate Parliamentary one - but not both. Perhaps you would draw the attention of junior Ministers in your department to the need to confine themselves to only one scheme.

We do hope that you will feel able to support and promote this venture, since there is no doubt that Ministers can give an important boost to charities by demonstrating their own personal commitment to the scheme and encouraging staff in their departments to support it. We hope, too, that where you give personal support you will seek suitable publicity from so doing. Our private offices will be glad to offer advice on this.

Copies of this letter go to all Ministerial Heads of Department, and to Nigel Wicks and Sir Robin Butler.

~
Ruth
RICHARD LUCE

Done over
PR
PETER BROOKE

→



file KB
a B G

10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

2 March 1987

PAYROLL GIVING TO CHARITIES:
LITTLEWOODS

The Prime Minister has seen the Chancellor's minute of 26 February about Littlewoods' announcement that they are making an application to the Inland Revenue to set up a Charity Agency to administer the new Payroll Giving Scheme. She is glad that payroll giving is moving forward in this way.

I am copying this letter to Stephen Boys Smith (Home Office).

David Norgrove

Tony Kuczys, Esq.,
H.M. Treasury.

DTS



Treasury Chambers, Parliament Street, SW1P 3AG
01-270 3000

PRIME MINISTER

Payroll Giving to Charities: Littlewoods

You will be pleased to know that the Littlewoods Organisation are announcing today that they are making an application to the Inland Revenue to set up a Charity Agency to administer the new Payroll Giving Scheme.

Up until now, only one body, the Charities Aid Foundation, has announced its intention to set up a Charity Agency, although I understand Barnardo's also intend to do so. Littlewood's application now brings several advantages: Littlewoods themselves talk in terms of the Charity Agency creating 100 new jobs on Merseyside, and they may see themselves as the Northern counterpart to the CAF, which has its main offices in London and Tonbridge. It is also my hope that some competition will help to keep down the management fees both agencies will charge.

All this is very important in the run-up to the start of the Payroll Giving Scheme on 6 April. This measure was a widely welcomed part of my Budget last year, and I have since then increased the amount on which employees will be able to get tax relief on donations from £100 a year to £120 a year.

I believe there is a strong case for making sure that employers and employees are aware of the imminent start of this scheme by engaging on a brief Government advertising campaign. I have asked my officials to consider what arrangements might be appropriate, in consultation with officials in the Home Office.

I am copying this minute to Douglas Hurd.

N.L.

26 February 1987

C.B.G.



NBPA.

Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Richard Luce MP
 Minister of State
 Privy Council Office
 Cabinet Office
 Whitehall
 LONDON SW1

2 January 1987

Dear Richard,

CHARITIES: PAYROLL GIVING

Thank you for your letter of 28 November.

WILL REQUEST IF REQUIRED

Nigel Lawson's announcement that the Civil Service will be participating in the scheme has now set the wheels in motion to select agencies to handle the work and to agree detailed systems with payroll centres.

Your letter mentioned the position of Non-Departmental Public Bodies. I would certainly hope that they will be able to follow the Civil Service scheme and use their normal payroll centres, even if separate contracts are needed with the agencies for legal reasons. I suggest that our officials keep in touch on this.

On the question of publicity I have asked officials to investigate what steps might be taken Service-wide to bring the scheme more directly to the attention of staff, for example by office notices and posters. But I think the publicity should be general, and not linked to specific charities. The question of which charities should be given preferential treatment by the Government machine is a difficult, and in many ways rather separate, matter. It will I am sure come up in the Inter-Ministerial Group on the Voluntary Sector. In the meantime we have told the Civil Service Trade Unions that we shall be keeping in touch about the arrangements.

I am copying this letter to Ministers in charge of Departments.

Lus even
Pm

PETER BROOKE



10 DOWNING STREET

The Rt Hon Norman Lamont MP
Financial Secretary to the Treasury
Treasury Chambers
Parliament Street
LONDON SW1

12 December 1986

Dear Norman,

Further to the Paris Conference on Private Sector Initiatives in November, and to our subsequent conversation in the Cabinet Office, I attach as promised my evidence of total UK charitable income, and of Government support of charities. I was proposing to use it as an annex to a paper I am preparing, subject to the comments of your officials.

I am copying this letter to the Private Secretaries of the Home Secretary, Giles Shaw MP (Department of Trade and Industry), Edward Leigh MP (Department of Employment) and Edward Bickham (Home Office).

Yours sincerely

Hartley

HARTLEY BOOTH

bcc

*D. Norgrove ✓
Prof Cripps*

THE 'WHITE ECONOMY'

INCOME FOR UK CHARITIES

(Statement per Charities Aid Foundation, December 1986)

1 Gross sources of Charitable Income
(including public sector incentives and funding)

	1981 £m	1985 £m
Household charitable giving	783	1,000 *1
Companies	80	200
Legacies	107	200
Trust & Foundations	330	450
Fees, Charges, Sales & Commercial	5,825	7,000 *2
Rents, Investments	<u>886</u>	<u>1,000</u>
	8.1	9.8

*1 Average figure between several estimates

*2 A highly conservative estimate

2. Public funding of charities

	1981 £m	1985 £m
Quangos	719.8	966
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Local Authority	173	429
Tax concession	<u>430</u>	<u>525</u>
<u>Total</u>	<u>1599.8</u>	<u>2558</u>



ccbs
NBP7.

Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Richard Luce MP
Minister of State
Privy Council Office
Management & Personnel Office
Great George Street
LONDON SW1P 3AL

11 November 1986

Dear Richard,

CHARITIES: PAYROLL GIVING

You will know that in his 1986 Budget Nigel Lawson announced the introduction from April 1987 of a scheme for giving tax relief on donations to charities of up to £100 a year, where the donations had been made by deductions from pay.

2. The Inland Revenue will be making regulations shortly to give effect to this scheme and the Chancellor of the Exchequer will be using the opportunity to give it greater publicity. He also intends to say something about the Government's participation as employer in the scheme.

3. This letter is about our proposals for the Civil Service. I am writing separately to colleagues directly responsible for NHS employees and the Armed Forces. I think it would be desirable that any announcement Nigel makes about the Government's role as employer should make it clear that not only the Civil Service, but other work forces where the Government is the direct employer, would be participating subject to satisfactory arrangements. If you or colleagues think that there are organisations where the Government can be said to be direct employer apart from the Civil Service, Armed Forces or NHS, where a general announcement of this kind could not be applied, I should be glad to hear of it. It is of course for other employers, including those in the public sector, to make up their own mind whether to join in.

4. So far as the Civil Service is concerned, most employees have their wages and salaries paid through payroll centres. Treasury and Inland Revenue have had discussions with representatives of the main payroll centres, and the proposed scheme,

which is described in outline below and in the attached note by officials, is thought by them to be feasible, run on similar lines to existing payroll deduction arrangements. For staff not paid from payroll centres, including manual methods of pay, similar arrangements could be made. I would invite departments whose staff are not on computerised payroll systems to contact C D Butler or L Painting here to discuss their participation arrangements.

5. The attached note by officials describes in outline the proposed scheme for operation through payroll centres, once a suitable agency has been appointed. There will be variations of procedure and other detailed considerations, which can be thrashed out in the course of the next few months. Essentially the arrangements envisage the appointment of one agency to each payroll centre with the contractual relationship being between the centre and the appointed agency. Employing departments would therefore not be directly concerned. And most of the detailed work will be performed by the agency. There will however be setting-up costs and continuing costs incurred by the payroll centres. Our preliminary estimates are that these will be extremely modest. They would however have to be absorbed within departmental running costs.

6. One of the preliminary problems we face however is over the appointment of the agency or agencies. We hope that there will be a reasonable field of would-be agencies from which to make a competitive selection. This is however a new venture and there is at present only one agency which appears to offer the coverage and stability that would be necessary for a continuing relationship of the kind needed. We hope that more will come forward. And the Treasury's aim will be to stimulate sufficient interest between now and April 1987 to allow the scheme to start off on a reasonable footing.

7. I envisage that the Chancellor of the Exchequer would invite would-be agencies, who have been approved by the Inland Revenue, to offer themselves as candidate agencies for one or more payroll centres. The Treasury would then assess the potential of such agencies, against criteria which will be developed, and, after preliminary discussions with these agencies, hand over to designated payroll centres who would conduct the contract negotiations with the selection agency. If there is a large field, such selection can be on a competitive basis. If however the field appears small, there may have to be some element of direction.

8. Naturally I hope that there will be sufficient interest in handling Civil Service business to ensure that all Civil Service employees can participate from as soon after 6 April 1987 as the nominated agencies and payroll centres can make the necessary arrangements. Depending on the response and the differing requirements of individual pay centres I would not rule out a staggered start.

9. These are matters which can be taken further in discussions between Treasury and departmental payroll centres. Immediately I hope that there will be no dissent from the proposition that the Government should announce soon its intention to allow all its employees to participate in the new charitable donations scheme.

10. I am sending copies of this letter to Ministers in charge of departments.

*I
Lms ever*

Pm

PETER BROOKE





**PAYROLL GIVING TO CHARITIES:
PARTICIPATION BY CIVIL SERVICE PAYROLL CENTRES**

Note by Treasury officials

Donations to charities, to qualify for tax relief, must be by means of deductions from pay to an agency approved by Inland Revenue under its regulations. Payroll centres, acting as agents for the employing department, will agree contracts with a selected agency which has received IR approval.

2. In outline the scheme would be expected to work as follows:
 - the agency provides forms for employees to complete, indicating the charities to be nominated, the size of deductions and other details
 - the completed form would serve as a mandate to the payroll centre for deductions from salary
 - the employee would return the completed form to the agency
 - the agency would pass the mandates in bulk to the payroll centre, whose prime task would be to confirm the employees' name and bona fides, and make the appropriate deductions from pay
 - deductions would be transferred in bulk to the agency, whose task would be to transmit funds to the designated charities.
3. Contracts would specify the record-keeping and accounting requirements necessary to comply with the regulations, payroll centres' audit and propriety requirements and any employee and employer requirements.
4. Contracts would also specify the agencies' remuneration arrangements.



10 DOWNING STREET

Prime Minister

This is now for
information. I said, I
hope rightly, that I did
not think you would
want to hold up the
announcement.

Hardy on.
mb

DW
4/6.

PRIME MINISTER

TAXATION OF CHARITIES

The letter from the Treasury below describes some changes in the Budget proposals on the taxation treatment of charities which the Chancellor intends to announce tomorrow, subject to your agreement.

You will remember that the Budget included measures both to promote charities and to prevent their use for tax avoidance. The measures to prevent tax avoidance have run into considerable criticism.

Many charities apparently feel that the Inland Revenue is the wrong instrument for preventing abuse and that the Government should rely on the Charity Commissioners. However the Charity Commissioners are not geared up for such a role and they do not have the resources to do it.

The charities also objected to the measures themselves. One of the proposals was to draw a distinction between public charities, like Oxfam or the Save the Children Fund, and private indirect taxes which are run by individuals (e.g. Sainsbury, Sir Emmanuel Kaye, etc) and which do not carry out charitable works themselves. The private indirect charities would have been subject to stiffer controls than the public charities.

Those charities which would have been private and indirect naturally felt this would be a stigma. The Treasury now propose to drop that distinction so that the anti-abuse provisions apply to all charities rather than just the private indirect charities. This is apparently much more acceptable, and even the public charities seem to have gone along with it.

The second controversial proposal was to act against certain charities which accumulate funds with no clear intention of

spending them on charitable activities. The Chancellor now proposes to take more limited action in this area and to consult further on how to tackle accumulation. Legislation may be taken in next year's Finance Bill.

It is unreasonable to expect you to approve such technical changes themselves, on so limited an explanation. But content that the Chancellor should announce his revised proposals tomorrow?

DN

David Norgrove

3 June 1986

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cebg



Treasury Chambers, Parliament Street, SW1P 3AG

David Norgrove Esq
Private Secretary
10 Downing Street
London
SW1

Dear David,

5 June 1986

TAXATION OF CHARITIES: ANNOUNCEMENT OF REVISED PROPOSALS

I am writing to let you know that the Chancellor is proposing to announce changes on Wednesday to one aspect of the proposals in the Finance Bill dealing with tax relief for charities.

As you know, most of the changes in the tax position of charities announced in the Budget were very warmly welcomed. But Clause 29, designed to tackle abuse of charitable status by reducing the scope for obtaining exemption from tax for income and capital gains not used for charitable purposes caused considerable concern. The objective of tackling abuse has been supported, but there was legitimate criticism that in practice the original provisions in the Finance Bill were drawn too widely and would have had unintended and undesirable effects on some genuine charities. The Chief Secretary therefore announced at the beginning of Standing Committee on the Finance Bill that the Government were urgently consulting on the clause and would put it to the end of the Committee's proceedings to enable changes to be incorporated.

The Chancellor and the Chief Secretary believe that, particularly in view of the widespread publicity likely to be given to charitable abuse following the generous extension of tax relief this year, it remains important to be seen to be tackling such abuse in this Bill. But the amendments to be announced on Wednesday will, they believe, deal with the main criticisms of the charities lobby and should be generally welcomed.

The amended clause will meet the two major criticisms by dropping the distinction between public and private charities which was the source of many worries about the original clause and leaving out for this year at least, any action on certain charities which accumulate funds with

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no clear intention of spending them on charitable activities. It will concentrate on the actual misapplication of funds. A de minimis threshold will exclude a very large number of smaller charities from the main provisions of the Bill. There will be further consultation on how to tackle "accumulation", which remains a problem, with a view to legislation, if necessary, in next year's Finance Bill.

The Chancellor and the Chief Secretary see every advantage in making an announcement about these modifications as soon as possible to forestall further criticism. Subject to the Prime Minister's agreement, the Chancellor proposes to do so on Wednesday 4 June, by way of answer to an arranged PQ. The detailed amendments giving effect to the changes will be tabled as soon as possible for Committee Stage of the Finance Bill.

Copies of this letter go to Joan MacNaughton (Lord President's Office), Andrew Lansley (Chancellor of the Duchy of Lancaster's Office), Murdo MacLean (Chief Whip's Office), Michael Stark (Cabinet Office) and to Bernard Ingham.

Yows,

Jih

JILL RUTTER
Private Secretary

CONFIDENTIAL

Subject cc Master



10 DOWNING STREET

26 February, 1986.

From the Private Secretary

THE UNQUOTED COMPANIES' GROUP

The Prime Minister had lunch today with Sir Emmanuel Kaye and the members of the Unquoted Companies' Group.

Most of the discussion centred on the tax treatment of unquoted companies. Sir Emmanuel Kaye urged the Prime Minister to ask the Chancellor to see the Group after the Budget so that they could explain their concerns in greater detail. The Prime Minister took note, but did not commit the Chancellor.

The first particular area for discussion was the treatment of charitable donations by unquoted companies. The Group spoke along the line predicted by the brief provided for the Prime Minister, citing in particular a case involving Clarke's Shoes. They argued that earlier legislation was being applied in a way which had not been intended when the legislation was passed. (This point was not spelled out.)

The second main area, occupying most of the time, was capital transfer tax. Again, I am not aware that any new points emerged. The Group argued in favour of business property relief at 100%. They accepted that there would need to be a qualifying period. The alternative would be to grant hold over relief, but this was their second preference. The cost of allowing 100% property relief was given as £20 million, and a Parliamentary Answer by the Treasury was cited for this. The Group argued that the reliefs that had been given on gifts inter vivos were inadequate both because such gifts incurred a capital gains tax liability and because a transfer of that kind could encourage the choice of the wrong managers to take over the company. The Group argued that CTT imposed constraints on the growth of unquoted companies, and undermined the financial viability of a sector which was vital to the economy.

Sir Emmanuel Kaye also argued that CTT now bit harder than when it had first been introduced, and was applied at higher rates than on the continent. But he said he was not asking for a change in rates.

He gave to the Prime Minister the letter and table attached.

David Norgrove

Tony Kuczys, Esq.,
HM Treasury.

The Unquoted Companies' Group

Founded in 1968 to study the contribution made to the economy by the unquoted sector

Date: 26th February, 1986

The Rt. Hon. Mrs. Margaret Thatcher M.P.
Prime Minister
10 Downing Street
LONDON S.W.1.

Please reply to:

Sir Emmanuel Kaye, C.B.E.
Lansing Bagnall Limited,
Kingsclere Road,
BASINGSTOKE, Hampshire,
RG21 2XJ

Tel: (0256) 473131

Although Capital Transfer Tax on death bites harder than it did when first introduced in March 1974 (chart attached), The Unquoted Companies' Group (and the CBI) are not seeking as a priority, now, a reduction in the CTT basic rates but the much lower cost route of either: -

- a) an increase in business property relief to 100%, or
- b) a holdover of CTT, as on works of art (i.e until the asset is sold and there is cash to pay the CTT).

The full-year cost of increasing business property relief to 100 per cent is £20 m. (Parliamentary Written Answer by the Financial Secretary on 5th February, 1986).

In our Budget Submission we suggested a qualifying period of 5-10 years for the application of increased business property relief. This would reduce the cost still further and would restrict increased relief to those who demonstrated a long term commitment to their companies.

When we asked the Chancellor of the Exchequer in June, 1984 which of the two options he preferred he replied 'increase in business relief', and we also prefer this route, as a simpler mechanism.

RATES OF CAPITAL TRANSFER TAX ON DEATH

(1)	(2)	(3)	(4)
RATE OF TAX MARCH 1974	LOWER LIMIT MARCH 1974	= (2) x 366.9 = (2) UPDATED TO SEPT. 1985 PRICES	LOWER LIMIT FINANCE ACT 1985
%	£000	£000	£000
10	15	55.0	—
15	20	73.4	—
20	25	91.7	—
25	30	110.1	—
30	40	146.8	67
35	50	183.4	89
40	60	220.1	122
45	80	293.5	155
50	100	366.9	194
55	120	440.3	243
60	150	550.3	299
65	500	1834.5	—
70	1000	3669.0	—
75	2000	7338.0	—



cc 30
E.L.'s
NO

OFFICE OF ARTS AND LIBRARIES
Great George Street
London SW1P 3AL
Telephone 01-233 8610

From the Minister for the Arts

The Rt Hon Nigel Lawson MP
Chancellor of the Exchequer
Treasury Chambers
Parliament Street
LONDON SW1

NBRN.

8 January 1986

Dear Nigel,

CHARITABLE GIVING

Douglas Hurd wrote to you on 23 December to reinforce his original proposals of 15 October about the need for concessions for charitable giving.

My experience of the last four months has strengthened my support for these proposals, for two main reasons.

First, the Arts world regards existing Government support as fundamentally inadequate and is likely to continue to do so. I am convinced that the only way to enable us to withstand the pressures for ever greater public expenditure in this and many other areas is through tax changes which will encourage increased private giving, by companies and individuals.

Secondly, the public will welcome further evidence that we are doing everything possible to help people to help themselves. Recent events have shown that the desire to give is there. A stronger incentive to give would at once create a more positive climate and would become an important part of our election platform.

I hope that we can take some clear steps in this direction in the next Budget.

I am copying this letter to the Prime Minister, Norman Tebbit, Tom King, George Younger, Nicholas Edwards, Geoffrey Howe, Keith Joseph, Norman Fowler, Kenneth Baker, Leon Brittan, David Young and Douglas Hurd, as well as John Moore and Sir Robert Armstrong.

Richard Luce

RICHARD LUCE



ECON POL
CHARITABLE
DONATIONS
MAR 85



ccBca

DEPARTMENT OF HEALTH & SOCIAL SECURITY
Alexander Fleming House, Elephant & Castle, London SE1 6BY
Telephone 01-407 5522

From the Secretary of State for Social Services

The Rt Hon Nigel Lawson MP



NBP 7.

Nigel

July 1

CHARITABLE GIVING

Douglas Hurd sent me a copy of his letter to you of 15 October urging that we should give new tax incentives to charitable giving by companies and individuals.

The proposals Douglas makes, if acted upon, would give new force to my message that there are many ways of tackling problems in addition to increasing public expenditure, and that the voluntary sector has a large contribution to make. I think they are dramatic enough to reinvigorate the voluntary sector's search for new and additional sources of funding from non-statutory sources at a time when parts of the sector do little more about fund raising than bemoan alleged cuts in statutory support of services, including support of the voluntary sector itself.

I hope therefore that in preparing the next Budget you will feel able to include the ideas Douglas outlines.

I am copying this letter to the Prime Minister, Norman Tebbit, Douglas Hurd, Tom King, George Younger, Nicholas Edwards, Geoffrey Howe, Keith Joseph, Kenneth Baker, Leon Brittan, David Young, Richard Luce, John Moore and Sir Robert Armstrong.

J. ...
Norman Fowler

NORMAN FOWLER

ELON POL
CHARITABLE
DONATIONS

3/85





N.B.P.N.
Prime Minister
The Home Secretary
suggested you might like to
glance at these pp 40
23 December 1986

Dear Chancellor

followed up to your discussion
this morning on charitable giving

You will remember that I wrote to you on 15 October commenting, for the most part favourably, on some suggestions for stimulating the growth of charitable giving by companies and individuals made in a paper by Adrian Ridley, which I enclosed with my letter. I suggested that, in order of priority, the most realistic of the Ridley ideas might be corporation tax relief for single gifts by individuals and the encouragement of payroll giving. You will have seen that, since then, these ideas have received a good measure of support from other colleagues.

Last week I was approached by John Sainsbury and Martin Jacomb who offered me their own ideas for stimulating charitable giving. I explained that I had no real locus in these matters, but promised to pass their suggestions on to you. They are set out in the attached aide memoire which they left with me.

I think that the first idea can probably best be seen as a variation on the system of payroll giving discussed in Adam Ridley's paper. It has an attractive simplicity for the giver, but just as reluctance on the part of employers to undertake the necessary paperwork has been an obstacle to the spread of covenanted payroll giving, so, I suggest, it could be an even bigger obstacle here. However, if, as I hope, you decide to initiate some further study of ways in which the habit of charitable giving can be spread more widely in society it would seem right for the Sainsbury/Jacomb idea to be fed into this.

Their other proposal, too, has its attractions. I particularly share their desire to encourage giving by successful entrepreneurs, partnerships and closed companies - a sector of the business community which is flourishing, yet which, under the present rules on covenants, is inhibited from contributing to charity as generously as similar public companies. But by definition, this proposal would only be of interest to those with very substantial incomes. It would, therefore, have nothing like the impact of the proposal in the Ridley paper that all businesses should be able to make single gifts to charity before tax. I continue to believe that a concession of this kind offers the best hope of reversing the downward trend in company giving, which itself contrasts so sharply with the upward trend in sponsorship, which is deductible. I would myself, therefore, see the Sainsbury/Jacomb proposal only as a possible complement to the Ridley proposal for corporate giving - useful, perhaps, if there were difficulties about applying the Ridley suggestion to businesses which are not public companies.

I am sending a copy of this letter to all those who received my earlier letter of 15 October.

Yours sincerely
W. H. H. H.

APPROVED BY THE HOME SECRETARY
AND SIGNED IN HIS ABSENCE

+The Rt Hon Nigel Lawson, M.P.

1. John Sainsbury and Martin Jacomb have arranged the meeting to explain their view that changes in the law should be made to encourage charitable giving. With all public expenditure under tight control, (something with which we both agree), Government help for the Arts in particular is particularly constrained. This policy should go hand in hand with improvements in the rules governing the tax deductibility of charitable donations, so as to encourage more charitable giving to charities in general (not just the Arts), so that private charity can replace public money.

There are two changes which JDS and MWJ would like HMG to consider.

2. First, a new rule would permit the deduction of a single lump sum of £100 each year from total taxable income if the sum was paid to one or more registered charities. There would be no need for a covenant, or anything else apart from actual expenditure of the money by payment to a registered charity. This simple change would be coupled with a scheme under which employees could agree with their employer to have regular charitable gifts deducted from their remuneration, with their Schedule E PAYE code adjusted accordingly. The employing company would collect the money and dispose of it to one or more charities, either in accordance with the employee's direction, or in default of any such direction, at the company's discretion. This should not only significantly increase the total amount of charitable giving by individuals, but it should also encourage corporate giving as well, as employers grow to feel that it is appropriate to augment their employees' giving.

Companies gave £74 million to charities in 1983, less than 0.1% of total income. Until 1973 they gave two or three times this.

1970	.32%
1971	.30%
1972	.28%
1973	.2%

There is thus a clear case for doing something significant to increase corporate charitable giving.

It has been suggested that non-covenanted small personal donations of the kind suggested above, should attract tax relief at less than the standard rate. However, it is felt that if the deductible maximum is limited to £100 per annum, a full deduction from gross income would be appropriate, especially since this achieves simplicity, which is a vital necessity if the changes in the rules are to lead to a change in the pattern of giving.

3. The other change is also simple. It would be a substantial increase in the maximum amount of gross covenanted income which can be deducted from taxable income. It was a major step forward to allow covenanted income to be deductible from gross income (rather than relieved

just at the standard rate), and also a great benefit to reduce the minimum duration of a covenant from (effectively) seven years to four years. That step having been taken, it would be appropriate now to increase the maximum annual amount (now £10,000) still further to £25,000. The additional cost to the Treasury of this would, we believe, be minor.

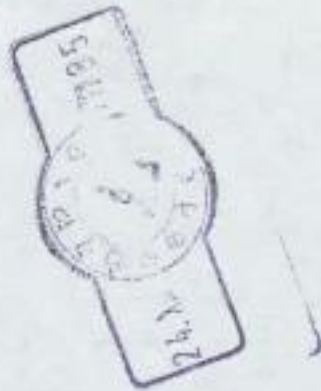
4. If these changes were put forward expressly as a corollary to continuing the restraint on Government spending, e.g. on the Arts, we feel that the latter policy would be more readily accepted and total charitable giving both by companies and individuals, substantially increased.

9th December 1985.

KEON POL

CHARITABLE DONATIONS

MAR 85





Caxton House Tothill Street London SW1H 9NF

Telephone Direct Line 01-213 6460

Switchboard 01-213 3000

The Rt Hon Nigel Lawson MP
Chancellor of the Exchequer
HM Treasury
Great George Street
London SW1

NBRN

27 November 1985

Oct. I noted with interest the letter from the Home Secretary on 15 ~~September~~ on measures to encourage charitable giving and the subsequent correspondence.

Although I support the general aim of stimulating support for charities, I do have a number of reservations about some of the approaches outlined in Adam Ridley's paper. I share the Home Secretary's doubts about creating "super charities". I am not sure that the changes in corporation tax will hinder charitable giving in the way Adam Ridley's paper suggests. After all, although the tax rate is lower, more profits are subject to corporation tax and so companies do still have incentives to give. I also have some reservation about the argument that more charitable giving will ease the pressure on public spending. It may be that pressure on spending is increased since the public believe that the government should match their generosity. This has happened on aid. Lastly, I was particularly concerned about encouraging payroll giving; that would put a burden on employers.

I believe that we should look at ways of extending what are considered to be charitable purposes. Adam Ridley's paper mentioned the benefits gained from the recent concession on secondments which have particularly benefited Enterprise Agencies. He also suggests that gifts of used goods or equipment, suitably written down, might qualify and I would support that. I would ask you to consider including within the scope of charitable purposes loans made by charitable trusts to assist small firms and start-ups. These might be interest free or set at a low rate of interest and for relatively small sums. The recent case of the Ashby Charitable Trust showed how a charitable trust wishing to encourage enterprise for purely charitable purposes was prevented from doing so. But I understand that it has proved possible for at least one charitable trust to make loans within their charitable status.

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I am copying this letter to the Prime Minister, Norman Tebbit, Tom King, George Younger, Nicholas Edwards, Geoffrey Howe, Keith Joseph, Norman Fowler, Kenneth Baker, Leon Brittan, Richard Luce, John Moore, Sir Robert Armstrong and, of course, to Douglas Hurd.

L. S.
Hurd

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Econ Poli:
Charitable Donations
Month 85



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CC/BS



QUEEN ANNE'S GATE LONDON SW1H 9AT
8th November 1985

Dear John,

CHARITABLE GIVING

with request of reg. d.

Thank you for your letter of 25 October.

I have been looking into your suggestion that a good way to stimulate more charitable giving might be to publicise existing incentives, perhaps through a pamphlet, but I see that something like this was done very recently. Two years ago the Inland Revenue co-operated with the Voluntary Services Unit here in producing a simple pamphlet (copy enclosed for ease of reference) with the specific purpose of drawing attention not simply to the benefits of charitable status for voluntary organisations but also to the incentives for donors, whether individuals or businesses. I understand that this pamphlet was widely distributed and advertised at the time in legal and accountancy journals and in voluntary sector magazines and newsletters; and that the Inland Revenue Charities unit has also distributed copies. I am told that we still have a steady flow of requests from charities - who find it useful in preparing their approaches to potential donors - solicitors, accountants, and businesses. It has not been reprinted since the last Budget, but it is sent out with an amendment which highlights the increase in the limit for higher and additional rate tax relief which you then introduced.

Moreover, I find that this pamphlet is only one among a number of useful guides (some of which it lists on pages 6 and 7), all of which have been fairly widely publicised - not least by the energetic Charities Aid Foundation - in both business and other circles. I am not of course saying that more could not be done through publicity: it has, for example, been suggested that changes in the design of the Income Tax form, and in its accompanying guide, might highlight the advantages of charitable covenanting - but I doubt if another new pamphlet which would have, essentially, nothing new to say, would have much effect. Certainly, a new pamphlet could not by itself bring about the results which I would like to see.

As my letter pointed out, and Adam Ridley's paper demonstrated, the value of existing fiscal incentives for business giving is declining as corporation tax is reduced and any further cut in income tax will inevitably reduce the incentives for giving by individuals. It follows, I believe, that if we want to get business giving back to the levels it had reached in the early 1970s, and at the same time draw in more contributions from the mass of the population who do not pay higher rate taxes, something more radical than another pamphlet is needed.

I am copying this letter to the recipients of my letter of 15 October.

Yours,

Douglas

John Moore, Esq, MP

CONFIDENTIAL

Charitable Donations: Ellen Pol

March 85

**CONFIDENTIAL**

CCB

2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref: B/PSO/18185/85

Your ref: 7 NOV 1985

Jim Mijel

n s/n CFB

CHARITABLE GIVING

You will have seen the letter from the Home Secretary of 15 October enclosing Adam Ridley's paper proposing measures to encourage business and personal support for the voluntary sector.

I support the general thrust of the paper - to provide tax incentives to stimulate support for charities. I hope you will be able to give sympathetic consideration to these proposals. Taxpayer support through grants to the voluntary sector has increased by 55% in real terms since 1979. It is important to encourage the voluntary sector to sell its wares to the private sector and to give the private sector some incentive to respond. Direct funding is increasing both absolutely and as a proportion of the support for the voluntary sector. It is undesirable in principle, however, that the voluntary sector should increasingly look for direct support from Government. To try and enlist greater support from the private sector, with suitable incentives, should be our aim.

I am copying this letter to the Prime Minister, Norman Tebbit, Tom King, George Younger, Nicholas Edwards, Geoffrey Howe, Keith Joseph, Norman Fowler, Leon Brittan, David Young, Richard Luce, John Moore, Sir Robert Armstrong and, of course, to Douglas Hurd.

KENNETH BAKER

Kenneth

Generated Charitable Donations:

FELOW POC.

March 85.



CCB

Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Douglas Hurd CBE QC MP
 Secretary of State for the Home Department
 50 Queen Anne's Gate
 LONDON SW1

NBPM-

25 October 1985

Dear Home Secretary

CHARITABLE GIVING

You wrote to Nigel Lawson on 15 October enclosing Adam Ridley's paper on charitable giving.

I think it is essential that we do not forget that we have already taken a substantial number of steps on the tax side since we took office which have greatly improved the incentives to charitable giving. We have for example reduced the qualifying period for charitable covenants from 7 to 4 years. We have introduced higher rate tax relief for charitable covenants, and we doubled the limit on these to £10,000 in this year's Budget. And we have provided tax relief for employers on the salary costs of employees seconded to charities, and removed the limit on the capital transfer tax exemption for charitable gifts.

The benefit that this has brought to charities is considerable: income tax repayments to charities now total over £250 a year, including about £100 on covenant payments. And with higher rate relief for covenants, exemption of charities' income which is not taxed at source, and other tax reliefs, the total cost of tax reliefs which benefit charities is substantially greater (although we cannot estimate it precisely.)

So I think we can fairly claim to have an excellent record already in supporting charitable giving.

We are, however, concerned that those wishing to make donations may not be sufficiently aware of the opportunities available to them. Adam indeed makes the point in his paper that the deduction for higher rate taxpayers is surprisingly little used.

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We believe it is important therefore not only to consider your proposals for further tax incentives very carefully in the run-up to the Budget but also to publicise the many opportunities for charitable giving, which are available to both individuals and companies.

I have, therefore, asked Inland Revenue to put forward proposals for such publicity, which might perhaps take the form of a pamphlet, as soon as possible.

Yours sincerely

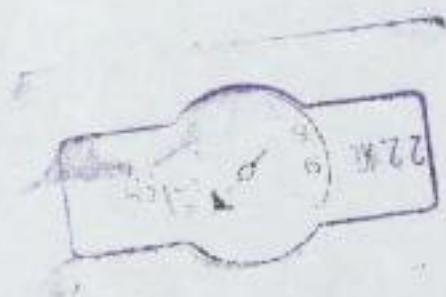
pp JOHN MOORE *Vivien Life*

(Approved by the
Financial Secretary
and signed in his absence)

CONFIDENTIAL

Emp'd 3/8T

Charitable Donations



CC BG

CONFIDENTIAL



Chancellor of the Duchy of Lancaster

CABINET OFFICE,
WHITEHALL, LONDON SW1A 2AS

Tel No: 233 3299
7471

24 October 1985

The Rt Hon Nigel Lawson MP
Chancellor of the Exchequer
HM Treasury
Parliament Street
Westminster
LONDON
SW1

CF BG WILL SPEAK
TO DPT (25/10)
Do the policy unit have
plans to comment?
S/E 1/11

1
DOR

D Nigel

CHARITABLE GIVING

Douglas Hurd sent me a copy of his letter of 15 October to you, which enclosed a copy of Adam Ridley's paper on ways to encourage further charitable giving.

I have to say that I am not entirely sure that it is wise to let stand the implicit acceptance that charitable giving should be out of tax-free income, rather than out of tax-paid income. It is rather akin to the argument that the VAT should be donated to charities on purchases of charity-sponsored goods. We need to be careful to emphasise that the availability of tax reliefs and incentives is a concession specifically aimed at promoting particular kinds of expenditure. Otherwise, we may find that tax relief on charitable donations is regarded as a right, which may be stretched even further.

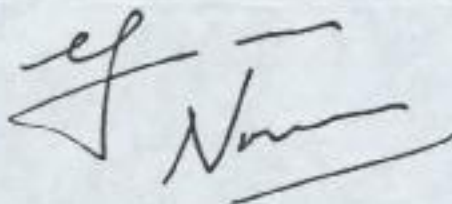
As to the proposals in Adam Ridley's paper, I hope nevertheless that you will be able to look sympathetically at these. The proposals on company giving would provide for a simpler and defensible system, well-timed in relation to the improvement in company profitability, and should be well received.

As to individual giving, I share the view expressed in the paper that further incentives need to be simple and unbureaucratic. I am not convinced that the scheme described in paragraph 24 of the paper fills that bill. I wonder whether we might look more closely at the idea in paragraph 26, for charity stamps. This is well directed towards a real problem, that individuals are often moved to make charitable donations at a time when their cash flow doesn't really allow it. To be able to buy stamps which also attracted, say, a 20 per cent premium when given to a charity would be a

significant incentive, and stimulate regular charitable giving.

As to payroll-giving, while attractive in some ways, the obstacles look formidable. It runs counter to our policy of reducing tax relief and an initial reading suggests that it will be difficult for Government to be even handed in fostering such a scheme. In the same way as I share Douglas Hurd's reservations about discriminating between charities, I would be chary of our becoming so closely involved in directing benefits to particular charities, through a Give-as-you Earn scheme.

I am copying this letter to the Prime Minister, Geoffrey Howe, Leon Brittan, Douglas Hurd, Keith Joseph, George Younger, Nicholas Edwards, Norman Fowler, Tom King, David Young, Kenneth Baker, Richard Luce, John Moore, and to Sir Robert Armstrong.

A handwritten signature in black ink, appearing to read 'Norman Tebbit', with a stylized flourish above the name.

NORMAN TEBBIT

ECON POL
CHARITABLE
DONATIONS



MAR 85



QUEEN ANNE'S GATE LONDON SW1H 9AT

15th October 1985

Dear Nigel,

SLF 1/11

CHARITABLE GIVING

There seems to be considerable agreement that there would be value in a package of further tax incentives and other measures to help charities tap the generosity of businesses and individuals more effectively, and that now, with company profits and earnings rising and with public expenditure necessarily constrained, would be a good time to introduce them.

Details The attached paper, prepared by Sir Adam Ridley for Grey Gowrie in consultation with officials here and in the Office of Arts and Libraries, contains what I believe to be a package of realistic proposals. It suggests three initiatives. In order of priority, they can be summarised as follows:

- (i) the introduction of corporation tax relief for single gifts; (replacing the little used facility for companies to give by covenant);
- (ii) the introduction of a modest incentive for single gifts by individuals, while retaining the present covenant system for them;
- (iii) the encouragement of payroll giving or other forms of regular computerized transfers for charitable giving.

There is no reliable way of predicting what extra giving these measures might produce. But it seems likely that they would stimulate a sharp increase in company giving, a useful increase in individual giving "one off" and, possibly, a further substantial increase in the longer term if payroll type deduction becomes established. Taking companies, for example, where the welcome reduction in corporation tax levels has had the side-effect of reducing the incentive for charitable giving, we might hope to achieve something more like the higher levels of giving of the early 1970s, before company profit levels dipped. On this basis, there could be up to £100m worth of extra giving which would then attract a further £54m in tax relief. We might expect that the increased giving resulting from an incentive for "one off" gifts by individuals giving and from the spread of payroll type deduction to be considerably less than this; but they would still be increases well worth having. In budgetary terms the sums involved are not large, but they could be highly significant in their impact on the charitable sector, as well as on the long term patterns of giving of businesses and individuals.

By far the greatest part of any increase in the income of charities could be expected either to go to bodies whose activities underpin public services, or to contribute to the funding of the arts, universities, overseas aid or other programmes where there is continual pressure to increase our own spending. Not all types of charity would benefit equally, and some valuable

The Rt Hon Nigel Lawson, MP

CONFIDENTIAL

but unglamorous work would not benefit at all. New income generated in this way could not therefore replace Departmental grant-giving in accordance with our own policy priorities. But the promotion of a climate in which charities can more effectively practice self-help is entirely consistent with our approach to the independent and voluntary sector as a whole. Like the other colleagues consulted by Leon Brittan I believe the suggestions for new tax incentives are realistic and we would be grateful if they could receive your personal consideration in the run up to the 1986 Budget.

Several of us were much attracted by Adam Ridley's ideas for giving through payroll or other computerised systems. Such ideas would seem to have great potential, not only in terms of the revenue that might be generated in this way but also because their use could help to encourage a greater sense of participation throughout society. But they need further thought; I should suppose that the lead in any further study would have to come from the Treasury. For the most part, officials in other Departments will probably lack the knowledge of financial institutions which would enable them to decide whether payroll giving or giving through banks, building societies etc, offers the best prospect of growth.

If I have myself a reservation about any part of Adam Ridley's paper, it is on his ideas for a two-tier system of charities. They are stimulating, but I feel we should approach them with some caution. We are all familiar with the political difficulties of amending charity law, and some of us would need to be convinced that the risk that newly-facilitated charitable giving would be directed to undeserving causes is so great as to justify a new attempt. Proposals presented as the creation of "super charities" could be likely to be misunderstood and would certainly cause confusion. Though an entirely new arrangement, wholly separating eligibility for new fiscal benefits from charitable status, might be less open to this objection, I should be very reluctant for any new designation to depend on the use of administrative discretion by Ministers, (an arrangement which would certainly be open to exploitation by some future Government of another persuasion). There might be fewer difficulties if categories of beneficiaries were defined in advance, but there would remain the problem of devising, and defending criteria which would be required to apply fairly and consistently across the whole gamut of public policy. To make changes of this kind would be to risk creating deep divisions within the charitable and voluntary sector. I would be content that we should ask officials from all the Departments concerned to look at the possibilities. But I would need persuading that it is necessary to make major and controversial changes simply to provide more effective incentives for corporate giving, or a modest boost for one-off giving by individuals.

I am copying this letter to the Prime Minister and to Norman Tebbit; to Tom King, George Younger and Nicholas Edwards; to Geoffrey Howe (overseas aid), Keith Joseph (universities, research, schools, the youth service), Norman Fowler (health and social services charities and charities meeting individual need), Kenneth Baker (the environment and heritage; inner cities, rural interests), Leon Brittan (Citizens Advice Bureaux, local enterprise agencies), David Young (employment related projects) and, not least, since this letter stems from an initiative by Grey Gowrie, to Richard Luce (the Arts). Copies also go to John Moore and to Sir Robert Armstrong.

Younger,
Douglas.



WITH
THE COMPLIMENTS OF THE
PRIVATE SECRETARY

HOME OFFICE
50 QUEEN ANNE'S GATE
LONDON SW1H 9AT

Could this please be
attached to letter
letter circulated
yesterday - dated 15/10.
Home Sec. to Lawson
on charitable giving. *with DW.*

STIMULATING MORE CHARITABLE GIVING

The advantages of more and better-financed charities are clear. Though this Government has improved the incentives to charitable giving since 1979, there is a powerful case for strengthening them further. This note sets out that case and then outlines how it might best be met.

MORE VIGOROUS CHARITIES

2. A bigger role for charities and voluntary action need not conflict with the Government's economic strategy. Indeed it should reinforce it. Growth in the non-profit sector can create jobs, and relieve pressures on public services, spending programmes and grant-giving budgets.

3. The Government's public spending objectives clearly imply that most major programmes will be held to stable or declining real levels for many years. Growth in the charitable and voluntary sector, especially if financed by private individuals and businesses, could help to relieve the tensions such restraint is already causing. This is evident in such varied areas as health, the inner cities, education, social services, conservation, job creation, the stimulation of enterprise, the arts and overseas aid. Ministers have long stressed how public/private partnership and plural funding are the way ahead. To the extent that the private response falls short, this policy will be the less credible.

4. Growth in some forms of charitable giving implies an increase in tax forgone by way of fiscal benefits, while to stimulate more giving, more incentives may be needed. So there will be an effect on the PSBR. Can this be justified? First, in many parts of the voluntary sector whose activities are relevant to Government policies costs are usually lower than those of public bodies, for a variety of reasons. In some policy areas, again for differing reasons, voluntary services may be more effective than a statutory service could be. A voluntary sector service, even were it wholly financed

by public sector fees or grants, may then reduce the public spending requirement. In practice however public funding is almost always supplemented by, or draws in, private charitable funds and often volunteers as well; while some useful voluntary services, usually those with a strong public appeal, are able to operate without any contribution from the public purse. Even allowing for the value of fiscal benefits, the more policy-relevant activities that can be funded without Government aid, and the higher the proportion of charitable funding of those bodies that do receive aid, the more cost effective the service ought to be from both a PES and a PSBR point of view.

TRENDS IN CHARITY FINANCE

5. The key to a stronger voluntary sector is more money. However such information as we have on charity financing in recent years is disquieting. Not surprisingly, perhaps, the 1970's was a period of serious deterioration. One study* of registered charities' incomes in 1975/6 and 1980/81 showed that between those years:

- income from fund raising and donations fell by 40% in real terms;
- income from rents and investments fell by 23% in real terms;
- the share of both in total charity revenue fell from 50% to 25%;
- total real income increased nonetheless, but only thanks to a 50% increase in grants from statutory bodies, and a 167% increase in fees and charges.

* "A Profile of the Charity Sector". Dr J Posnett, University of York. Charity Statistics 1983/4 p. 56 et seq.

The latter development is of course something of a mixed blessing. A massive expansion of services bringing in fees, charges and ticket revenue is an option open only to a fraction of the voluntary and charity world such as schools and universities, the Arts and historic buildings and a limited range of organisations in the social services sector. Moreover, dependence on grants has its drawbacks, as is argued below. Good or bad in itself, it has not only offset but concealed the serious deterioration and modest recovery in private giving. And it cannot be realistic to assume that public sector grants and payments for services will be able for much longer to maintain the high rates of growth of recent years.

6. Of the two sources of private gifts, companies and individuals, the companies have performed worse. According to the admittedly somewhat uncertain figures in the National Accounts /Blue Book Table 1-8/, company giving only went up from £42m in 1973 to £51m in 1979, over a period when prices more than trebled. The proportion of total company income fell by nearly as much - from 0.2% to 0.09% - so falling profitability was not the major reason. Although company profits have risen dramatically since the recession and the average return on capital for all companies is now at record levels, overall company giving does not appear to have picked up much in real terms and certainly not as a share of profits. This is all the more remarkable given that the company sector accounts for about 20% or a fifth of total incomes and profits, but only 5% or a twentieth of voluntary giving. Part of the explanation may lie in the swift growth of sponsorship, on which spending now well exceeds £100m a year. However since sponsorship is not attractive for more than a minority of companies it cannot account for a generalised falling off in generosity and desirable though it may be, the bulk of it is devoted to sports and a narrow range of artistic activities, so it is only of modest value to the mainstream of charitable activity.

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7. Personal incomes have risen fairly steadily in real terms since the recovery. The flow of covenants and personal giving has certainly increased, stimulated no doubt in part by the improved incentives introduced recently. But their growth has been too modest and far too small a base to have much impact on total charitable income. In sum, there is little comfort to be sought in present trends. The reasons them are complex, but whatever they may be there are no grounds for expecting any early or dramatic improvement in them.

8. At the same time there have been important changes in the distribution of charitable giving generally. Larger charities with professional fund-raisers have done relatively well. But smaller (often local) charities have suffered, many of which work in support of local statutory services. Given the vast range of activities charities support, and the very wide variations in their financing - which may be particularly focussed on any of legacies, covenants, investment income, grants, fees or other payments for services - it is imprudent to offer many firm generalisations about broad trends. But the growing dependence on grants or payments for services of some charities supported by local authorities, DHSS, DOE, the MSC and the Home Office is clear and disquieting. Too great a dependence on public funding after the 'start-up' stage may over time erode the basis of charitable and voluntary action, in some cases it has weakened the incentive to raise funds privately, and certainly it leads inexorably to demands for more. Moreover it breaks the vital, personal link between giver and receiver which recent policy has properly been directed at strengthening. That link is both an incentive to give and a mechanism which allows the public at large to direct resources to activities which ordinary citizens mind about but which the state may neglect or consider unimportant. Where, as in the Arts, organisations are intrinsically commercial and selling a service, there is an analogous problem, as William Rees-Mogg has eloquently argued. The organisations dependent on subsidy will come to care less

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about and work less for popularity with their customers and success in the market place. Their success and objectives will be measured more and more in relation to the scale of subsidy received. These rather perturbing developments are of themselves powerful grounds for considering whether the incentives to private giving need to be strengthened and better publicised, even if there were every prospect that public sector grants and payments for services would continue to grow.

WOULD BETTER INCENTIVES HELP?

9. The case for better incentives cannot, however, be judged solely in terms of the need for the giving they are supposed to encourage. However great that need might be, one must also be reasonably confident that a stronger stimulus would elicit a worthwhile response. Better incentives might well not generate commensurately more giving in the USA today, where they are already generous, of long standing, widely understood and not unduly complex for the giver. But this claim - even if true - cannot be extended to the UK where those conditions clearly do not hold. In our case there appears to be no systematic research from which one could deduce with total confidence what the response to better incentives might be, or how much of it might go to causes of interest to the state. But there are several compelling reasons for believing that there are major resources of generosity which remain untouched, better ways of tapping them, and that organisations of particular interest to Government might win a real share of any extra money raised.

10. The flatness of company giving after a decade of decline to very modest profit shares and over a period of almost unprecedented profit growth (para 5 above) must indicate a massive potential in that sector. For persons the position is less unambiguous, but strongly points in the same direction. The response to famine in Africa and the increase in personal covenants following recent reforms support this

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judgement. So does the fact that in some respects our incentives remain discouragingly bureaucratic, rigid or complex, despite the major improvements in the degree of incentive introduced since 1979. This is no doubt why not all fund-raising charities have felt it worthwhile to set up covenanting arrangements. And the complications of the system cannot but reduce the generosity of those who do give regularly, and stop countless others from giving regularly at all, except to a few major charities, typically on flag-days and in response to major appeals. Moreover, progress in simplifying and computerising the tax system may be creating new opportunities for removing these obstacles, which need (at the very least) to be identified early, so that worthwhile potential innovations are not inadvertently ruled out. Improvements in administration could be of real value, even if accompanied only by modest changes in incentives. Given the unavoidably lengthy period of time between any decisions, their announcement, legislation and implementation, there is not much time in hand if the Government should wish to make any real impact on the scale of charitable giving and public spending pressures by 1987. Since the Treasury will this year be publishing a Green Paper on the future of personal taxation which is to discuss a number of issues which will affect personal giving, there is every reason for an early start in examining what might be done.

11. Summing up the analysis to this point,

- (1) the need for more generous giving is great, and it is not being met nor does it appear likely to be in the future;
- (2) there are good reasons for believing that both companies and individuals might be induced to be more generous;
- (3) ways of doing this need to be studied soon;

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- (4) these should embrace not only the degree of incentive, but the practical and administrative complications of (and hence obstacles to) giving;
- (5) changes in incentives and administration will bring bigger dividends if they are accompanied by propaganda designed to interest both fund-raisers and potential givers.

AGENDA

12. Of the many ideas regularly canvassed, only a limited number appear to be of particular merit, relating to companies, individuals, and the kinds of activity supported. These are now discussed in turn.

Companies

13. At present the main stimulus is the four-year covenant, as with individuals - though of course companies can give out of taxed profits ad hoc as well or go for sponsorship of various kinds. A significant commitment for a four-year period is not too difficult for individuals to contemplate, since most of them can form a sufficiently reliable view of their income and commitments that far ahead. However, this is less true of companies, many of whom seek to keep such longer term commitments to a minimum. One reason for this is that since their profits are the very volatile residual between income and outgoings most companies are necessarily much less confident about their likely financial position two, three or four years hence. Many companies can expect their profits to vary around their trend value by (say) a factor of two up or down in a pattern which cannot be foreseen. Such volatility is rare for people. So, despite the special arrangements available in exceptional circumstances, companies must necessarily be more cautious than individuals about committing themselves to giving substantial sums to good causes for a four year period.

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(Simple considerations of prudence will suggest that the maximum they can commit at present should be related to the lowest levels of profit they can be confident of earning over four years). At the same time, the psychologically natural urge to give generously ad hoc in occasional years of exceptional profits will not be encouraged, since the gift can only come from taxed income.

14. In contrast to the covenanting system, forms of help other than money gifts to charities and voluntary organisations may, to a greater or lesser extent, be tax deductible. There is tax relief on secondments, which in practice also applies to "gifts" of expertise - accountancy advice or secretarial services - on a part-time basis. Like sponsorship, a gift for use as a prize or to help the work of a voluntary organisation may be tax deductible if it can be seen as a form of advertising. In contrast, gifts of used goods or equipment have to be made from taxed income: though their value can be written down, there is no logic in the distinction. The position on practical help with eg accommodation and publications is not clear. Help of all these kinds is of course not uncommon already. But encouraging more of it and making its provision as simple as possible would be of great help, particularly perhaps to the smaller more local and less professional organisations, whether charitable, or, like enterprise agencies, non-charitable. More uniform tax treatment of all forms of help in kind and much better publicity for the advantage of tax deductibility are needed. As the recent concession on secondments shows, tax deductibility is a highly effective incentive. And in passing one must ask whether there is any reason in principle why gifts of money should not be treated in the same way?

15. It can be argued that the current provisions for company sponsorship provide an answer to the deficiencies of the four-year covenant, and some further comfort can be drawn from the fact that such spending is growing quite fast, as is

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noted in para 6. Sponsorship is, of course, unequivocally tax-deductible if it can be shown to promote a commercial purpose. However, though it is a useful source of finance, for certain types of voluntary organisation or charity it is restricted in the companies it can appeal to, the recipients who will gain from it and the kind of activities it can help.

- (a) Vast numbers of charities and much valuable voluntary action are hopeless or at best very poor vehicles for the publicity sponsorship brings - particularly, perhaps, the smaller and local charity.
- (b) Sponsorship will normally only attract companies which seek favourable publicity with the general public; which are large enough to give worthwhile support to major events and to handle the administration; and whose philosophy of marketing and advertising is consistent with sponsorship. Nearly all smaller companies will fail all these tests, as will most medium-size ones and many of the largest.
- (c) Sponsorship can in practice only be used to finance events and "current account" activities. So it is no stimulus to company finance for endowment funds and capital account ventures such as buildings. This is, of course, already a source of regular criticism.

16. Covenanting has its weaknesses for corporate giving, too:

- (a) Many companies, perhaps most, do not pay corporation tax at present, though the changes in the 1984 Finance Act should make the bulk of them pay it eventually. For them there can be no tax benefit in covenanting, nor a way in which any kind of tax credit can be accumulated over periods when they are not paying tax and be carried over to be set against assessments in later years when they will expect to pay it.

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(b) Accounting for Charitable gifts is a separate and distinct administrative chore for management. This may not be a major deterrent, but it is probably a significant if not vast disincentive to giving in practice.

17. This diagnosis points to three simple but major changes which would not make the degree of incentive bigger, but would make it much more effective.

18. First, there should be no requirement for giving for a period of years. Single gifts should be like other kinds of current spending and, in effect, attract the remission of Corporation Tax. This would allow companies to gear their gifts to known or probable profit levels, and free them from the pressures to caution described in para 13. Equally important, it would effectively make redundant recourse to sponsorship as a disguised device for making single gifts which are tax deductible, while leaving as much scope as before for generating publicity. This would eliminate at a stroke the problems discussed in para 15. The charity world's anxieties about higher fund-raising costs and losing the long-term commitment inherent in covenanting are probably serious only for raising money from individuals. Charities should be impressed, too, by the fact that other countries appear without major or known exception to provide incentives for one-off company gifts. That said, the change would, of course, in no way prevent them from seeking support from companies over a period of years if they thought that the best strategy. There is no good reason for introducing any upper limit on the proportion of profits up to which gifts would attract tax relief. We have no such limit now; it would inhibit the most generous regular givers and those who might occasionally wish to be very generous; and it would create difficulties for those companies which are wholly owned by charities and at present covenant all their profits to their parents.

19. Second, the present tax incentive should be applied in a different way. Gifts to Charities should be treated as a

conventional current account debit, in other words made tax deductible, rather than attracting an equivalent tax rebate. This would much reduce the problems raised in para 16. It would in effect give companies paying no corporation tax a credit which could be set against past taxation or deducted from their assessments when they come back into tax at a later date. This should create a useful incentive for many of those numerous tax-exhausted companies to whom covenanting has nothing to offer. It would make accounting for gifts by companies a simpler task, and much of the checking would pass to the auditors from the Revenue. It would exploit the possibly greater power of the psychology of deductibility over rebates. (It is striking that corporate giving also appears to be treated as a deductible expense in all EC countries except the UK and Ireland; and that in general there is no requirement for a commitment over a period of years). There might also be useful staff and costs savings for the Revenue, who would no longer have to pay rebates to Charities for each payment under every company covenant. A control on the issue of standard official receipt forms could provide a basis for surveillance and cross-checking by the authorities.

20. Third - perhaps less importantly - the incentive should be extended to cover all forms of help in kind as well as in cash, to Clarify the position described in para 14. This would be made much easier by a move to unequivocal and comprehensive deductibility.

21. Such a package of charges would increase the impact of the basic incentive to many firms and considerably extend the numbers who might be attracted by them. Its impact would naturally be all the greater if accompanied by a campaign of publicity and propaganda. The recent profits surge provides a good foundation on which to build. Influential elements in the business community are already showing a lively interest in spreading the gospel more widely, actively encouraged by the Duke of Edinburgh. Part of their interest is in the promotion of community Trusts. But interestingly they also see great value in promoting an active and conscious philosophy and practice of charitable giving in management.

Individuals

22. The 4-year covenant system is probably much nearer an optimum for individuals than it is for companies, for the reasons given in para 13. While the Charities welcomed the cut from 7 years to 4, it is unlikely that they would see much benefit in a further cut and its replacement by reliefs for single gifts or one-year giving. Their doubts on this score were made clear in Lord Goodman's report nearly 10 years ago. The loss of assured income years ahead, the extra costs of promotion and the attendant bureaucracy would seem to make such a move undesirable and unwelcome. Nor is there much attraction in comprehensively recasting the individual's 4 year covenant to make it a deduction against basic rate tax rather than attracting a tax rebate as at present. The deduction for higher rate tax-payers is working well, even if it is as yet surprisingly little used. The American use of deductibility is no counter-argument because of major differences in the way individuals are taxed there and here. Their system of self-assessment requires almost everyone to submit a tax return every year, in which case submitting extra documents relating to charitable gifts is only a relatively modest addition to the task of administration. In the UK only one in five of income taxpayers normally files an annual return. So to establish the legitimacy and amount of deductions for all individual charitable giving would generate a great deal of extra work for the Revenue and could well be unpopular both with givers and with employers, who have to operate PAYE.

23. Accepting that the present 4-year covenant is to remain, there remain, nonetheless, several important ways in which more giving might be encouraged. Present arrangements are deficient in that

- (1) the four-year covenant is not the most natural or easy way of giving "one off" or responding to

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periodic impulses of generosity or occasional windfalls of money;

- (2) the covenant procedure is, as argued earlier, so complicated as to discourage many potential givers of modest means, and not well-suited to attracting the small frequent but widely dispersed gifts such people may prefer to make;
- (3) it offers no way of testing whether deductibility is a more powerful incentive psychologically than our present system of rebates.

There are two ways in which these deficiencies might be remedied.

24. The first remedy would be to introduce an incentive to single gifts which complements rather than undermines or replaces the four-year covenant. To do this it would have to offer a worthwhile incentive, but probably one perceptibly less than the covenant. And it would need to be simple and unbureaucratic for giver, charity and the Revenue alike. One method might be on the lines of

- tax remission at say half the basic rate of income tax (ie 15% at present), or perhaps a rounder number like 20% ("Govt returns £1 of tax for every £4 of taxed income given away"), only to apply to straight gifts, not tickets for functions and lotteries, or gifts in kind;
- suitably authorised recipients to give individuals a standard receipt demonstrating eligibility for tax relief;
- individuals to submit receipts to the Revenue;

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- a modest ceiling on the total of single gifts by an individual in a year which are eligible for relief - say £100-£200;
- a minimum for each gift of, say, £5 to eliminate the need for processing vast numbers of small donations. This threshold might also stimulate extra giving of itself.

25. It would be for consideration whether the certified gifts should trigger off rebates by the Revenue to the Charity as with covenants; or rather whether to make the new provision in addition an experiment in deductibility. In the latter case one might envisage a system whereby the Revenue

- establish that the giver paid sufficient income tax in the previous year to justify his claim;
- send the giver each year an appropriate refund of tax;
- or - though it would complicate PAYE administration - calculate a credit to be set off against his income tax bill in the following year.

Clearly a choice between these alternatives would require careful investigation of the staff costs and administrative considerations by the Revenue. At first glance the cash refund route would appear simpler than the conventional PAYE-based alternative. Unless such a modest relief for single gifts led to a great switch of giving from four-year covenants, it would not involve the vast and unacceptable complications of the full move to deductibility set out in para 22.

26. Another idea more in line with existing IR practices - would be the Charity Aid Foundation's proposal for (in effect) charity stamps. These might be purchased by eligible individuals from, say, post offices, and would attract tax

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relief when returned to the Inland Revenue by eligible charities which received them.

27. The second remedy - perhaps more important in the long run - would be spreading the habit of regular personal giving more widely. The covenanting system has several obvious drawbacks which must restrict its main appeal to the sophisticated and better-off. Even now, many people do not have bank accounts and seek to keep occasional large payments to a minimum. Yet covenanting typically involves the payment of an annual contribution in one lump sum, which must lessen its appeal to those who cannot find the money for intermittent and relatively large acts of generosity. It requires each individual to fill out a rather puzzling form every year to certify deduction of income tax. And its promotion is easy only for membership organisations and campaigns directed at the better educated. For such reasons covenanting is not the ideal way to elicit a ready response from the great mass of ordinary employees. Can one then find ways of encouraging giving by those who, for example, only bank and save, if at all, with Building Societies, the Giro or National Savings - people whose strong preference is for giving by a simple method in very small weekly deductions, typically under £1, for union dues, friendly society schemes, SAYE and so on? A certain number of well-organised groups like some church congregations already operate such schemes. But they are much handicapped by the need for constant, invidious and laborious pressure on the givers and the absence of a simple and automatic means of collection of payment. In most cases, however, there is no organisation which can easily promote such fund-raising. On top of all that, it appears that the few payroll deduction schemes that have been arranged are for one of a small number of well-organised national charities, and not for local needs; the giver cannot choose who he gives to; and the deductions themselves have not been arranged as covenants, so they have attracted no tax rebates.

28. The obvious answer would be to make available as widely as possible a simple system of frequent regular small

covenanted contributions or pay-roll giving which would amount to a kind of give-as-you-earn (GAYE). That this could be very effective is shown by the example of the well-known American organisation - United Way - which has set up such arrangements throughout the USA. The scale of giving it supports (£800m p.a. in a recent year) and the very wide coverage it has achieved are the clearest possible demonstration of the untapped potential for such personal giving in the UK.

29. There are several ways in which this might be done. The most obvious would be to encourage the recent efforts of the National Council for Voluntary Organisations, the Charities Aid Foundation and others to reproduce something like the US system. The embryonic British analogue, United Funds, which was launched in 1983 under Peter Jay's Chairmanship, has already established contacts with Departments. Its modus operandi and progress are discussed in Annex A. However, this initiative is still at an early and experimental stage. Even with its current change in chairman and strategy, it is unlikely to make a major impact for a considerable period. It also suffers from some major limitations:

- it operates by persuading individual employers to set up a system of pay-roll deduction;
- the stimulus and organisation depends on building up a complicated network of workplace activists to encourage giving to local "Community Funds".
- the few larger and better organised Charities who have already created some workplace organisations may be hostile, and are inevitably competitors.
- clearly some employers will not collaborate; and dependance on volunteer activists means that payroll giving is unlikely to achieve more than a patchy coverage of the country for a very long time.

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30. The US example suggests that despite these drawbacks, the idea is so potent that it would be rewarding to make every reasonable effort to encourage it. Government could help by such moves as

- facilitating the promotion of payroll giving amongst its own and other employees (recognising that an experiment is already under way);
- giving more "seedcorn" finance to help finance publicity and promotional work, locally and among large employers generally. (The Home Office has funded only one local experiment);
- promoting the scheme in partnership with employers and unions;
- establishing whether the imminent computerisation of PAYE could help make the scheme cheaper and more effective

In so doing Ministers would, however, have to recognise United Funds' concern and need to stay well clear of partisan activity.

31. An alternative approach would be to seek other ways of providing machinery for the simple system of frequent covenant payments required. These might not carry with them the important ingredient of the activist and workplace promotion which is inherent in United Funds. But they might make payroll giving available more quickly and comprehensively.

32. In principle, there would seem to be two ways of doing this:

- (1) To use the computerised PAYE system to deduct and collect the gifts net of tax from gross pay, to aggregate them, charity by charity, and to pay over the receipts including the tax rebate but less a handling charge. The task involved would appear impossibly complex in today's income tax system, but prima facie should be within the capacity of the new system in due course. The Revenue would then run a kind of nationwide CF as an agency service paid for by the Charities.
- (2) To focus not on employers or the Revenue, but on the (mainly) private financial institutions such as Banks, Credit Card Companies, Building Societies, Giro and TSB, and (conceivably) DNS. These institutions are operating current accounts, standing orders and variable debits on a massive and growing scale, and steadily eroding the (still significant) group of those with no kind of banking or savings accounts. These institutions would explicitly create their own analogue to a Community Fund for their personal clients. This could or should involve them, first, in actively promoting to their clients a well-known facility (the standing order) in a new light (covenanting and its tax reliefs), something which of itself might well provoke much more giving. But in addition they would aggregate and hand over the Funds (perhaps to the CAF) for onward distribution to the charities, which might offer valuable reductions in costs. To be viable the fee charged for this service would, however, have to be much lower than those normally charged for standing orders by the major financial institutions.

33. These proposals are not mutually exclusive, but clearly could cut across one another to some degree, or risk creating overlapping machinery. However the need for something on these lines to engineer incentives for charitable giving which are accessible to as many ordinary people as possible is great.

FURTHER CONSIDERATIONS

34. A new incentive for corporate giving could be effected quite quickly in the next Finance Bill, and an incentive for single gifts by individuals could also be an early possibility. They could be coupled with a campaign of propaganda, covering also payroll and similar forms of regular giving - though the effects of this would take longer to show themselves. But some possibly awkward questions also need answering.

35. The first is that there would be a significant PSBR cost attributable to such changes. This is not as valid an objection as it may appear. If Ministers stand by their commitment to an expanding voluntary sector, then that necessarily involves accepting the element of growing tax expenditure which is an unavoidable aspect of financing its desired growth. Moreover, for the reasons given in paras 3-4, the alternative to greater voluntary activity will usually be to add to planned public spending programmes in order to make good as far as possible the gaps the voluntary sector fails to fill. This will involve a higher PSBR cost which could well negate the revenue retained if the incentives are left as they are. And there would be significant gaps that no public sector activity could be expected to fill.

36. The second is that much or some of the extra giving which the proposed changes might stimulate would go to

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undeserving or doubtful charities or activities. This could lead to embarrassing controversy and provoke hostile and unwelcome proposals to modify and tighten the role of charities. The conclusion might then be drawn that, however strong the case for encouraging more giving, it would be imprudent to make the incentives "too generous" and thus risk putting the whole system in doubt.

37. The third is that ministers might wish to steer extra charitable giving somewhat towards supporting particular charities and policy objectives - a desire which is already reflected in the way some of their activities are purchased by fees paid by public bodies or supported by grants from them. The measures proposed would not have any such bias.

38. The second and third questions both point in rather similar directions. In each case the solution would seem to lie in some form of discrimination, designed either to keep the most undeserving out, or give special advantages to the most deserving.

39. The obvious way to discriminate against the undeserving would be to reform Charity law. This often-canvassed possibility probably has to be accepted as unrealistic. This would appear to mean that there is no choice but to leave the present system of incentives much as it is. This would, however, mean acquiescing in the present unsatisfactory position in which the scale and trend of giving falls increasingly short not merely of what is desirable but of what should be possible. Moreover it is an incorrect conclusion. Even if a frontal attack on Charity law is ruled out, there is another way in which the required degree of discrimination might be achieved which leaves present arrangements as they are.

40. This would be to create a new class of bodies seen as of special value in themselves or to Government policy, which

might be given special or additional fiscal privileges. This system would be independent of the present system of charity law and might in effect be administered by the Inland Revenue with advice from other Departments. Annex B explores this idea at some length, and shows that the discrimination required could be achieved in a number of ways. Experience overseas where such double-tiering is employed suggests that one simple way of achieving it is by fiscal legislation, to allow gifts to upper-tier bodies to attract tax relief up to higher thresholds of income or profits than gifts to the lower tier; or to restrict some kinds of relief in this way to upper-tier bodies alone. Another more comprehensive approach would be to legislate separately for a new kind of "super-charity". Annex B suggests how this could be done without it being necessary to displace the framework of ordinary charities; and illustrates the way this has been done in America.

41. One could give effect to the first and simpler method in the Finance Bill. This would require either some very limited definition of the objective criteria the upper-tier charities would have to meet, or reference in the legislation to a list of qualifying bodies which would be established by ministers, or a measure of both. The latter is obviously easier to envisage. But arguably it could be an awkward system to operate for a long period. A discretionary list would invite representations for inclusion from those not on it, and would be open to partisan abuse, particularly perhaps after a change of Government. The second route - legislating directly for a "super-charity" to supplement ordinary charities - is perhaps a more satisfactory method in principle and in the long run. But it is obviously more demanding, and one cannot be entirely confident that it would steer clear of the problems which bedevil reform of charity law itself.

42. Such bodies, with their special privileges, might also pay a price for them in the form of more tightly defined objectives and stricter supervision.

43. These ideas would naturally need further examination by departments as well as the Inland Revenue. There would be man-power implications in creating and maintaining a second register of "super-charities". And one would have to consider how far their introduction might stimulate calls for a radical review of charity law as well even though they did not directly alter it. But if the fear of stimulating more giving to disreputable charities or the wish to steer it towards those seen as useful is so strong as to inhibit any further moves to encourage giving so long as charity law remains unreformed, this alternative approach demands careful consideration.

CONCLUSION

44. Encouraging a growing voluntary sector is a general objective of this Government. The 1983 Manifesto promised "we shall develop other new ways to encourage private giving" (p.29). That vigorous growth is particularly necessary in a number of important areas of policy. However, it is not taking place. This is not because incomes and profits are depressed - the evidence of substantial untapped resources is compelling. Some at least of this potential giving would be likely to be tapped by:

- (1) ending the 4 year covenant system for companies and introducing straightforward deductibility for single or continuing gifts;
- (2) by introducing a restricted incentive for single gifts by individuals which might also be made deductible;

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- (3) by measures to make regular giving of small sums by ordinary people simpler; and
- (4) by a publicity campaign which might complement and reinforce these changes.

To reject such changes because of their apparent PSBR cost would be wrong. If it is felt that their benefit would be too indiscriminate, there are ways in which the benefit of better incentives could be concentrated on the most deserving parts of the voluntary sector. Much of what is proposed could be given effect in the next Finance Bill.

45. If such a programme is not possible, then ministers are likely to be faced not only by criticism over failure to meet a Manifesto commitment, but by growing concern about the financial support for charities generally; and continuing pressure for more and larger grants, increases in both local and central government statutory services and programmes, and a further extension of state activity in both Central and Local Government.

AR

ADAM RIDLEY
31 July 1985

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PAYROLL GIVING: UNITED FUNDS

United Funds was recently set up to reproduce something like the "United Way" system which has long been well-established in the USA. It is itself a registered charity supported by the National Council for Voluntary Organisations (NCVO), the Charities Art Foundation (CAF) and leading businessmen and trade unionists. Its original purpose was to stimulate the creation of a number of "Community Funds" (CF) in as many regions as possible. It is the CF which organises the collections of money, as does its US analogue. More recently there has also been promotion of payroll giving as a facility good and public-spirited employers should offer to their staff, without regard to the existence of a local CF.

2. United Funds initially appointed regional organisers in two areas (there was already a CF in Merseyside). Their task was to persuade employers, unions and voluntary sector activists to form a local CF. The CF's role is to arrange with as many employers as it can in its area to make the necessary pay-roll deductions. It identifies enthusiasts in each workplace with a cooperating employer whose task is to persuade their fellow employees to contract to give regularly. The individual donor will normally be able either to

- give to the charity of his choice;
- agree that his workplace CF committee will decide the distribution of part or all of his money; or
- leave it to the central CF committee to allocate.

The employer transmits the money collected to the CAF for distribution to the nominated charities much as it does with other gifts already.

3. The advantages of this system include:

- offering a wider range of people a simple and accessible way of giving by covenants;
- giving the individual wide and free choice of recipient;
- creating a system in which local charities will be well placed to raise money;
- a cheap and simple method of collecting the money and satisfying the Revenue that it is eligible for tax rebates;
- involving a large number of activists in active promotion of good causes;
- attracting ordinary people to regular charitable giving in a politically uncontroversial system supported by a wide spectrum of opinion and organisations.

In theory the system appears better than that in the USA, where individual givers usually have to let local committees allocate all the funds raised.

4. Of the first few CFs, two - Merseyside and York - are making some headway. But one has failed. The regional

organiser responsible for the Hampshire CF found great difficulties in getting through to employers, in an area dominated by firms with headquarters and administration elsewhere. A few other areas are showing some interest and trying to set up CFs, but there are no signs as yet of a snowball effect.

5. The relatively disappointing experience of the first few years has led to a reappraisal of strategy, to less emphasis on setting up CFs as a local focus for payroll giving, and to a partnership with Business in the Community which is promoting payroll giving by employees generally. United Funds appear to feel that they can only advance rather cautiously for the time being. They are acutely concerned that active support and encouragement which could be construed as any way political or partisan might discourage some of the interests whom they will have to conciliate and use, such as the unions. Some initial progress has been made in securing support among union members, and a resolution on famine relief passed at the TUC Annual Conference draws attention to the advantages of giving through covenanted contributions. But this initiative will clearly not be making a major impact on the flow of personal giving for some time to come if it develops as seems likely at present, even if it is ultimately as successful as in the USA.

CHANGES IN THE FRAMEWORK OF CHARITABLE GIVING AND THE ROLE OF VOLUNTARY BODIES

It is often felt that further major increases in the financial support given to charities would be unwise because of problems such as these:

- there are vast numbers of charities, so many that we may not know their precise number and they cannot be very comprehensively policed;
- better incentives will not merely mean a substantial loss of tax revenue (not in itself undesirable for the reasons given in para 34 of the paper) but that a substantial number of the undeserving, controversial or scandalous will benefit (e.g. tame private charities, schools, the Moonies) as well as those of pre-eminent merit or usefulness. The Revenue have also chronicled a number of well established abuses of charitable status. Some arise where charities make grants to one another, or get involved in complicated and murky transactions with associated companies and across the exchanges. Others can arise where charities do not spend the money they collect.
- therefore a major improvement in incentives might focus a lot of inquiring and hostile attention at where the money would go and, by extension, might bring into question the present wide and ill-defined scope of charitable activity.

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2. However, following the conclusion of the Goodman committee, it has been widely felt that it would be unwise to reform Charity Law to deal with these problems, obvious though such a response might seem. Charities have four hundred years of history behind them and are today a disorderly jumble of law, precedent and practice. Though still just viable, the system is so precarious that it might collapse in controversy and disorder should anyone try to reform it. If so a Government seeking to do so would please no one, would appear anti-charity, and might in addition end up by harming bodies like schools and churches. This has, of course, been the conclusion Ministers have reached more than once recently. If it still stands, then the way ahead has to meet two conditions:

- the present framework of Charity Law must be left intact;
- improved incentives must be concentrated on the more deserving charities only

3. The most obvious method would be to retain the present Charity Law framework, but alongside it introduce something on the lines of the system used in America and Canada - a new class of super charity, which might be called "Foundations". A Foundation would have to satisfy certain objective criteria, conform to strict guidelines of good practice, and possibly be more closely supervised than a charity. It would enjoy a significantly more favourable tax regime than a charity; some of the improvements in incentives now possible might be restricted to Foundations. Once Foundations were established one might then move, if it seemed appropriate, to reduce somewhat the privileges of ordinary Charities, supervise them more tightly, or do both.

4. Such a move should have several consequences:

- the beneficiaries of improved incentives would be fewer and their merit less open to challenge;
- the best Charities would be under strong pressure to migrate to Foundation status. In addition provision might be made for some activities or bodies which are not suited to charitable status to become Foundations.
- less good Charities would be under pressure to reform; all the more so if it was made clear that a day would come when old-fashioned charitable status would be phased out completely.

5. The kinds of areas or activities such Foundations could be active in would obviously be a matter of contentious debate. In all probability one might want to focus on

- health
- social welfare
- education and research
- environment, conservation and the arts
- churches
- encouragement of enterprise and employment

To restrict the coverage just to, say, health, the Arts or education alone would almost certainly be impossible. One might also be able to develop the Foundation idea to help particular areas and local causes.

6. Drawing the criteria of eligibility tightly should make them easier to defend. Considerable evidence that such a tiered system is defensible and useful is to be found in foreign experience.

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Thus in France:

- company payments for ordinary charitable bodies or works is deductible from taxable profits up to 0.1% of turnover; but the limit is 0.3%, of turnover for bodies on a special list compiled by the Finance Ministry.
- payments by individuals are normally deductible up to 1% of taxable income, but up to 5% for payments to recognised Foundations or Associations in the public interest".

In Germany:

- contributions for "cultural purposes" are deductible up to 10% income, while for those to ordinary charities the limit is only 5%;
- the income tax regulations list - in what looks like a discretionary way - a number of organisations which fall outside their main legal framework which also receive reliefs.

[Source PSI Report. "Funding the Arts in Europe". Ed. John Myerscough Editor 1984].

While in Italy gifts to charities, which are normally deductible up to 2% of net income, are subject to a higher limit for universities and similar institutions.

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7. In the USA a major distinction in law and tax treatment is to be found between Public Charitable organisations and Private Foundations. To qualify as the former an organisation must be operated for religious, charitable, scientific, literary or educational purposes; and either

- (a) is a church, educational organisation with a regular faculty curriculum and students, a hospital, or a Government unit;
- or (b) normally receives a substantial part of its support from a Government unit or from direct or indirect contributions from the general public;
- or (c) more than one third of its support comes from membership fees, receipts for admissions and performance of services related to its exempt purpose etc.

Private Foundations are essentially all remaining charitable organisations which do not meet any of these conditions. In essence they can be held to lack the dependence on public support and a wide constituency of public clients which will ensure responsiveness to public rather than private needs. The limits within which gifts are deductible are higher for Public Charitable organisations than for Private Foundations - 50% rather than 30% of "adjusted gross income". The Canadians appear to go even further than the Americans, with comparable distinctions between charitable organisations, public foundations and private foundations.

8. French and, perhaps, German practice also suggests that one need not have to introduce special legislation for a

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super-charity as such, as an extension to present charity law. The differentiation needed could be effected by ordinary tax legislation combined with a list of eligible bodies established by the Authorities.

9. Another rather different way of developing the Foundation idea would be to provide for Foundations with special privileges and obligations which were a kind of conduit or financial intermediary rather like Community Funds, or Community Trusts - local all-purpose fund-raising charities such as the CAF is trying to promote. Or one could create a small number of national or regional Foundations which were given special tax privileges as before, each to operate in a particular area, be it old age, the rural environment, art collections or whatever. The Foundations would then either allocate the money themselves or do so taking broad account of givers' wishes. However, this approach is, perhaps, less attractive than the pure super-Charity, in that

- it might be less easy to justify giving full power to allocate to the board or management committee of such a Foundation, even if the Americans' United Way system involves just that. Doing so would certainly weaken the link between giver and receiver.

- if the Foundation passes on money to ultimate recipients nominated by givers, then one has in effect given all Charities the potential of super-charged tax relief to the extent they draw on one particular method of giving which is not self-evidently objectively superior to others. While this might give community trusts and pay-roll giving a hefty shot in the arm when it needs it, the move could perhaps only be justified as a pump-priming stimulus with a limited life.

COSTING WAYS OF STIMULATING MORE CHARITABLE GIVING

The main paper proposes three ways of stimulating more giving. In deciding their relative importance and priority it is clearly important to have some idea of their impact, whether on the recipients or the Government's finances. There is no direct way of doing this. There are effectively no research findings which are relevant. To a marked degree much will hinge on vital but intangible questions of presentation, and the speed with which interest can be aroused by any propaganda which may be associated with these changes. There are also two technical problems; substitution and deadweight. If a new measure diverts giving from elsewhere, its net impact is thus offset - which may be termed substitution. To the extent a new incentive merely attaches itself to giving which is occurring anyway, the latter is termed deadweight. Neither is easy to allow for in principle, for the reasons already given. For all these reasons the calculations which follow are necessarily more illustrative than firm predictions. Since 1983 is the last year for which reasonably accurate benchmark statistics are to hand, the calculations illustrate the effects of the changes against that 1983 base. While this will understate their size for hypothetical future years, it allows one to gauge the orders of magnitude and relativities with some confidence.

COMPANY GIVING. DEDUCTIBILITY FOR SINGLE GIFTS INSTEAD OF COVENANTS

2. The proposed change would effectively extend a given degree of incentive to single gifts by all companies, offer the prospect of deductibility to tax-exhausted companies which will pay corporation tax in the future, and involve less complication for givers. It would ideally be coupled with a systematic campaign such as the CAF's Community Trust Steering Group is proposing. The targets for such a campaign might be to persuade companies to raise the fraction of their profits given to charity to:

- (a) the levels now achieved by the largest two hundred companies; or
- (b) the higher levels prevailing in the early 70s before the oil crisis.

3. According to the Blue Book (Table 1.8) in 1983 companies gave £74m to charities out of total income of £81.7bn, a fraction of 0.09%. For the top two hundred corporate donors the fraction averaged 0.21% between 1980/81 and 1982/83. [Charity Statistics 1983/84 p 41] In the four years 1970-73 before the oil crisis the fraction moved as follows according to the (somewhat uncertain) Blue Book figures:

1970	0.32%	
71	0.30%	
72	0.28%	<u>/Source NI Blue Book Table 8/</u>
73	0.2	

4. It follows that the "best 200 companies" target of 0.21% would take the fraction of income given back to just above the 0.20% figure for all companies in 1973, the last year before the oil crisis. As the overall figure was better in 1970-72, a target of 0.21% would appear both attainable and a reasonable basis for a conservative estimate in line with both (a) and (b) in para 2 above.

5. An increase in the ratio from 0.09% to 0.21% would mean an increase in the total given by a factor of 2.3, or some £100m. With a 35% corporation tax rate this would attract a further £54m of tax relief from the revenue if all gifts were eligible (which is unlikely, because of tax exhaustion. If companies returned to their 1970/71 level the increase would, of course, be half as much again. But it is perhaps unwise to suggest that such a strong improvement is possible.

PERSONAL GIVING: PAY-ROLL DEDUCTION

6. According to a recent CAF survey /Charity Statistics 1983/84 p 11/, the top 200 companies operated pay-roll giving schemes in 1983 which collected £4.6m for fourteen

charities. As these companies employ some 4m people, this means gifts of just over £1 per employee per year. The amount given per donor appears not to be known.⁷ The proposal will be of relevance only to those in employment, not the self-employed. It is relatively easy to see it being adopted fairly extensively in the public sector with its (nearly) 7m employees, rather less so in the private sector, with employment of roughly twice as much. If the system was operated to make new gifts over and above existing covenants by 1 in 10 public employees, but only 1 in 20 private ones, there would be about 700,000 givers in each sector, some 1.4m in all. If the average donor gave 50p a week, the total would be about £36m a year, which would in addition attract tax relief of some £15m or so. If the proportion of givers amongst all employees rose to 1 in 10, the average gift remaining at 50p a week, the total would be about £55m attracting some £23m income tax relief. It could well be that such a great spread of pay-roll giving is unlikely, but that the weekly sum given might be rather larger - certainly such an inference is suggested by the CAF survey. Whatever the case may be, the above estimates are likely to be as high as can be justified for some considerable period.

7. This estimate rules out substitution ex hypothesi, not by denying it will happen but by focussing on how much new giving might be achieved. The real risk of deadweight would exist to the extent individuals divert to pay-roll giving

attracting tax relief the one-off gifts they will in any case make (on flag days, in response to appeals and so on) but without attracting any relief. The range and character of such requests for giving is unlikely to be matched in variety and scale by pay-roll giving opportunities, which in any case arise from a slightly different motivation. Moreover, ex hypothesi, the number of employees using the pay-roll method are unlikely to be more than a small fraction of the employed population (10% or less) and much less as a fraction of the total adult population. For both these reasons there will be severe limits on the amount of deadweight which is possible. But clearly it will not be entirely negligible.

PERSONAL GIVING: LIMITED TAX RELIEF FOR SINGLE GIFTS

8. In the absence of any indicative information about the pattern of donations, one might hope that the limited tax relief for single gifts might attract giving on the following scale. Out of an adult population of about 30m (all those between 18 and 65)

1%	might give	£50	a year,	total	£15m	before tax	
5%	"	"	£15	- " -	£22½m	- " -	
5%	"	"	£5	- " -	£7½m	- " -	
In all				TOTAL	£45 m		

This would attract tax relief of about £10m if done by a covenant system, or one might assume that at least the equivalent extra sum was given if a deductibility route was employed.

9. There would clearly be significant deadweight, given the relatively substantial sums given already without tax remission. However, even if the deadweight was as much as £30m out of the £45m, there would still be £15m of extra giving, which would more than match the tax relief. There would also be some substitution for ordinary full covenants. This would be discouraged by the lower level of relief, and - perhaps more important - by it being in charities' interest to use the device to complement their 4-year covenants rather than undermine them. Where substitution does happen it may not be in the charities' interests, since they will enjoy a little less tax remission if the single gift is on the covenant system. The loss would, however, be small.

SUMMING UP

10. Adding these 3 estimates together, we have the following costed targets (£m)

	£m	
	Gift net of tax	tax rebated
Companies - single gifts	100	54
Pay-roll giving	36-55	15-23
Persons single gifts	45	10
Total	181-200	79-87

Grand Total

£260-287

11. This would if achieved mean roughly a doubling of giving in relation to the 1983 base - an ambitious goal. Of the three proposals, the company route appears most productive; pay-roll giving a valuable way of tapping new resources; while personal single gifts might be less productive, particularly when offsets are allowed for - though nonetheless clearly worth considering as an experiment.



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10 DOWNING STREET

From the Private Secretary

25 April 1985

COVENANTED CHARITABLE DONATIONS BY CLOSE COMPANIES

The Prime Minister has seen your letter to me of 22 April. She has noted that Sir Emmanuel Kaye's particular case is now the subject of judicial review and therefore sub judice. Nevertheless, she felt that the present tax treatment was unsatisfactory. By paying great emphasis on fairness between different groups of taxpayers it was frustrating desirable donations to charities. She noted the Chancellor's wish to find a way in the next budget of removing the limit on charitable covenants and very much hopes that this will prove possible. She would like to be kept informed of progress.

Sir Emmanuel has received the attached letter from Robin Butler so he is presumably awaiting a reply from the Chancellor. Despite the fact that his case is sub judice and cannot be commented on directly and the fact that the Government is not offering any concessions, the Prime Minister would like the letter to be as sympathetic in tone as possible.

(ANDREW TURNBULL)

Mrs. Rachel Lomax,
H.M. Treasury.



Prime Minister ①

Do you accept the Chancellor's arguments?

or do you wish to discuss at the next bilateral?

AF 23/4.

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

Mr A Turnbull
Private Secretary
10 Downing Street

Yes - together
with the points that
22 April 1985
Grey Coombe
put to me
yesterday

Dear Andrew,

COVENANTED CHARITABLE DONATIONS BY CLOSE COMPANIES

1. Robin Butler wrote to me on 28 March about Sir Emmanuel Kaye's representations about the tax rules under which a close company's covenanted payments to charity are apportioned to the company's shareholders.
2. I enclose a note which explains the effect and purpose of this particular close company provision, and gives the background so far as Sir Emmanuel Kaye's company is concerned. It also deals with the particular arguments which Sir Emmanuel put to the Prime Minister.
3. Sir Emmanuel has been in continuous correspondence with Treasury Ministers on this matter since July last year. During the course of this the Chancellor has considered very carefully all of Sir Emmanuel's arguments for ending this apportionment provision. He has concluded, however, that there are good reasons why this provision should be retained and, having reviewed the matter again, that remains his view.
4. As the background note explains, the essence of the matter is that whilst this Government is firmly committed to the encouragement of charitable giving, there is at stake here another equally important principle - that of parity of treatment between one group of taxpayers and another. Without apportionment, individuals who are members of a closely controlled company would be able effectively to obtain a greater tax saving, for a given level of beneficence, than they would if instead they covenanted directly, or than would be available to individuals who are not members of such a company.
5. In addition, the possible cost and avoidance implications of ending apportionment can not be ignored. As explained in the note, the revenue loss - even if there was no abuse - might be significant. But this provision is also an important safeguard against certain kinds of avoidance schemes involving charities, and if apportionment was abolished, the expectation must be that there would be a marked increase in the use of such schemes.
6. As you will know, however, the Chancellor did in his Budget decide to increase from £5,000 to £10,000 the maximum annual amount in respect of which an individual making covenanted payments to charity is entitled to relief at the higher rates of income tax. This change will benefit both individuals covenanting directly and also those who are members of a close company which itself covenants. In this way, the Chancellor was able to provide further

encouragement to charitable giving whilst at the same time maintaining parity of treatment between taxpayers.

7. The Prime Minister may like to know, in confidence, that the Chancellor will be considering the case for removing the limit on charitable covenants entirely in the next Budget. If that was done, there would be no need to apportion covenanted income of close companies. As a necessary counterpart, however, there would have to be strict rules to ensure that money covenanted reached genuine (ie arms length) public charities. But it is too soon to say whether this is a feasible option and for that reason the Chancellor is anxious that no reference should be made to this possibility to Sir Emmanuel Kaye.

8. Finally, the Prime Minister should be aware that Sir Emmanuel's company has now applied for a judicial review of the Inland Revenue's action in apportioning the charitable covenanted payments made by his company. So far as Sir Emmanuel's own company is concerned, therefore, the matter must now be regarded as sub-judice.

*Yours ever
Rachel.*

MRS R LONAX

CHARITABLE COVENANTS BY CLOSE COMPANIES - BACKGROUND NOTE

1. A close company is, broadly, one which is under the control (in a very wide sense) of 5 or fewer persons or under the control of its directors.
2. The 1972 Finance Act provides for certain annual payments (including covenanted donations) that are deducted from the taxable profits of a close company to be apportioned among the members (usually shareholders) of the company, the amounts apportioned being treated as income in the hands of the members and taxed accordingly.
3. This rule is a necessary accompaniment to the general rule for individuals. Essentially, it ensures parity of treatment with that which applies to donors who are not members of close companies, or which would apply if the members instead covenanted directly.

Position of individual who makes covenanted donations to charity

4. When an individual makes a covenanted payment to a charity, he gets tax relief for this at his full marginal rates of income tax only on the first £5,000 (to be increased to £10,000 in the 1985 Finance Bill). Anything above this attracts relief at the basic rate of tax only.

Position of individual shareholder in close company

5. Individuals who are members of a close company are, effectively, in a position to choose; they can either arrange to take more out of the company by way eg of remuneration or dividend and then to covenant directly, or they can take less out and arrange for the company itself to covenant.
6. Under the second option, the income foregone would otherwise have been liable to tax, including higher rate tax

where appropriate. By arranging for the company to covenant, therefore, the members would - without apportionment - effectively get higher rate relief on amounts in excess of £5,000 (£10,000) rather than relief at the basic rate only as would be the case if the company had paid a dividend etc instead, and the members had covenanted directly.

Cost and possible avoidance implications if apportionment was ended

7. The present tax yield - ie on assessments at higher rates on amounts apportioned to individuals in excess of £5,000 - is estimated at about £1m a year. But the annual revenue loss from ending apportionment could be much greater than this, depending on the extent of the change and also on the probable behavioural effects that would result.

8. Thus, unless abolition was confined to trading companies, any individual of sufficient means would be able to form a company and transfer to it his investments, or make it an interest free loan, and then have the company covenant its annual investment income to the charity of his choice - effectively, thereby, getting higher rate relief on the whole of the amount covenanted. (And, even if confined to trading companies there would still be scope for abuse - ie by dressing up such newly formed investment companies to look like trading companies.) The expectation must also be that all those individuals who are shareholders in existing close companies, and who at present covenant more than £5,000 (£10,000) to charity directly, would in future arrange for these payments to be made by the company they control. We have no way of estimating the extent of these possible behavioural effects, but given the large number of close companies in existence already there could be a substantial increase in the resulting annual revenue loss.

9. More generally, there is already considerable use of charities as vehicles for avoidance of corporation tax and income tax. Various devices are being used, but there is one that is of particular relevance in the present context. Typically, what happens in this kind of arrangement is that John Smith Limited covenants its payments to John Smith Charitable Trust. The Trust will make some payments - perhaps as little as 15 per cent of its income - to outside charities, and the rest of its income is invested or passed on to another private charitable trust. What happens then is often very obscure, but there are a number of indirect means through which the family or close friend can end up as the major beneficiaries, such as by making payments to a small class of beneficiaries.

10. Another variant here is the "company banker" arrangement, whereby the parent company of a group of trading subsidiaries is itself a registered charity. The trading subsidiaries covenant their annual profits to the charitable parent which may again pay over only a relatively small amount of its receipts to charity, either investing the rest or even loaning it back to the subsidiaries.

11. Although the problem goes much wider than covenanted payments, the present apportionment provision is often the only means available to the Revenue to counter these particular schemes, and there is little doubt that if apportionment was ended there would be a marked increase in the use of such schemes.

Sir Emmanuel Kaye's company - Lansing Bagnall Limited

12. For a number of years, Lansing Bagnall Ltd, a close company in which Sir Emmanuel Kaye himself has a more than 50 per cent interest, has been making covenanted payments to charity. Over the 5 years 1978 to 1982, total annual payments were, on

average, about £51,000. (In the year ending 30 April 1983 there were further payments of £119,000, but the final accounts for this year are not yet available.)

13. There was initially an apportionment of the payment made in the year ending 30 April 1982, but not of the payments made in earlier years. The reason for this was that the local Inspector of Taxes who had handled the company's affairs up to 1981 had overlooked this requirement of the close company provisions, whilst his successor did not.

14. When the matter came to light the Inland Revenue considered whether it would be within the Board's "care and management" powers under the Taxes Management Act not to re-open the liabilities for the earlier years. They concluded that this would not be a proper use of those powers, and would be contrary to their practice in other cases. Apportionments were therefore also then made for the year ending 30 April 1978 (the year farthest back within the statutory time limit for re-opening assessments) and, with one exception, for all of the succeeding years to 1982. (There will also need to be an apportionment for the payment in 1983, once the accounts have been finalised.)

15. The exception was for the year ended 30 April 1979 where a formal clearance that an apportionment would not be made had been granted. Though strictly speaking this clearance related to the apportionment of income rather than to the covenanted payments, the Board considered that it would not be justified in re-opening the assessments for that year.

SIR EMMANUEL KAYE'S PARTICULAR ARGUMENTS

16. Sir Emmanuel is mainly concerned with the principle itself of continuing to apportion covenanted payments by close trading companies, which he believes is no longer justified. He suggests that either this particular provision in the legislation should be repealed or, possibly, that the same

result could be achieved by reinterpretation of the existing legislation (see last point below).

Conflict with Chancellor's 1980 Budget Statement on charitable giving

17. Sir Emmanuel is referring here to the then Chancellor's 1980 Budget Statement that "it is important to do all we can to help charities and to stimulate private benefactors and helpers".

18. This Statement was made in the context of a number of measures introduced to encourage charitable giving, including the introduction for the first time of relief at higher rates of income tax for covenanted donations to charities.

19. But the Chancellor made it clear in his Budget Statement that this higher rate relief was to be subject to a ceiling of, initially, £3,000 a year. (The ceiling was increased to £5,000 a year in 1983, and is now being increased to £10,000.)

20. The 1980 Finance Bill also made it clear that this limit for higher rate relief would apply to covenanted payments made via close companies and apportioned to individual members. Indeed, if this had not happened, members of a close company which covenanted would have been disadvantaged compared to individuals covenanted directly.

Anomalous to retain this apportionment for close trading companies

21. Sir Emmanuel suggests that the apportionment of covenanted donations for trading companies conflicts with the abolition, in 1980, of apportionment of their trading income.

22. All that was abolished in 1980 was the apportionment of trading income of trading companies. It was made clear that the apportionment of other income of trading companies - ie

investment income - was being retained. Similarly, the abolition of the apportionment of trading income of trading companies had no bearing on the apportionment of covenanted payments to charities (and other relevant annual payments) which continued to apply. The apportionment of these annual payments always has been separate from and additional to any apportionment of income.

23. As noted (paragraph 20 above), if this apportionment provision had not been brought into line with the new higher rate relief for covenanted donations by individuals, members of a close company which covenanted would have been disadvantaged compared to individuals covenanting directly. But by the same token, if apportionment of these payments had been abolished individuals who are members of a closely controlled company would be able effectively to obtain a greater tax saving for a given level of beneficence than would be available to them had they instead covenanted directly, or than would be available to individuals who are not members of such a company.

Position in other countries

24. Sir Emmanuel says that "10 industrialised countries" he has studied have no apportionment of charitable donations.

25. In correspondence with Treasury Ministers, Sir Emmanuel has referred in particular to the USA and Canada. But, in those countries there is no apportionment of covenanted payments made by the equivalent of close companies because, unlike in the UK, there is no taxation advantage to be gained by the individual having his company make the payments. Any comparison with other countries needs similarly to take account of what happens elsewhere in the tax regime of the country concerned.

Revenue not compelled to apportion

26. Sir Emmanuel suggests that because the apportionment legislation (paragraph 3 of Schedule 16 Finance Act 1972) says there "may" rather than "shall" be an apportionment, the Revenue has discretion not to apportion. (The implication - somewhat paradoxically - being that the Revenue would then be required to exercise that discretion in a particular way - ie in favour of the taxpayer.)

27. Long established legal authority is that whether "may" is to be construed as discretionary or mandatory depends largely on the context in which it appears. As used here, the Revenue's legal advice is that there is no discretion in the sense intended by Sir Emmanuel.

28. However, questions of this kind can ultimately be decided only by the Courts. Solicitors acting for Lansing Bagnall Ltd have given notice for a judicial review of the Inland Revenue's action in apportioning the covenanted payments made by the company.

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Comments to Authorities
by Jose Campomiro
3/85



23 APR 1985



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10 DOWNING STREET

From the Principal Private Secretary

28 March 1985

COVENANTED CHARITABLE DONATIONS BY CLOSE COMPANIES

The Prime Minister told the Chancellor of the Exchequer at their talk yesterday afternoon that she had received representations from Sir Emmanuel Kaye about the Inland Revenue's action in apportioning to shareholders of close companies the covenanted charitable donations of the company.

Sir Emmanuel argues that the relevant anti-avoidance legislation gives the Inland Revenue the power to apportion payments but does not compel them to do so. He argues that the Inland Revenue's action is in conflict with Government policy to encourage charitable giving by companies and in particular with the former Chancellor of the Exchequer's statement of 26 March 1980. He also argues that the apportionment of trading income of trading companies was repealed in 1980 and it is therefore anomalous that the apportionment of charitable covenants of trading companies should be retained. Finally he says that the ten industrialised countries which he has studied make no distinction between close companies and others in respect of charitable contributions.

The Chancellor explained to the Prime Minister last night that Sir Emmanuel Kaye's representations were by no means new, but the Prime Minister asked if the Chancellor would have a further look at them in the light of the arguments set out above.

BF //

Leib

Mrs Rachel Lomax
H M Treasury

SL



10 DOWNING STREET

From the Principal Private Secretary

28 March 1985

The Prime Minister has asked me to thank you for your letters of 22 March about covenanted charitable donations by close companies. She has had a word with the Chancellor of the Exchequer about this matter and has asked him to look at it again in the light of the points in your letter.

Perb

Sir Emmanuel Kaye, CBE.

RS



10 DOWNING STREET

Prime Minister

Sir Emmanuel Kaye
makes a strong case. I have
not sent his letter(s) to the
Chancellor because he includes
in both letters the not very
tactful suggestion that Peter
Rees should conduct a review!

If you agree I will
suggest to the Treasury that this
is on the agenda for your talk
with the Chancellor on Wednesday.
Agree? Yes *ml* FERB 25.3.

LANSING • BAGNALL • LTD



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Sir Emmanuel Kaye, C.B.E.
Chairman & Governing Director

22nd March, 1985.

The Rt. Hon. Mrs. Margaret Thatcher MP
Prime Minister
10 Downing Street
LONDON S.W.1.

My dear Prime Minister,

COVENANTED CHARITABLE DONATIONS BY CLOSE COMPANIES:

Reluctant as I am to intrude upon your time, as this matter concerns charities and I have been advised by Sir Robert Armstrong and Mr. Cecil Parkinson to bring the issue to your notice, I hope you will forgive me.

I have applied to the Charity Commissioners to register a charity to help the victims of terrorism - I have in mind particularly the English victims of terrorism - but whether I shall be able to provide worthwhile help will turn upon the contents of this year's Finance Bill.

I have always believed that companies should take a wider view of their responsibilities than just their own commercial interests; hence, for more than 25 years, this company - with the full knowledge of the Inland Revenue - has supported local and national registered charities.

However, last summer we stopped all charitable donations.

This is because the Revenue have decided to tax our shareholders on the company's charitable donations. The attached letter explains how this situation came about. The Financial Secretary, Mr. John Moore, has sided with the Revenue and appears to have the support of the Chancellor. However, point 11 makes a suggestion you may find helpful, i.e. of all Treasury Ministers, the one who is particularly knowledgeable on the relevant tax laws is, of course, Mr. Peter Rees. Would you consider asking him for a review of the situation, especially on account of the fact that this tax does not exist in the ten other leading civilised countries I have checked - please see point 5. (The welcome Budget increase for individuals' charitable donations does not meet the point of companies' covenanted giving according to their means).

I appeal to you for the exercise of your well-known and much respected common-sense and your skill in cutting through 'red tape'. Without your intervention I am afraid this capricious and anachronistic legislation under which the Revenue is acting will stay on the Statute Book to the detriment of numerous charities.

With all Sybil's & my good wishes
to you & Denis,
Yours very sincerely,
Emmanuel





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*Sir Emmanuel Hays, CBE
Chairman & Governing Director*

22nd March, 1985

The Rt. Hon. Mrs. Margaret Thatcher, M.P
Prime Minister
10 Downing Street
LONDON S.W.1.

My dear Prime Minister,

COVENANTED CHARITABLE DONATIONS BY CLOSE COMPANIES:

As a follow-on to my letter of even date, I should explain that:-

1. With the appointment of a new Inspector who was dealing with our 1982 Accounts, the Revenue suddenly took it into their heads to change the practice of 25 years and to tax our shareholders on the covenanted charitable donations made by the company. Although the relevant 1972 legislation states that the Revenue MAY apportion payments to, i.e. tax, the shareholders of a close company in respect of the company's charitable donations, the Revenue maintains that the legislation means they SHALL apportion.
2. In June last, I raised this matter with the Chancellor when he attended a meeting of The Unquoted Companies' Group and he asked me to write to him. He passed my letter to the Financial Secretary, Mr. John Moore, who sent it to the Inland Revenue - who produced a convoluted reply maintaining their position and saying they had no option but to tax our shareholders and, with their not unusual reaction of hitting a querying taxpayer harder, that they would now have to go back and, by apportionment, tax our shareholders over the previous six years of the company's charitable giving.
3. We are challenging the assessments on a technical matter of construction, but that in no way inhibits a discussion of the policy issues.

/over....



4. *There has been voluminous correspondence since last June. I refrain from sending it to you but enclose a note on the Revenue argument.*
5. *I have checked the situation in the following countries and there is no distinction made between quoted and unquoted, unclose and close companies in respect of charitable contributions:-*

<i>United States</i>	<i>Canada</i>	<i>Japan</i>
<i>Belgium</i>	<i>Denmark</i>	<i>France</i>
<i>Germany</i>	<i>Italy</i>	<i>Luxembourg</i>
<i>The Netherlands.</i>		

John Moore's comment on these international comparisons is that "it would be misleading to consider a particular provision in isolation from the rest of the tax regime in the countries concerned" - which, in my view, is no answer! These are all civilised countries, yet they have failed to discern the "danger" to the principle of parity between taxpayers which the absence of apportionment provisions supposedly entails (and which the enclosed note explains is the Revenue's stance).

6. *The Revenue's attitude, supported by the Financial Secretary, is quite contrary to the statement made by Sir Geoffrey Howe when Chancellor of the Exchequer, on 26th March, 1980, when he relaxed taxation so as to help charities and said "It is important to do all we can to help charities and to stimulate private benefactors and helpers". In the same Budget he repealed the apportionment of trading income for trading companies, so it is anomalous that the apportionment of charitable covenants should be retained even for trading companies. Government policy was also described by Mr. Patrick Jenkin as recently as 12th November, 1984 when he encouraged voluntary bodies to look to companies for funds.*
7. *Out of the blue I received a letter from Lord (Ralph) Harris who wrote "I was astonished to hear that the Treasury are now persecuting unquoted companies for their past charitable donations. It seems to me an outrage".*
8. *There is no doubt that the provisions deter many companies from exercising charity and are in conflict with Government policy, which is to encourage charitable giving by companies. The Chairman of the Conservative Party Finance Committee, Sir William Clark, has written to John Moore asking for the law to be changed. However, John Moore has given no indication that he intends to do so.*
9. *The Financial Secretary has had numerous letters from Members*

/over....



of Parliament reflecting the serious concern of various charities. They have all received similar replies giving the Revenue line.

10. The Chairman of the All-Party Arts & Heritage Group, Mr. Patrick Cormack, led a deputation to see John Moore on Tuesday, 5th March, but made no headway.
11. May I make a suggestion which you may find helpful: Of all Treasury Ministers, the one who is particularly knowledgeable on the relevant tax laws is, of course, Mr. Peter Rees. Would you consider asking him for a review of the situation?
12. Summing up, therefore:-
 - a) The rules that inspired these provisions disappeared in 1980.
 - b) The provisions deter charitable contribution and are in conflict with publicly stated Government policy, which is to encourage charitable giving by companies.
 - c) Ten important civilised countries have nothing like these provisions, which underlines that the Revenue's general policy arguments are unsound.
 - d) Reforming these provisions would be wholly uncontroversial.
 - e) In a situation where we are all trying to convince public opinion of the benefits to the community of private enterprise, to hamstringing industry's efforts to perform its contributive role in society is, I trust you will agree, counter-productive.

I do hope this issue will benefit from your attention and that this otiose legislation will be repealed in the coming Finance Bill.

Yours very sincerely,
Samuel

To: The Prime Minister

22nd March, 1985

THE REVENUE ARGUMENT

(A note to supplement what I say in my letter of 18.3.85)

PROPOSITION

The Revenue argument is that the shareholders in an unquoted close company are in a position to choose to covenant to charities whether directly, or indirectly via the company (which the shareholders are deemed to control), and that apportionment ensures parity in relation to charitable giving as between such shareholders and individuals.

REPLY

We have replied that:

- a) the reason for the provisions in the first place was not parity, and for trading companies the real reason has, since the 1980 Budget, disappeared.
- b) the Revenue have chosen the wrong "parity", which can only be achieved at the cost of dislocating other parities;
- c) even if it were admitted to be the right parity to look for, the legislation operates so selectively and capriciously as to be unable to achieve equitable results.

THE ORIGINAL REASON

The Revenue have not argued that the apportionment of charitable covenants was part of the 1965 shortfall legislation (which it was) because for trading companies that legislation (in effect) no longer applies, and the real reason for the legislation is therefore contrary to the Revenue's case.

THE PARITY ISSUE

The Revenue say that they are preserving parity in tax treatment between an individual who is not a member of a close company and the shareholders of a close company. They are not, of course, preserving parity between the shareholders of close as compared to unclose companies; nor are they even preserving parity between all shareholders in close companies, where one shareholder may be liable to apportionment and another escape wholly or partly because the second holds shares in a company which has only chargeable gains as opposed to trading profits; or which recovers

/over.....



the credit on dividends; or which has no taxable profit because, for instance, of capital allowances. Even if there were an argument for parity the obvious capriciousness in the way the legislation applies defeats that argument. One of their latest justifications, in fact, suggests that a close company should pay the tax apportioned amongst the shareholders, as the 1972 legislation permits. So now, apparently, they are not interested in preserving parity between different companies!

THE ISSUE OF DISCRETION

As to the Revenue's discretionary powers, you will appreciate the extreme illogicality of the Revenue's contention that they have no discretion regarding charitable donations when I point out that on 26th February, 1973 the Revenue stated that, as far as the general apportionment of close companies' income was concerned, they would give sympathetic consideration to three types of case - one of which was an (otherwise mandatory) apportionment reflecting the disallowance for tax of "a relatively large amount of entertaining expenses". Therefore, the Revenue can exercise sympathy and discretion for relatively large entertaining expenses (*vis-a-vis* a provision which effectively says "SHALL") but say they cannot exercise sympathy and discretion in respect of charitable donations (*vis-a-vis* a provision which actually says "MAY").

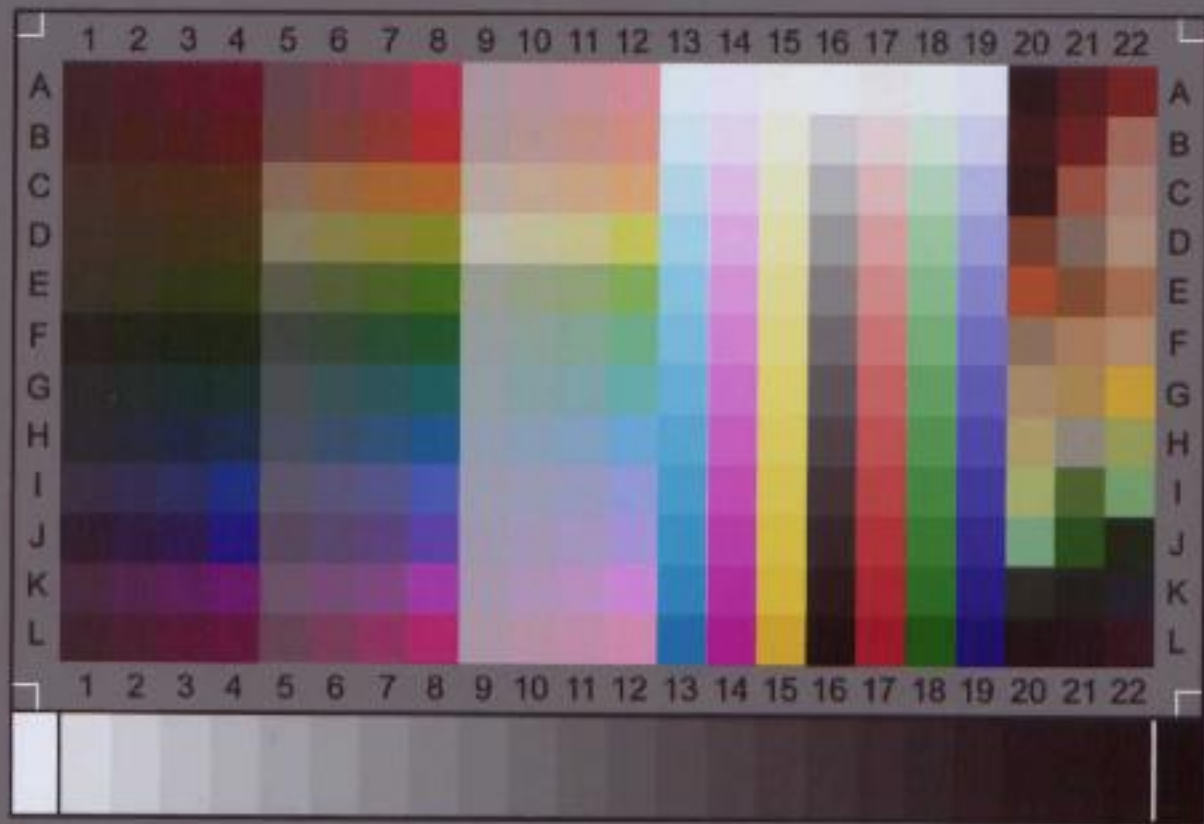
THE IRONY

The relevant apportionment provisions do not apply to quoted unclose companies. Lansing Bagnall is of a size where we could easily be a quoted, unclose company larger than many others and, if that were the case, our charitable donations would be no different but our shareholders would not be taxed. Smaller quoted unclose companies escape this penalty and it is part of our contention that our shareholders' position should be compared with that of shareholders in unclose quoted companies, since the real ground of comparison is with what the companies do, and not with individuals in their private capacity.

INTERNATIONAL COMPARISONS:

The ten important civilised countries listed in my covering letter have no provision to tax the shareholders of close companies on the companies' charitable donations. This underlines that the Revenue's general policy argument is unsound.





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