

Acknowledged.  
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28 March 2007

Dear Greig

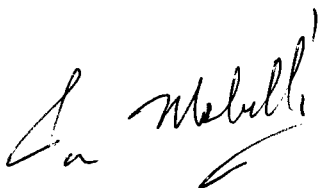
**DRAFT CULTURE (SCOTLAND) BILL**

I enclose the Royal Society of Edinburgh's response to the consultation on the above draft Bill, and a completed Respondent Information Form. I have also emailed the response to Barry Matthews.

As I indicated when we met yesterday, we would be very happy to elaborate on any of the points in our response either in a meeting or in correspondence.

It was good of you to give up the time to discuss current thinking relating to the proposed "culture academy". Jan, William and I found the meeting very helpful, and hope that it might also have been of some use to you. If you consider there would be any merit in meeting again once Ministers' thinking has developed further, please let us know. In the meantime, we will follow up on your suggestion of a discussion with Richard Holloway.

Yours sincerely



**Ian Melville**

### **Draft Culture (Scotland) Bill**

The Royal Society of Edinburgh (RSE) is pleased to respond to the Scottish Executive's consultation on the draft Culture (Scotland) Bill. These comments have been compiled under the direction of Professor Jan McDonald, the Society's Vice-President with responsibility for the Arts, Humanities and Social Sciences, and with the assistance of a number of expert Fellows of the RSE. However, the views expressed are not necessarily shared by all Fellows of the Society.

The Royal Society of Edinburgh is Scotland's National Academy, with a Fellowship of elected scholars and practitioners from the fields of science, engineering, technology, the arts, humanities, law, social sciences, business and commerce. The Society is, therefore, well-placed to provide a considered, and an independent, view of the implications of the proposals set out in the draft Bill.

The Society welcomed the vision outlined by the First Minister in his speech on St Andrew's Day in 2003 in which the right of access to culture was seen as standing alongside *universal healthcare and education for all, while retaining the belief in the centrality of the creative artist to all cultural endeavour*. The Culture Commission, established by Ministers in April 2004, was to take its inspiration from the First Minister's speech in developing a new cultural vision, encompassing a radically different way of encouraging creativity and delivering and sustaining cultural activities in order to establish Scotland as a "vibrant, cosmopolitan, competitive country and an internationally recognised creative hub".

The Commission's report, published in June 2005, set down a wide range of recommendations proposing significant changes in education, infrastructure and finance. Although we recognise that many of the Commission's recommendations can be implemented without legislation, we are disappointed that the provisions in the draft Bill fall short of delivering the major changes implied both in the First Minister's speech in 2003 and in the Commission's recommendations. Our first concern is that this perceived reduction in the Scottish Executive's commitment to major change will undermine the enthusiasm that has been engendered for the development of Scotland's culture in all of its rich diversity. Our second concern is that the draft Bill implies considerable restrictions on the independence of the new body (Creative Scotland) charged with the distribution of funding of cultural activities

## **Local cultural entitlements**

### ***Do you think that developing local cultural entitlements will help to increase participation in cultural activities?***

The Society has reservations as to how useful the concept of “entitlements” will prove to be. There has been a shift from the language of “cultural rights”, used by the First Minister in his 2003 St Andrew’s Day speech, to that of “entitlements”. This appears to be an example of the weakening of the political and philosophical commitment to which we referred above, particularly when the consultation paper acknowledges that “entitlements will not represent a guarantee of access to any particular services”. We are concerned that the discretion provided by the Bill to local authorities will do nothing to address the disparities in provision that exist throughout Scotland, and that the development of entitlements by itself will do little to increase participation in cultural activities in areas where the local authority is relatively inactive at present. Nor is there any attempt to ‘reward’ or enhance the efforts of those authorities which currently make a substantial commitment to creative activity in their areas.

There is no reference to “cultural entitlements” in the draft Bill and it is left to the guidance to be issued to local authorities to explain what is intended by the term and to outline the role of authorities in the provision of entitlements. However, the draft guidance would require little new of a local authority other than greater consultation with its electorate on the cultural services to be provided, and the provision of information to Ministers. Although Ministers will have information from an authority on the cultural services it provides, how it has planned its services and on how it has consulted its constituents, the Bill provides no sanction that can be imposed on an authority not adhering to the guidance or meeting a required standard of cultural service provision.

### ***If you believe further or alternative measures are necessary, what are they?***

At present certain sections of the community benefit disproportionately from arts spending and, therefore, outreach and inclusion are important. We consider continuing efforts at education through schools together with outreach activities in communities to be essential factors in increasing participation. The draft guidance offers little assistance to local authorities as to how to engage with those social groups outwith current cultural provision, and we consider this to be an omission. We also note that these activities carry costs and it must be recognised that the proposed cultural planning approach will have implications for public spending that will have to be addressed if increased participation is to be achieved.

### ***How do you think the Scottish Executive and local authorities can best utilise the influence and impact of cultural activity?***

We recognise the attractions in trying to use cultural activity to help advance Executive and local authority policies in other areas. The consultation document refers to reports of cultural activity benefiting a range of public policy objectives but, whilst the Society agrees that art can result in desirable social outcomes, we believe that it exists, first, in and of itself. Cultural activity should be supported on its own

merits rather than as a means of achieving other policy objectives, although the possibilities of incidental benefit should not be ignored. In short, we believe that great art has its own intrinsic value which will almost certainly, but not inevitably, have positive social and economic impacts.

***Do you think the initial draft guidance under this Part of the Culture Bill is clear and helpful? Is there anything else it should contain?***

The draft guidance goes some way to clarifying the term “cultural entitlement”. However, it advocates little more than the approaches already adopted by the better authorities in the planning and delivery of their cultural services. Although a “good practice” guide is useful, there is scope to encourage local authorities to do more in this area. We welcome the references to education in paragraphs 1.29 and 1.30 of the draft. The concept of “entitlement” must start in our schools which have an important role to play not only in education but in accessing cultural resources. This should be given greater emphasis in the draft guidance.

The draft guidance does not pay sufficient attention to the higher education sector, a major cultural resource in all the arts, first as a provider through, for example, university museums and galleries, concert halls and theatres and, more importantly, in its personnel, visual artists, poets, musicians, performers, cultural historians and critics. Local authorities should be strongly encouraged to work with their local higher education establishments in planning their cultural services.

We should also wish local authorities to be given greater encouragement to work together in the provision of cultural entitlements. Members of the public do not necessarily expect only to make use of cultural services within their local authority area. For example, the audiences of the Citizens’ Theatre in Glasgow include a high proportion of members from outside the area of the Glasgow City Council, and there are numerous similar examples throughout Scotland. Local authorities should consider whether the cultural aspirations of their electorates might in some cases be met from outside their own areas. This might result in a case for grant assistance to organisations or facilities based in a neighbouring authority’s area.

## **Creative Scotland**

***Do you agree that there should be a single national cultural development body?***

Creative Scotland would be the new “national cultural development body” formed by the fusion of the residual functions of the Scottish Arts Council with those of Scottish Screen. These are two very different organisations and their combination could result in a cumbersome body. On the other hand, in Scotland, performers, writers and directors move comfortably between stage and screen, and there is an increased use of filmed or video material in theatre and in creative art. The amalgamation, if it is predicated on a will to develop further existing artistic explorations across artforms, could prove to be extremely productive. Unfortunately, the arguments for such a move set out in the consultation paper are largely ones of efficiency and convenience. Whilst we agree that efficiency should be a consideration, this should be subordinate to the ability of the new body to carry out successfully the wide range of functions

expected of it. Any savings that do accrue from improved efficiency should be channelled into direct support of the arts.

***Do you agree with the remit proposed for Creative Scotland? Has it the right powers and functions?***

The proposed remit is wide-ranging and it will be a challenge for Creative Scotland to develop a coherent approach in fulfilling all of its functions. The Society considers that the prime function should be the support and development of excellence in the arts, and that economic and other incidental benefits will naturally flow from this approach.

We are also of the view that there is a need for greater clarity about the respective roles of creative Scotland and the Enterprise Networks in relation to business advice and support for the creative industries. It would be helpful to have this clarification at a stage that would allow Creative Scotland's role to be reflected in the legislation if necessary.

***Do you agree that Creative Scotland should work in concert with the Scottish Executive to implement national cultural policy?***

There is a need for Creative Scotland to work with the Scottish Executive in the implementation of cultural policy, but only in the broadest consultative terms. Creative Scotland must not be seen as an agent of the Executive, but should operate independently of Ministers. This issue was addressed by the majority of Fellows responding to our consultation, and was the one which caused most anxiety, focussed on profound disagreement with the summary abandonment of the Keynesian 'arm's length' policy and fears of direct political interference in artistic decision-making, fears compounded by the proposal that Ministers would have total control over the membership of the new body. The Society has also noted the concerns expressed by a number of other commentators about the powers in the draft Bill that are interpreted as allowing Ministers to exercise control over Creative Scotland. We have also seen the Culture Minister's assurances that the Executive has no intention of interfering in the "day-to-day running of the organisation". We welcome this assurance from the Minister but recognise that this cannot bind her successors. We are firmly of the view, therefore, that the proposed powers to be provided to Ministers by paragraph 16 of Schedule 1 to the Bill should be qualified to reflect Ministerial policy that any direction or guidance issued to Creative Scotland should be limited to the governance of the organisation.

**National Collections**

The Society agrees that, in order to maintain their quality, the National Collections should remain as constitutionally separate centres of excellence.

Our only other comment on this Part of the draft Bill relates to section 19(b). We would be concerned if this were to have the effect of discouraging potential donors

from gifting objects to the collections if the cultural body has the power to dispose of anything in its collection which it considers to be “no longer required”.

### **Dealing in tainted cultural objects**

The Society agrees that the creation of such an offence is appropriate, and would signal Scotland’s commitment to the new consensus on such matters.

### **Powers of local authorities to broadcast information**

The Society has no strong views but, on balance, considers local authorities should have powers to broadcast as well as publish information about their services. It appears preferable to make specific provision for this rather than to rely on an untested general power.

Any enquiries about this submission should be addressed to the Policy Officer, Ian Melville (email: [imelville@royalsoced.org.uk](mailto:imelville@royalsoced.org.uk)).

March 2007