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Consultation Document on the Draft Culture (Scotland) Bill
Response by R.D.Cramond, Hon. Secretary, Intact (the Intellectual Access Trust)

Note - Insofar as this response relates to Intellectual Access, it has been approved by the Trustees of Intact. My Trustees also support the questioning of the meaning of "entitlements". However I have taken the opportunity to add some purely personal comments as an Honours graduate in Scottish History and Kirkpatrick Prizeman, a former adviser to Ministers on the drafting and interpretation of several contentious Scottish Bills, a former chairman of the Scottish Museums Council and a former Trustee of the National Museums of Scotland. These personal comments do not imply the support of my own Trustees, still less of the Scottish Museums Council or the current Trustees and staff of the National Museums Scotland.

Intellectual Access

This Trust would certainly support what is said in paragraph 2.10 about cultural activity improving the confidence and skills of the most disadvantaged children and young people. We hope that this would include improving access to museums and galleries for everyone - adults as well as children - who has learning disabilities or poor literacy.

It is important to bear in mind that 20 per cent of the adult population are "functionally illiterate", a United Nations term which means that they cannot be trusted to read the instructions on medicine and give their children the correct dose. This is a frightening statistic, but explains why there are many people in our communities who think that museums and galleries are "not for the likes of us" because they are put off by their inability to read great woggles of text on labels.

That it is why Intact undertook the research that was published in "Access in Mind" into ways of improving intellectual access to museums and galleries. The Scottish Education Department helped fund that work, and a copy of our report was sent to every registered museum and gallery in Scotland at the end of 1998. We hope that the final version of the guidance to local authorities will remind them of the existence of that report (copies are still available from NMS Publications at Chambers Street, Edinburgh EH1 1JF, Tel:- 0131 247 4186). The guidelines it contains about labels, interpretation, use of interactives etc, if implemented in all museums and galleries, would encourage many people who at present feel excluded, to start visiting them.

Clause 15(3) of the draft Bill lays a duty on the National Museums Board to enable as many people as possible to access the objects in its collection. While this is praiseworthy, the experience of the Intellectual Access Trust is that people all too often think only of physical access. Yet only 5% of registered disabled people are wheelchair users, whereas 20% of adults, as noted above, are

functionally illiterate. We suggest therefore that the words "both physically and intellectually" be added after "access" in Clause 15 (3) (a). The word "understanding" in 15 (3) (b) is not sufficient because that could be taken as requiring just good interpretation, which, though certainly a requirement, does not in itself do enough for people with learning disabilities or poor literacy, for whom a multi-sensory approach may be desirable.

"Cultural Entitlements"

While the Trustees of Intact fully support the general aim to improve access to cultural activities, we are puzzled by the term "cultural entitlements". (The apparent need to put the word "entitlements" in quotes perhaps illustrates the difficulty). Dictionary definitions of entitlement suggest that it is a **right**. Yet paragraph 2.5 makes clear that "entitlements will not represent a guarantee of access to any particular service". So if there is no actual guarantee or right to access are they really entitlements at all?

Would it not be better simply to require local authorities to produce policy statements about how they propose to improve understanding of and access to cultural activities and how they will encourage more people to enjoy and participate in them? This seems to be the general and praiseworthy thrust of the document, so why not spell it out this way? It may be significant that the draft Bill itself makes no reference to entitlements. (With my own previous experience of advising Scottish Office Ministers on the detailed drafting and meaning of Bills both before and during their passage, I suspect that there could be considerable dispute about its interpretation if the word were used in statute).

For example, there are references in paragraph 2.4 of the consultation document ("make available to each person in their area who wishes to access them") and in the guidance document, e.g. to the Youth Music Initiative on page 12 and in the box on page 19, which could be taken to imply that the aim is that access to entitlements should be free or at least subsidised. If many people expressed a wish to access music making, would they all be able to claim that they were entitled to provision of violins or other instruments and free tuition? Such claims or expectations might be regarded as unreasonable and unrealistic, but could be avoided if the word "entitlement" were itself avoided in the final guidance to local authorities (as indeed it is at present in the draft Bill).

The box on page 12 of the guidance document also says that many museums and galleries have free access for visitors to permanent collections. While this is true of national and local authority museums and galleries, it is certainly not true of the very large number of independent, non-national museums and galleries throughout Scotland. Yet some of these, for example the Scottish Fisheries Museum (SFM), have unique collections of national importance, and it seems to me likely that SFM's collection will be formally recognised as such soon, in the current Significance Scheme. Will authorities be expected to produce proposals

for entitlements which, in terms of social inclusion, would make access to these museums also free or much cheaper? It should be borne in mind that it is possible for local authorities to choose to assist privately provided museums in their area rather than provide museums at their own hand.

Ministerial Directions

Paragraph 4.11 says that while the draft Bill includes power for Scottish Ministers to give directions to the National Collections, Ministers will not use such powers to intervene in decisions that are essentially about artistic or professional judgment. As a former civil servant and former Trustee of the National Museums of Scotland, my personal view, which of course does not commit either Intact or the National Museums, is that, restricted in this way to important matters of governance or financial control, this might indeed be regarded simply as a fairly standard power related to the framework of accountability between Ministers and public bodies.

However the safeguard in 4.11 does not appear in the draft Bill, which simply empowers Ministers to "give directions of a general or specific character". While present Ministers will no doubt respect the safeguard given in the consultation document, they cannot bind their successors. So it seems to me, with respect, essential that Clause 9(1) of Schedule 2 of the Bill should incorporate a safeguard that directions will not extend to decisions that are essentially about artistic, curatorial or professional judgment, e.g. about the selection of objects or content of displays. (A similar safeguard would be necessary for other national cultural bodies). "Specific" can be construed as meaning "particular" or "precise", and so a "specific" direction could be so specific as to run counter to the safeguard promised in paragraph 4.11.

Moreover the National Heritage (Scotland) Act 1985, which established the National Museums of Scotland, contained no power whatsoever for Scottish Ministers to "give directions of a general or specific character". The only references to directions in that Act were confined specifically to the content of accounts and the timing of reports. So why has it been thought necessary to introduce much tighter and more general powers of direction now?

Payment to Members

Paragraph 6 of Schedule 2 of the Bill provides for possible payment of "remuneration" to members of a cultural body. I served for 11 years as a Trustee of the National Museums of Scotland and was glad and proud to do so without any payment other than reimbursement of necessary expenses, as were, I am sure, my fellow Trustees. I personally see no need to offer payment of "remuneration" (which could imply a salary) to attract the calibre of people who could usefully contribute as Board members. Indeed the offer of a salary might attract applicants who were more interested in financial reward than in public

service. The 1985 Act (clause 7 of Part 1 of Schedule 1) referred only to payment of "reasonable allowances in respect of expenses or loss of remuneration". Why change that wording? Are people now thought to be less public spirited?

Clause 15 of the Bill says that there is to "continue to be a body corporate known as the Board of Trustees of the National Museums of Scotland ("the National Museums Board)". This to some extent follows the 1985 Act, but Schedule 2 then refers throughout to "members" and drops all reference to "trustees", whereas Schedule 1 of the 1985 Act refers throughout to "trustees". When I was a trustee, we consistently referred to ourselves as Trustees. I believe this was a useful reminder that we were acting not simply as an ordinary Board of management but also as Trustees of part of Scotland's cultural resource and heritage, held on behalf of the people of Scotland and our visitors. For that reason I personally believe that Schedule 2 of the Bill should follow Schedule 1 of the 1985 Act in referring to members of the Board as "Trustees". Such nomenclature would also help Trustees to remember that they were appointed not for personal gain but for public service.

Language

Finally, I am personally surprised and disappointed that there seems to be no overt reference to language. As an Honours graduate in history I should have thought that a people's language is a fundamental element in their culture. We in Scotland have had for more than a millenium two native and prized languages. Gaelic has a proud and continuing tradition of excellence, particularly in oral and musical expression (Capercaillie's "Coisich A Ruin" was a UK hit single), while Scots, too, has a long tradition of folk songs and story telling (there is now a purpose built Story Telling Centre in Edinburgh). Scots also has a long and outstanding literary tradition extending from Barbour and King James 1st through Henryson, Dunbar, Gavin Douglas, Sir David Lindsay, Allan Ramsay, Robert Ferguson, James Hogg, Burns, Scott, and Stevenson to MacDiarmid and Sidney Goodsir Smith.

While many Scots now speak more or less Standard English with a Scottish accent, there is a continuum, with a strong element of old Scots in several areas. I myself in my youth spoke Scots in the playground, though it was belted out of me in the classroom! There is currently a revival of interest in the old Scots tongue, as exemplified by the work of the Scots Language Resource Centre, the Cross Party Parliamentary Group on the Scots Leid, the Scots Language Society (publishers of "Lallans" and "Scotsoun" audio CDs) and other publishers such as Luath and Itchy Coo. It would be a great pity if an Executive in Scotland, committed to promoting Scottish culture, appeared to ignore the two native languages which have been an essential part of Scottish culture, history and heritage.

R D Cramond CBE MA FSA Scot



SCOTTISH EXECUTIVE

Education Department
Cultural Policy

Victoria Quay
Edinburgh EH6 6QQ

Draft Culture Bill consultee

Telephone: 0131-244 0326
Fax: 0131-244 0353
culturebill@scotland.gsi.gov.uk
<http://www.scotland.gov.uk>

14 December 2006

Dear Sir / Madam

DRAFT CULTURE (SCOTLAND) BILL AND DRAFT GUIDANCE ON CULTURAL PLANNING AND PROVISION OF LOCAL CULTURAL ENTITLEMENTS

I have pleasure in enclosing with this letter two documents, for your consideration:

- Draft Culture (Scotland) Bill consultation document; and,
- Draft guidance to local authorities on cultural planning and the provision of local cultural entitlements.

These documents are being published today, for consultation. Please offer your comments, either on the specific questions in the Bill consultation document, or on any other matter. You may send comments:

- By post, to "Draft Culture Bill consultation" at the address above; or,
- By email, to culturebill@scotland.gsi.gov.uk.

Please note in your reply if your comments relate to only one of the documents, or to both. You may access the documents at the following website:

<http://www.scotland.gov.uk/Topics/ArtsCulture/CulturalPolicy>

Please offer your comments by 31st March 2007.

When responding to the consultation, **please ensure that you complete the attached Respondent Information Form**. This will enable us to handle your response appropriately, by, for example, making it publicly available or treating it as confidential.

Yours sincerely,

GREIG CHALMERS
Head of Culture Bill team

Please process as consultation response.
Thanks
Greig
Acknowledge sent 31/1/07. 7

