

Social Enterprise UK briefing on Charities (Protection and Social Investment) Bill Grand Committee

SEUK briefing 2
18 June 2015

Social Enterprise UK

1. Social Enterprise UK was established in 2002 as the national body for social enterprise in the UK. We are a membership organisation. We conduct research; develop policy; campaign; build networks; support individual social enterprises; share knowledge and understanding; support private business to become more socially enterprising; and raise awareness of social enterprise and what it can achieve.

2. Social enterprises are businesses driven by social or environmental objectives whose surpluses are reinvested for that purpose in the business or in the community. They operate across a wide range of industries and sectors from health and social care, to renewable energy, recycling and fair trade and at all scales, from small businesses to large international companies. They take a range of organisational forms from co-operatives and mutuals, to employee owned structures and charitable models. Our members come from across the social enterprise movement, from local grassroots organisations to multi-million pound businesses that operate across the UK.

3. We chair the Social Investment Forum, a network of social investment and finance intermediaries (SIFIs) designed to help keep money flowing around the market and ensure it reaches the social enterprises on the ground. In partnership with the Big Lottery Fund we published Social Investment Explained [\[1\]](#) to give interested parties a overview of the UK social investment market. Our Chief Executive, Peter Holbrook, sits on the board of Big Society Trust in an ex officio capacity. We therefore have considerable experience in social investment.

Social Enterprise UK and the Charities (Protection and Social Investment) Bill:

4. We are focused on the elements of the Bill that relate to social investment. We welcome these elements and applaud the aims behind these passages. Social investment is often baffling to many observers and a lack of transparency in the field jeopardises its potential. Any attempt to make social investment better understood, more transparent, and more widely used **where appropriate** by charities is welcome.

5. We believe that some redrafting may be beneficial to fulfil the Government's aspirations, notable around the definition of social investment.

6. Furthermore, there is an opportunity for the Bill to bring much needed transparency to social investment and we look forward to working with the Government and others to make this the best Bill that it can be.

Proposed amendments:

Clause 13: The Power to make social investment

7. Clause 13 The Power to make social investment defines social investment. **We believe that this is the first time that social investment will be defined in statute and therefore it is important that the definition is thoroughly examined.** The Bill's **definition of social investment may inadvertently catch some non-social investment** which happens also to meet a charity's objectives. A clarification to section 292A (2) along the following lines may be beneficial.

292A (2) "social investment is made when a relevant act of a charity is carried out with a view to primarily -

a) directly furthering the charity's purposes; while also

b) achieving a financial return for the charity."

This amendment is supported by Social Enterprise UK, Locality, and the Social Investment Business.

8. Social Enterprise UK feels that the wording of section 292C (2) (a) is rather odd: "consider whether **in all the circumstances** any advice about the proposed social investment ought to be obtained".

292C (2) (a) insert after "obtained" the words ", including, where it is reasonable, from beneficiaries and other stakeholders"

This amendment is supported by Social Enterprise UK, Locality, Charity Finance Group and the Social Investment Business.

9. Greater transparency over charitable social investment would benefit charities and the development of the social investment market. Rightly or wrongly, the public may be concerned about or baffled by the concept and practice of social investment. That this view may be problematic is explicitly acknowledged in Clause 14

We believe that concerns can be mitigated by charities being more open about *all* of their investments. And we maintain that the social investment market, like any other market, can benefit from greater information being readily available.

292C (3) remove the word "social" and insert "and make this review publicly available, including an assessment of how this use of funds furthers the charity's purpose" so that it reads:

"The charity trustees of a charity must from time to time review the charity's investments, and make this review publicly available, including an assessment of how this use of funds furthers the charity's purpose."

This amendment is supported by Social Enterprise UK, Locality, and the Social Investment Business.

Clause 14: Reviews of the operation of this Act

10. Social Enterprise believes that a number of improvements can be made to Clause 14, Reviews of the operation of this Act.

We propose to amend the section to create two reviews. Firstly, we propose that the Minister for Cabinet Office and the Chancellor should review the effect of the social investment elements of the Act. Whilst responsibility for social investment notionally lies with the Cabinet Office, Social Enterprise UK believes its long-term future and perhaps more natural fit is with the Treasury, who control fiscal and regulatory levers with regard to investment. However, we do not believe that the Chancellor should be involved in the review on matters relating to charity law. We also propose that as part of the review for charities, the Minister for the Cabinet Office considers public understanding of how charitable funds are used. We are concerned that many charities may not feel able to engage with social investment, because of lack of public understanding of the nature of such investments. We propose the following **new clause 14:**

“(14) Reviews of the operations of this Act

The Chancellor of the Exchequer and the Minister for the Cabinet Office must carry out a review into the operation of this Act as it relates to social investment, including:

- (a) the effectiveness of the social investment market
- (b) public understanding of how funds are used by charities for the purposes of investment
- (c) the interaction between grant-making and social investment

- (1) The Minister for the Cabinet Office must carry out a review into the operation of this Act as it relates to changes in charity law, including:
 - (a) public confidence in charities
 - (b) the level of charitable donations
 - (c) people’s willingness to volunteer
 - (d) any other areas deemed relevant by the Minister
- (2) After each year the Minister and Chancellor must publish a report of the review and lay a copy before Parliament.
- (3) The reports must be published not more than 5 years apart, and the first must be published within 5 years after this Act is passed.”

This amendment is supported by Social Enterprise UK, Locality and Charity Finance Group.

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References:

[1] Social Investment Explained <http://www.bigpotential.org.uk/resource/social-investment-guide>

[2] Draft Bill presented to Parliament 2014

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/365715/43820_Cm_8954_draft_protection_of_charities_bill.pdf