

Ministry of Justice. Third Sector Strategy. Improving policies and securing better public services through effective partnerships.

Response from the British Humanist Association, March 2008.

The British Humanist Association

The British Humanist Association (BHA) is the national charity representing the interests of the large and growing population of ethically concerned non-religious people living in the UK. It exists to support and represent people who seek to live good and responsible lives without religious or superstitious beliefs.

The BHA is deeply committed to human rights, equality, democracy, and an end to irrelevant discrimination, and has a long history of active engagement in work for an open and inclusive society. In such a society people of all beliefs would have equal treatment before the law, and the rights of those with all beliefs to hold and live by them would be reasonably accommodated within a legal framework setting minimum common legal standards.

We are sure that the Ministry of Justice will want to ensure that the overarching third sector strategy, and the more specific strategies developed by the divisions within the Department, incorporate equality and human rights considerations throughout. Unfortunately, we are not convinced that, as they stand, this strategy and others – specifically the NOMS Third Sector Action Plan – do incorporate such considerations. We hope that our response will provide a number of useful suggestions of ways to ensure that the Ministry of Justice is promoting equality and human rights through its third sector strategies and subsequent engagement with the third sector. We would be very happy to meet with the Department, in order to discuss more fully our position and to seek ways to work together to achieve our shared aims.

Question 1.

Do you agree with the overall approach, and in particular setting an overarching Ministry of Justice Third Sector Strategy as the basis for more business specific planning? If not then please say why.

Do you have suggestions on how you can help with our approach?

We are happy with the overall approach and the setting of an overarching third sector strategy. However, we have serious concerns with the contents of the strategy, as set out in this consultation paper. This strategy, mirroring the approach taken in the recent NOMS 'Third Sector Action Plan' and the NOMS consultation 'Believing We Can. Promoting the contribution that faith-based organisations can make to reducing adult and youth re-offending', treats religious groups and organisations as distinctive within the community and within the third sector¹.

We responded to both the aforementioned NOMS consultations, and we have attached these at annex A and annex B. At annex C is our report on the contracting out of public services to religious organisations, 'Quality and Equality: Human Rights, Public Services and Religious Organisations'. We request that our response to this and the following consultation questions are read together with the documents at annexes A, B and C.

¹ Faith groups and targeted initiatives are discussed specifically throughout this consultation. See pages 15, 16, 18, 19, 20.

Both NOMS consultations, which seek to treat religious groups and organisations as a separate section within the third sector, will feed in to this overarching strategy². This will inevitably make the distinctive focus on 'faith' in terms of policy, procurement and engagement between the Ministry of Justice and the third sector even more certain. We are particularly concerned that more specific strategies and business plans developed by the divisions within the Ministry of Justice, such as HM Courts Service, aimed at including the community and the third sector will adopt the same separatist focus set out in the Ministry of Justice third sector strategy in relation to religion.

We oppose adopting a special focus on religious groups for a number of reasons, including two specifically relevant to this consultation on an overarching third sector strategy.

First, the religion and belief equality strand requires equal treatment of the religious and the non-religious. A focus on the religion element of the strand excludes non-religious individuals, groups and organisations and puts them at a comparative disadvantage, while privileging religious individuals, groups and organisations – a policy which must come close to being unlawful.

Second, aside from the unequal treatment and exclusion of the non-religious – which, of course, is likely to be of detriment to the Ministry of Justice as it will fail to engage with large parts of society and fail to utilise and develop social capital and expertise of the excluded individuals and groups – we do not believe there is any evidence to justify a special focus on 'faith'. Recent research by the National Council of Voluntary Organisations (NCVO) makes the case that, despite policymakers wanting to see and treat faith-based organisations as 'distinctive'³ and faith-based organisations themselves wishing to be seen as 'distinctive'⁴, *there is no compelling evidence that faith-based organisations are different from other organisations*⁵. Further, the research makes the strong recommendation that, 'The relationship between government and faith-based organisations and between government and other civil society organisations should be based on the same principles, such as respect for independence, and informed by the Compact'⁶. We support that recommendation.

Suggestions

In order to improve the Ministry of Justice's approach in relation to the third sector, and to enable this strategy to support the Ministry of Justice's 'shared diversity and equality commitments and obligations' (para 1.10), we recommend that the Ministry of Justice makes clear that engaging specifically with groups based on religious or non-religious beliefs must be justified on objective criteria before any such action is embarked on. If it can be justified, the Ministry of Justice must ensure that it engages and consults with groups and organisations based on religious and non-religious beliefs, not exclusively religious groups and organisations. This will reflect the Department's duties in terms of equality legislation, and help to promote social

² NOMS. *Believing We Can. Promoting the contribution that faith-based organisations can make to reducing adult and youth re-offending*. Consultation document, November 2007, p20

³ See, for example, this consultation

⁴ See, for example, p14 NOMS 'Believing We Can' consultation, 'Some faith-based organisations prefer to use the term VCF – Voluntary, Community and Faith Sector – as a means of acknowledging this distinctiveness.'

⁵ NCVO (2007) *Faith and voluntary action: an overview of current evidence and debates*. London: NCVO, p56

⁶ *Ibid*

cohesion and the perceived legitimacy of the services provided through this inclusive approach. Moreover, we suggest that the Ministry of Justice follows the recommendation in the final report from the Commission on Integration and Cohesion, which states that Government should include groups based on non-religious beliefs as well as religious beliefs, and reviews its 'forms of engagement with non-religious belief groups, such as Humanists' (para 6.23)⁷.

Question 2.

Voice and Campaigning. Do you agree that our priorities for further work will support our ambitions? If not then please say why.

Do you have suggestions on how we can best deliver our priorities and achieve our ambitions? Can you provide examples of best practice?

We do not agree that the Ministry of Justice's priorities, and vision of success as outlined in the consultation paper, will support its ambitions. The specific and overarching reason for this is that we believe the approach the Ministry of Justice is taking in regard to the third sector is divisive. The Ministry of Justice appears committed to seeing and treating religious communities and organisations as different from other groups and organisations and as forming a distinctive part of the third sector.

If the Ministry of Justice seeks to include groups based on religious beliefs while excluding groups based on non-religious beliefs, it will fail in its aims to promote and achieve equality and real diversity, and it will receive the views and stated interests of only the religious element of the religion and belief equality strand. We feel that such an exclusivist policy is both divisive and disempowering for non-religious groups, employees and volunteers.

Suggestions

We recommend that this strategy does not have a focus on 'faith', but takes as inclusive an approach as possible. In order to ensure and promote best practice, we also recommend that the Ministry of Justice only engage with third sector organisations in any area, and at any stage, of its work – from consultation to volunteering to procurement – that are fully committed to equalities and human rights.

Question 3.

Strengthening communities. Do you agree that our priorities for further work will support our ambitions? If not please say why.

Do you have suggestions on how we can best deliver our priorities and achieve our ambitions? Can you provide examples of best practice?

No. We believe that an exclusive focus on 'faith' is likely to exclude the non-religious, who should be engaged with and treated equally to the religious.

This focus will not achieve the stated aim of strengthening communities. It will, for example, only give voice to some in the community leaving many without opportunity for engagement or representation. It specifically does not give voice to the non-

⁷ Commission on Integration and Cohesion (2007) Our Shared Future.
<http://tinyurl.com/2bpho3>

religious or those who, despite living within a 'faith community', do not consider themselves as part of that community, and whose views are not represented by 'community leaders'. This group is likely the large majority in most areas, given that religious practice is decreasing year on year⁸.

We believe that segregationist, as opposed to inclusive, strategies damage social cohesion and cause factionalism within the community.

Suggestions

It is very important that the Ministry of Justice does not look only to religious communities for volunteers. Research by the Home Office shows that religious and non-religious people do similar amounts of voluntary work⁹, and it would be to the detriment of the Ministry of Justice and the community should this vital resource of non-religious and humanist volunteers not be utilised. There is already anecdotal evidence that, with the increased focus on and funding of faith organisations, it is becoming difficult in some areas for volunteers who are not religious to find appropriate volunteering opportunities.

It is also very important to ensure that, where the Ministry of Justice seeks to work with representatives of religious communities, that there is equal representation from the non-religious community. Many LSPs, for example, have 'inter faith' representation. However, such groups are not inclusive of humanists – indeed, many do not wish to work together with non-religious people in any fora. Therefore, we recommend that the Ministry of Justice mainstream its principles of equality and inclusion throughout its third sector strategy, and provides examples of best practice of this, replacing those examples in the strategy which promote a faith-only approach (whether single or multi-faith).

Question 4.

Transforming services. Do you agree that our priorities for further work will support our ambitions? If not please explain why.

Do you have suggestions on how we can best deliver our priorities and achieve our ambitions? Can you provide examples of best practice?

No. We believe that a focus on religious groups in terms of engagement with the third sector on the design and shaping of services, as seen in the NOMS consultation 'Believing We Can', will undermine the traditionally secular nature of those services.

In addition, if services are designed by religious organisations, as in NOMS consultation, how will services with a religious flavour be accessible to secular providers and to service users who do not share the beliefs of the religious organisation?

Suggestions

We agree that a priority should be ensuring that third sector organisations have the capacity to provide or design services and in particular that they must demonstrate concrete outcomes. However, we question whether this priority is actually achievable with the inclusion of religious organisations. As is made clear in the NOMS 'Believing We Can' consultation, religious organisations not only share the same problems as

⁸ The current church attendance stands at just 6.3% of the population. Christian Research (2005) *The 2005 English Church Census*. <http://tinyurl.com/23exji>.

⁹ See, for example, the Home Office Citizenship Survey 2001

other third sector organisations such as lack of capacity and poor governance, but, unlike others, they also find it difficult to provide measurable outcomes. If religious organisations are to be included within the work of the Ministry of Justice, it must ensure that they are assessed and monitored in the same way as other third sector organisations – and they must prove that they can meet the priorities and objectives of the Ministry of Justice.

We would, however, like to make clear that we have serious reservations about the inclusion of faith-based organisations as contracted providers of services within the Ministry of Justice at all. In fact, it is firm our position that no publicly-funded public service be contracted out to a religious organisation. This position is based both on matters of principle – that the state should remain neutral on matters of religion and belief – and because of a number of serious practical problems that are specific to commissioning to religious organisations, and which the Government has thus far failed to address. These include:

- The risk of discrimination against employees and potential employees;
- The risk of lower standards of service;
- The risk of discrimination against service users;
- The lack of human rights protection.

Our position on this is detailed in our report 'Quality and Equality: Human Rights, Public Services and Religious organisations, at annex C.

Question 5.

Social enterprise. Do you agree that our priorities for further work will support our ambitions? If not please say why.

Do you have suggestions on how we can best deliver our priorities and achieve our ambitions? Can you provide examples of best practice?

We do not have specific experience in the area of social enterprise. However, in general we believe that the Ministry of Justice should promote social enterprises and encourage their inclusion within the Ministry of Justice through commissioning, with the proviso that they are inclusive and promote equality.

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