

9 November 2020

Rt Hon Robert Buckland QC MP  
Secretary of State and Lord Chancellor  
The Ministry of Justice  
102 Petty France  
London SW1H 9AJ

*Dear Robert Buckland*

I am writing to express the Howard League for Penal Reform's opposition to proposals in the recent Ministry of Justice White Paper to change the law so that running a prison for children can be a charitable activity.

In March 2020 I wrote to the Charity Commission about the decision to award a contract to Oasis Charitable Trust to run a 'secure school' using the site and buildings of the Medway secure training centre in Kent. This 'secure school' will only receive children who have been sentenced by a court to the deprivation of liberty as a punishment.

Locking up children simply does not fall within any of the charitable purposes set out in the Charities Act 2011. Charity law and practice is based on the promotion of welfare, well-being, human rights and protection of the child, and would be fundamentally and irrevocably contravened by a charity imprisoning children.

The Charity Commission responded to my letter by confirming that the operation of a 'secure school' "does not wholly fall within the descriptions of purpose" in s3(1) of the Charities Act 2011. This should have been an opportunity to reflect on the appropriateness of awarding such a contract to a charity, not a moment to consider changing the legislation and risk perverting the very purpose of charities in this country.

Yet that is what is now proposed in the White Paper. At paragraph 286 it states (our bold):

*In secure schools we want to engage visionary, not-for-profit, child-focused providers and trust them to deliver the best outcomes for children including on reoffending, education and health. A high proportion of the organisations that are not-for-profit and meet the criteria we are looking for in secure school providers are charities. We are **proposing legislative change** to clarify that operating a secure school could be a charitable activity.*

Changing the legislation will have profound and far-reaching consequences. It is one thing for a charity to offer help to its beneficiaries; quite another for a charity to lock its beneficiaries up. We shall return to the Victorian days of charities running institutions and engaging in practices that fundamentally compromised them, and in many cases left dark legacies these charities have had to come to terms with over recent decades.

A further concern is the financial arrangement that the Oasis Charitable Trust appears to be entering with the Ministry of Justice. It would seem to be taking several million pounds of taxpayers' money to inflict this punishment on children. Whatever the intentions of the charity, taking on such a contract will distort the organisation's overall charitable goals, in particular the advancement of health, and relief of need, and would therefore call into question the charitable status of the organisation as a whole.

Simply put, people give to charity to help other people. They don't donate to fund punishment. In the eyes of the public, it is not a charitable aim to take away people's freedom. Let alone children.

This is not to say charities do not have an important role to play in helping people in the criminal justice system. Many charities do admirable work within prisons to deliver services to their beneficiaries. But no charity in England and Wales manages the operation of a penal institution in which its beneficiaries are detained against their will, with direct responsibility for security and disciplinary regimes. And neither should they.

I am asking you to reconsider this proposal to change the law, as a matter of urgency. I would welcome the opportunity to discuss this with you directly.

I copy in Baroness Stowell of the Charity Commission and the Secretary of State for Digital, Culture, Media and Sport.

*Yours sincerely*

*Frances Crook*

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