HOUSE OF LORDS

Select Committee on Charities

Report of Session 2016–17

Stronger charities for a stronger society

Ordered to be printed 14 March 2017 and published 26 March 2017

Published by the Authority of the House of Lords

HL Paper 133

Select Committee on Charities

The Select Committee on Charities was appointed by the House of Lords on 25 May 2016 to consider issues related to sustaining the charity sector and the challenges of charity governance.

Membership

The Members of the Select Committee on Charities are:

Baroness Barker
Lord Bichard
Lord Chadlington
Lord Foulkes of Cumnock
Baroness Gale
Lord Harries of Pentregarth
Baroness Jenkin of Kennington
Lord Lupton
Baroness Pitkeathley (Chairman)
Lord Rooker
Baroness Scott of Needham Market
Baroness Stedman-Scott

Declaration of interests

See Appendix 1.

A full list of Members' interests can be found in the Register of Lords' Interests:
http://www.parliament.uk/mps-lords-and-offices/standards-and-interests/register-of-lords-interests

Publications

All publications of the Committee are available at:
http://www.parliament.uk/charities-adhoc

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Further information

Further information about the House of Lords and its Committees, including guidance to witnesses, details of current inquiries and forthcoming meetings is available at:
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Q in footnotes refers to a question in oral evidence.

SUMMARY

Charities are the eyes, ears and conscience of society. They mobilise, they provide, they inspire, they advocate and they unite. From small local organisations run entirely by volunteers to major global organisations with turnover in the hundreds of millions, their work touches almost every facet of British civic life.

We are living through a time of profound economic, social and technological change and the environment in which charities are working is altering dramatically. These changes have posed new challenges for charities, resulted in some high-profile failures, and led to greater scrutiny of the sector than ever before. However, the overwhelming majority of charities continue to do excellent work and trust in the sector fundamentally remains strong.

The funding of charities has changed significantly over the last decade. Public sector grants have been replaced in most instances with contracts, often with complex commissioning processes. These have disadvantaged smaller charities, which struggle to bid for services at scale, and constrained the valuable innovation that charities can bring to service delivery. We therefore recommend that Government provides support for the development of voluntary sector bidding consortia, and takes steps to promote commissioning based on impact and social value rather than simply on the lowest cost. We also recommend the strengthening of social value considerations in public sector commissioning, to recognise the added benefits of charities' involvement in service delivery, and urge local authorities to consider grant programmes wherever possible.

Charities have faced challenges in funding their core costs for many years. However, this has been exacerbated by the move to contract funding, which is often tightly defined and does not allow for costs incurred outside the specific terms of the contract. Separately, there has been pressure on charities to reduce "back office" costs and an increasing expectation that all money donated should go to the frontline. The result has been further pressure on charities' viability and sustainability. Charities cannot operate unless their core costs are met. We recommend that public sector commissioners should have regard for the sustainability of the organisations which they commission to deliver services and that realistic and justifiable core costs should be included in contracts, just as would happen in the private sector. We also recommend longer-term contracts, wherever possible, to ensure that the services can be delivered sustainably by charities with the capacity to plan effectively for the future. We propose that funders should provide more resources for volunteer managers so that charities can make the best possible use of the generous contribution of their volunteers and support their efforts.

Good governance is fundamental to a strong charity sector. Charities need strong governance, with robust structures, processes and good behaviours, in order to deliver effectively for their beneficiaries. We call for new efforts to provide training and development for trustees and recommend that charity boards should undertake greater self-reflection, examining their behaviours, processes and skills. We also believe that infrastructure bodies need to identify the shortcomings in provision of governance advice and training for charities and do more to raise awareness of the support that currently exists.

We have concerns about the lack of diversity among trustees, which limits the experience and knowledge of charity boards. Among our recommendations to

remedy this, we believe that the Government should hold a public consultation on introducing a statutory duty to allow employees of organisations over a certain size to take a limited amount of time off work to perform trustee roles.

Charities' record in the use of digital platforms is mixed. While some charities are at the cutting edge of new technology, others have yet to realise its potential with regard to fundraising, volunteering and communications. To raise awareness of their work, and be transparent and accountable, all but the smallest charities need to have a simple website or social media page. In addition, charities should actively consider including a digital trustee role on their boards.

Social investment has been heavily promoted by Government as a new form of income for charities. However, alongside the potential advantages, there are also barriers, particularly for smaller charities which may not have the capacity to take investment or for which investment may not be suitable. Government and sector leaders need to do more to address the reasons for high transaction costs and work to bring them down. In particular, expected rates of return can be prohibitively high, and investors should be encouraged to have more realistic expectations of the potential for returns from social investment.

Alongside all these changes, the Government needs to improve the way it consults the charity sector when developing new policies. It caused unnecessary concern and pressure as a result of the proposed "anti-advocacy" clause in grant awards and in relation to the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014, both of which threatened the vital advocacy role of charities. We also believe there should be better consultation with the devolved administrations and infrastructure organisations when developing legislation on reserved matters which may impact charities in Scotland and Northern Ireland.

Withdrawal from the European Union is bound to have an impact on the charity sector, with estimates that the sector receives around £200m a year from the EU, primarily through the European Social Fund. We recommend that the Office for Civil Society undertakes an audit of the potential impact of Brexit on charities and brings forward proposals to address any negative effects.

The role of the Charity Commission has come under particular scrutiny in recent years, following inquiries by parliamentary committees and the National Audit Office. We are encouraged by the subsequent progress the Commission has made, but we believe it has more work to do before it can be deemed a fully effective and efficient regulator. One particular area on which it might focus is charity mergers, where there is scope for more support and guidance.

The Charity Commission is currently considering whether to charge charities in order to fund part of its operation. We raise concerns about the impact of a charge, both for the charity sector and for the Commission itself. If the Commission chose to proceed, it would need to be clear about how a charge would benefit charities and strengthen the sector overall. Any charging model must ensure that the burden does not fall upon small charities which will not be able to afford it.

Charities face greater operational and environmental pressures than ever before, but their principle is enduring and charities have always helped society through periods of upheaval. We are confident they will do so again.

Stronger charities for a stronger society

CHAPTER 1: INTRODUCTION

The changing role of charities

1. With a history dating back to the pre-modern era, charities form a vital part of civil society in the United Kingdom. From small local organisations run entirely by volunteers to major global organisations with turnover in the hundreds of millions, their work touches almost every facet of British society. No understanding of the country can be complete without an understanding of how charities operate and the challenges and opportunities they are likely to face now and in the future.

2. The environment in which charities work has changed dramatically in recent years, particularly for those which are in receipt of public funding. There has been a significant shift in funding of charities, with many grants replaced by contracts, alongside a reduction in the overall level of public money available. The growth of contracts has brought with it new challenges for charities, particularly those bidding for and delivering commissioned work, along with greater expectations of professionalism and the ability to demonstrate measurable outcomes from their work.

3. Small- and medium-sized charities have arguably faced greater difficulties adapting to this new environment, particularly in terms of their financial skills and resources. These charities are the lifeblood of the sector, with major capacity for innovation and the ability to form strong bonds with local communities and people in need. It is important that, as charities' roles change and develop, we prepare and support the sector to meet the challenges ahead and thrive into the future.

4. At the same time, there have been some high-profile failures in the charity sector. In August 2015, the youth charity Kids Company closed shortly after receiving a £3 million Government grant to facilitate an emergency restructure, following years of weak finances and questions about their work. Critical reports followed from the National Audit Office[1] and from the House of Commons Public Administration and Constitutional Affairs Select Committee[2] (PACAC). PACAC concluded that the charity's trustee board "failed to protect the interests of the charity and its beneficiaries" and that "successive Governments failed to carry out adequate due diligence."[3]

5. Also in summer 2015, newspapers published a series of reports alleging that some of the best known charities in the UK—including Oxfam, Save the Children, the NSPCC and the RSPCA—had used exploitative and unethical fundraising methods. Particular attention focused on the case of 92-year-old

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1 National Audit Office, *Investigation: the Government's funding of Kids Company* (October 2015): https://www.nao.org.uk/report/investigation-the-governments-funding-of-kids-company [accessed 14 March 2017]

2 Public Administration and Constitutional Affairs Committee, *The Collapse of Kids Company: lessons for charity trustees, professional firms, the Charity Commission, and Whitehall* (Fourth Report, Session 2015–16, HC 433)

3 *Ibid.*

poppy seller Olive Cooke, who took her own life in May 2015, who was found by a report of the Fundraising Standards Board to have been "distressed and overwhelmed" by the huge number of requests for donations she received from charities.[4] It should be noted that her family said that, while the charity requests had been "intrusive", they were not to blame for her death.[5]

6. These events cast a negative light on the sector, including, regrettably, on the vast majority of charities which were uninvolved.[6] As a result, there are greater expectations on charities in terms of their governance, accountability, transparency and demonstration of impact. There are also questions about levels of public trust in charities, though trust in the sector overall remains high, and above that of many other sectors.[7]

7. Charities are also facing change as a result of the ways that digital technologies have reshaped society, particularly in terms of how people give their time and their money. These changes bring challenges but also considerable opportunities for charities, with new ways to raise money, to mobilise support and to communicate more effectively.

8. At the same time as these fundamental changes are happening, the support available to the sector has been under considerable pressure. Many of the infrastructure bodies and umbrella organisations in the charity sector have faced funding challenges of their own and their capacity to support charities has been stretched. At a national level the budget of the Charity Commission has reduced and they have had to focus primarily on their regulatory role and do less supporting and enabling work.

9. **We are living through a time of profound economic, social and technological change and the environment in which charities are working is altering dramatically. We do not believe that this is a temporary aberration: such disruptive changes are likely to become the norm.**

10. **However, charities have always helped society through periods of upheaval. We are confident they will do so again. It is our intention that the recommendations in this report will go some way to ensuring that they do.**

The focus of the Committee

11. In this context, on 25 May 2016 this Committee was appointed "to consider issues related to sustaining the charity sector and the challenges of charity governance, and to make recommendations."

12. Our report focuses on charities in England and Wales, as the regulation of charities is devolved in Scotland and Northern Ireland. However we took evidence from charity regulators and umbrella bodies from both devolved nations, to examine potential lessons which may be applied in England and

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4 Fundraising Standards Board, *FRSB Investigation into Charity Fundraising Practices instigated by Mrs Olive Cooke's case* (January 2016): https://www.fundraisingregulator.org.uk/wp-content/uploads/2016/09/FRSB-Investigation-Report-Into-Charity-Fundraising-Practices-Instigated-by-the-Mrs-Cooke-Case1.pdf [accessed 14 March 2017]

5 'Olive Cooke death: Poppy seller had depression, inquest hears', *BBC News* (20 May 2015): http://www.bbc.co.uk/news/uk-england-bristol-32810487 [accessed 14 March 2017]

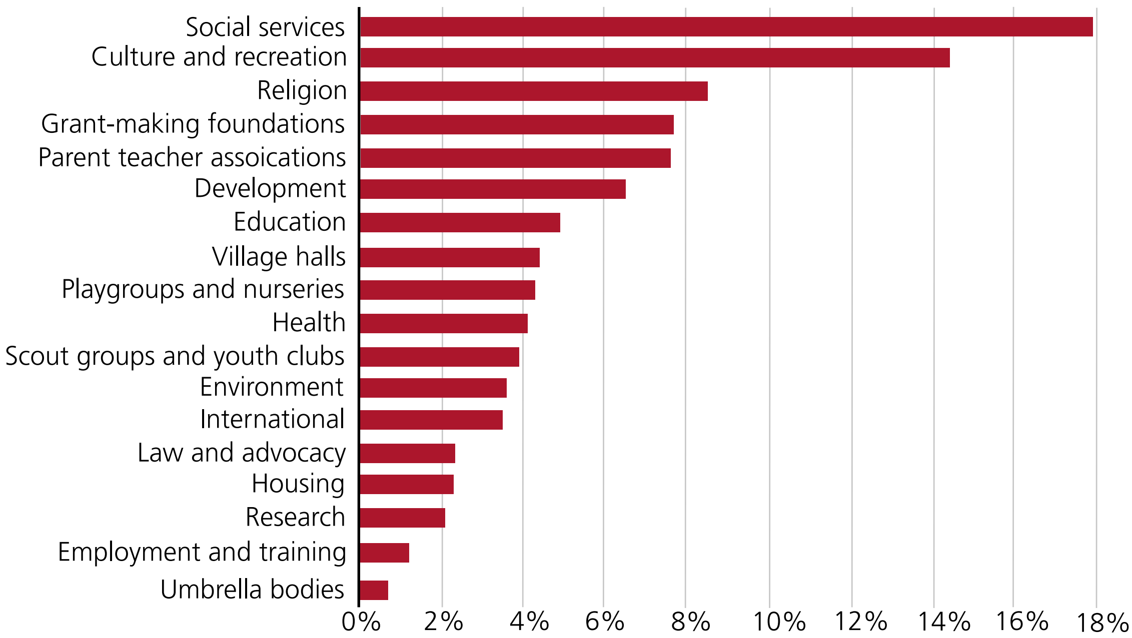
6 Written evidence from Lord Low of Dalston (CHA0142)

7 Trust in the charity sector is discussed further in Chapter 5.

Wales. Many of the issues we consider in this report are relevant to charities across the United Kingdom.

13. The charity sector is far from homogeneous. Charities vary considerably in their size, the issues they work on and the types of work they undertake. We are mindful that while we heard from many charities in the course of our work, there were more operating in the welfare and support space than from other sectors, such as those involved in culture and sport. This in part reflects the fact that more charities are primarily involved in social services (18% of registered charities) than any other activity (see Figure 1). Much of our report and recommendations will apply equally across all parts of the charity sector, but we are conscious that circumstances differ and, for example, discussions on contracts and services may be less relevant for some charities than for others. Charities based in the UK that are involved in delivering overseas aid face a range of specific challenges that we do not seek to address through this report.

Figure 1: Voluntary organisations by area of activity (2013/14)



Source: NCVO, UK Civil Society Almanac 2016

14. We took the decision from the outset to focus primarily on the interests of small- and medium-sized charities, as they comprise the overwhelming majority of the charity sector, and because recent inquiries have tended to focus on issues that are more relevant to larger charities.[8] While some of the issues we discuss in this report are pertinent to larger charities, we have attempted, where possible, to frame our arguments and cite evidence in such a way as to emphasise smaller organisations.

8 Such as the House of Commons Public Administration and Constitutional Affairs Committee inquiries, *The collapse of Kids Company* and *The 2015 charity fundraising controversy*, and the independent review of charity fundraising regulation led by Sir Stuart Etherington. We note with approval that the forthcoming Inquiry into the Future of Civil Society, to be chaired by Julia Unwin, will consider the "preponderance of small and medium sized charities". https://www.civilsociety.co.uk/news/foundations-back-inquiry-into-the-future-of-civil-society.html [accessed 14 March 2017]

15. With this in mind, and having sought evidence on the key challenges and opportunities facing the charity sector, we decided to focus in particular on issues of charity governance, funding and sustainability, as well as looking at the potential of new forms of charity finance such as social investment, and the role of local and national government in supporting the sector.

16. We have a firm desire not to increase the bureaucratic burden on charities—either directly or indirectly—as a result of our recommendations. Our intention is that our recommendations will help to make charities more efficient, effective and resilient, while decreasing the bureaucratic burden upon them wherever possible.

17. In preparing our report and formulating our recommendations, we chose to bear in mind the words of two of our witnesses. Dawn Austwick, Chief Executive of the Big Lottery Fund, told us that:

> "The sector should be confident and lead, and in so doing we should all celebrate the many successes that there are in the charitable world. I fear there is lack of confidence and a slight sense of being battered. You cannot run the Big Lottery Fund without, every morning, being overwhelmed by what people in this country achieve in the charity sector. It is glorious and a wonder. I guess we would really want to encourage both ourselves and others to note that, mark it and celebrate it; hence for the sector to be more confident."[9]

18. In a similar vein, Philippa Charles from the Garfield Weston Foundation said:

> "While we appreciate that the charity sector has had quite a tough time recently, we are struck every day by extraordinary people, of very great quality, who come and inspire our trustees with their stories and their plans for their organisations. In many ways, it is a very strong sector and something we can have confidence in."[10]

19. There is much to celebrate in the charity sector and we want to encourage charities to have greater confidence in themselves.

The work of the Committee

20. Over the course of our inquiry we received 184 submissions of written evidence and took oral evidence from 52 witnesses during 22 evidence sessions. In order to hear from a wider range of smaller charities, we convened three roundtable events—in London, Manchester and Cardiff—to discuss the issues that they were facing.[11] In Manchester we met with representatives of the Greater Manchester Combined Authority and the Greater Manchester Centre for Voluntary Organisation. In London we also visited the HIV support charity Body & Soul and met with the Charity Commission at their offices. We are grateful to all those who gave up their time to make the visits and roundtables worthwhile, and to all who gave evidence to us. Notes of all our visits and roundtables are contained in Appendices 4–8.

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9 Q 178 (Dawn Austwick)
10 Q 127 (Philippa Charles)
11 We are grateful to the Small Charities Coalition, the Greater Manchester Centre for Voluntary Organisation and Levenshulme Inspire, and the Wales Council for Voluntary Action for their help in arranging these events.

21. We are also grateful to Rosie Chapman, who served as the Committee's specialist adviser, for her advice and insight.

22. Our report concentrates on:

- The history and the shape of the charity sector (Chapter 2)
- How to improve the governance of charities, in particular the skills and support for trustees, and how to make them more accountable and transparent (Chapter 3)
- The funding challenges for charities as a result of the move from grants to contracts, and how to support charities accessing public funds (Chapter 4)
- Issues relating to the sustainability of the sector, including fundraising, volunteering, infrastructure bodies and support, and mergers (Chapter 5)
- The challenges and potential for charities as a result of developments in digital technologies (Chapter 6)
- Alternative forms of charity finance, such as social investment (Chapter 7)
- The role of government and the Charity Commission (Chapter 8)

We make 100 conclusions and recommendations, which are summarised at the end of this report.

CHAPTER 2: THE HISTORY AND SHAPE OF THE CHARITY SECTOR

Charities and charity law

23. Until relatively recently, legislation governing charities was limited. Before the passage of the Charities Act 2006, the only statutory definition of a charity in England was contained in the preamble to a 1601 Statute. The definition of 'charitable purposes' was developed entirely through case law with reference to this preamble.[12]

24. Systems and processes for management and oversight of the charity sector are also relatively young. While piecemeal attempts were made over the centuries, the appointment of a permanent board of Charity Commissioners in 1853 was the first attempt to provide formal supervision of the sector. This was followed over a century later by the Charities Act 1960, which was the first truly modern system of oversight.[13]

25. The Charities Act 2006 provided statutory definitions of a charity and of a charitable purpose for the first time. A charity is defined by the Act as an institution which is established for charitable purposes only, and is subject to the jurisdiction of the High Court. A charitable purpose is defined as such if it falls within a list of 12 purposes including poverty relief, the advancement of education, advancement of the arts, advancement of religion or advancement of health. A purpose may be deemed charitable if it is already recognised as such in existing charity law.[14] In addition, the Act also introduced the Charitable Incorporated Organisation (CIO) structure, though this did not come into effect until early 2013. The structure enables charities to have corporate body status without becoming companies. The Charities Act 2006 was consolidated along with other legislation relating to charities in the Charities Act 2011.

26. The 2006 Act further modernised the role of the Charity Commission and its oversight powers. Most notably, it introduced a "public benefit requirement" to be met for charities in order to be registered by the Charity Commission. While charities have always been required to work for the public benefit, previous law deemed that charitable purposes were by definition for the public benefit. The 2006 Act essentially reversed this assumption, stating that "it is not to be presumed that a purpose of a particular description is for the public benefit."[15]

27. The specific interpretation of public benefit is not set out in legislation but is left to the Charity Commission and, where necessary, the courts. The Charity Commission has published guidance detailing its interpretation of public benefit, and requires registered charities to explain how they have

12 Explanatory notes to the Charities Bill [Bill 83 (2005–06)-EN]

13 Lord Hodgson of Astley Abbotts CBE, *Trusted and Independent: Giving charity back to charities: Review of the Charities Act 2006* (July 2012): https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/79275/Charities-Act-Review-2006-report-Hodgson.pdf [accessed 14 March 2017]

14 Charities Act 2006, sections 1–2. These provisions have since been replaced by the Charities Act 2011, sections 1–3.

15 Charities Act 2006, section 3. This provision has since been replaced by the Charities Act 2011, section 4.

carried out their purpose for the public benefit in their trustees' annual reports.[16]

28. The 2006 Act was criticised by the House of Commons Public Administration Select Committee in its 2014 post-legislative scrutiny report for introducing a "critically flawed" approach to the issue of the public benefit requirement. Noting that the Commission's public benefit guidance had resulted in "costly legal battles" with the Independent Schools Council and with the Plymouth Brethren Christian Church, it argued that Parliament should revisit the legislation and explicitly set the criteria for public benefit rather than delegating it to the Charity Commission.[17]

29. Shortly afterwards, Lord Hodgson of Astley Abbotts undertook a review of the operation of the 2006 Act as set out in the original legislation. This review, *Trusted and Independent: Giving charity back to charities*, published in July 2012, covered a range of areas including statutory public benefit tests, the Charity Commission and charity regulation, exempt charities, complaints about charities, fundraising and social investment.[18]

30. Key recommendations of Lord Hodgson's review included that:

- The Charity Commission should be able to charge for filing annual returns and for charity registration.
- Charities should have more flexibility to make *ex gratia* payments, with a threshold to be set below which Charity Commission consent is not needed; charities with an income above £1 million should also have an automatic right to pay trustees.
- As a matter of good practice, trusteeship should be limited to a matter of three terms of three years each. Charities which do not work in this way should explain why in their annual report.
- There should be stronger Charity Commission powers to remove trustees.
- There should be a single self-regulatory body for fundraising.
- Charities should be given the power to make social investments.
- The income threshold for charity registration should be raised from £5,000 to £25,000.
- Processes for merger and incorporation should be streamlined.[19]

31. The Government did not accept all the recommendations of Lord Hodgson's report. In particular, it rejected his proposals to introduce powers of automatic

16 The Charity Commission, 'Public benefit: rules for charities': https://www.gov.uk/guidance/public-benefit-rules-for-charities [accessed 14 March 2017]

17 Public Administration Select Committee, *The role of the Charity Commission and "public benefit": Post-legislative scrutiny of the Charities Act 2006* (Third Report, Session 2013–14, HC 76)

18 Lord Hodgson of Astley Abbotts CBE, *Trusted and Independent: Giving charity back to charities: Review of the Charities Act 2006* (July 2012): https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/79275/Charities-Act-Review-2006-report-Hodgson.pdf [accessed 14 March 2017]

19 *Ibid.*

trustee payment for large charities, for recommended limits to trustee terms, and to raise the income threshold for Charity Commission registration.[20]

32. Some recommendations were, however, incorporated in the Charities (Protection and Social Investment) Act 2016. The Act granted the Charity Commission new powers to remove and disqualify trustees in certain circumstances, as well as powers to direct winding up, to apply property to another charity, or to specify that certain actions not be taken. The Act also granted charities a general power to make social investments.

33. Separately, following the 2015 charity fundraising concerns, an independent review led by Sir Stuart Etherington of the National Council for Voluntary Organisations (NCVO) proposed a range of changes to the way that fundraising regulation operates.[21] These included:

- The existing Fundraising Standards Board (FRSB) should be replaced by a new regulator.
- The new regulator should be funded by a levy on all organisations reporting an annual fundraising expenditure of £100,000 or more.
- This regulator should take on the powers of the Public Fundraising Association (PFRA) in relation to face-to-face fundraising.
- The new regulator should also take over the powers of the Institute of Fundraising (IoF) with regard to overseeing the fundraising Code of Practice.
- The new regulator should establish a Fundraising Preference Service where individuals can register if they no longer wish to be contacted for fundraising purposes.[22]

34. These proposals were accepted by sector bodies and Government, and a new Fundraising Regulator was established in January 2016 with the powers set out above. The House of Commons Public Administration and Constitutional Affairs Committee described the body as the "last chance" for fundraising self-regulation,[23] and the Charities (Protection and Social Investment) Act 2016 granted the Government a reserve power to direct that fundraising regulation be carried out by the Charity Commission in the event that the new regulator failed to perform adequately.[24]

35. Other recent legislation relating to the sector has included the Public Services (Social Value) Act 2012 and the Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act 2014.

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20 Cabinet Office, *Government response to The Public Administration Select Committee's Third Report of 2013–14: The role of the Charity Commission and "public benefit": Post-legislative scrutiny of the Charities Act 2006 and Lord Hodgson's statutory review of the Charities Act 2006: Trusted and Independent, Giving back to charities*, Cm 8700, September 2013: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/237077/Response-charities-legal-framework.pdf [accessed 14 March 2017]

21 NCVO, *Regulating fundraising for the future: Trust in charities, confidence in fundraising regulation* (September 2015): https://www.ncvo.org.uk/images/documents/policy_and_research/giving_and_philanthropy/fundraising-review-report-2015.pdf [accessed 14 March 2017]

22 *Ibid.*

23 Public Administration and Constitutional Affairs Committee, *The 2015 charity fundraising controversy: lessons for trustees, the Charity Commission, and regulators* (Third Report, Session 2015–16, HC 431)

24 Charities (Protection and Social Investment) Act 2016, section 14

36. The former Act, often known as the Social Value Act, requires public sector commissioners to consider how contracts might provide additional social value beyond that specified in the terms of the contract itself, for example by supporting employment in a local area or by improving access to services. The Act has been considered favourable to charities and social enterprises on the basis that they are established for the public benefit and so can deliver additional social value as part of their mission.

37. The latter Act, often known as the Lobbying Act, introduced new regulations in relation to the activities of registered "non-party campaigners" (including charities engaged in campaign activity) in the run up to General Elections. The Act introduced constituency limits on campaign spending, expanded the list of 'qualifying matters' to be counted towards spending limits for non-party campaigners, and lowered the expenditure thresholds above which bodies undertaking activity in an election period would have to register with the Electoral Commission.[25]

38. The Act received some criticism in the charity sector and elsewhere for its perceived 'chilling effect' on the work of charities,[26] and was also the subject of a review by Lord Hodgson of Astley Abbotts, published in March 2016. The review recommended a number of technical changes to the operation of the law, including changes to the definition of campaigning, reduction of the regulated campaign period to four months before the election, and changes to rules on joint campaigning.[27]

Regulation and the role of government

39. Charities set up in England or Wales must register with the Charity Commission unless they are specified as exempt[28] or excepted[29] from registration or their income is below £5,000 a year.[30] There are around 75,000 excepted charities, and around 14,000 exempted charities in England and Wales.[31] Further detail about exempt and excepted charities is set out in Box 1. Charities in Scotland and Northern Ireland are regulated respectively by the Office of the Scottish Charity Regulator (OSCR) and the Charity Commission for Northern Ireland (CCNI) and all charities in their jurisdictions are required to register.

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25 Lord Hodgson of Astley Abbotts CBE, *Third Party Election Campaigning - Getting the Balance Right* (March 2016): https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/508568/2904969_Cm_9205_Complete_Text_V0.5.pdf [accessed 14 March 2017]

26 'Charities warn 'gagging law' stops them campaigning on election issues', *The Independent* (18 February 2015): http://www.independent.co.uk/news/uk/politics/charities-warn-gagging-law-stops-them-campaigning-on-election-issues-10054889.html [accessed 14 March 2017]

27 Lord Hodgson of Astley Abbotts CBE, *Third Party Election Campaigning - Getting the Balance Right* (March 2016): https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/508568/2904969_Cm_9205_Complete_Text_V0.5.pdf [accessed 14 March 2017]

28 The Charity Commission, 'Exempt charities (CC23)': https://www.gov.uk/government/publications/exempt-charities-cc23 [accessed 14 March 2017]

29 The Charity Commission, 'Guidance: Excepted Charities': https://www.gov.uk/government/publications/excepted-charities/excepted-charities--2 [accessed 14 March 2017]

30 Other than Charitable Incorporated Organisations, all of which must register, regardless of income.

31 Joint Committee on the Draft Protection of Charities Bill, *Draft Protection of Charities Bill* (Report of Session 2014–15, HC 813, HL Paper 108), para 39

Box 1: Exempt and excepted charities

- "Exempt charities" are institutions which cannot be registered with the Commission and are not subject to its direct regulatory jurisdiction. They were initially granted the exemption because they were considered to be adequately supervised by another body or authority. The exempt charities are those institutions that are comprised in Schedule 3 to the Charities Act 2011. Examples of such charities are most universities in England and the boards of trustees of various specified museums and galleries.
- "Excepted charities" are charities that have been excepted from the requirement to register with the Charity Commission and have an annual income of less than £100,000. Such excepted charities do not have to meet the requirements that flow from registration such as filing annual accounts, but do come under the Commission's regulatory jurisdiction. Types of charities that are excepted include scouts and guides units, non-public facing armed services funds, Parochial Church Councils and certain Christian religious denominations. Small charities with an annual income of less than £5,000 are excepted.

40. All registered charities must send an annual return to the Commission, must inform the Commission of changes to governing documents or trustees, and must report any serious incidents in their charity to the Commission as soon as possible. As well as charity registration, the Commission is responsible for taking enforcement action, ensuring charities meet their legal requirements, making available information about all registered charities, and providing online advice and guidance.[32]

41. The operations of the Commission have received scrutiny in recent years, most notably from the National Audit Office and the House of Commons Public Accounts Committee. The Committee published a report in January 2014 stating that the Commission had "not regulated the charity sector effectively" and had placed "insufficient emphasis on the monitoring and investigation of charities."[33]

42. The National Audit Office made similar criticisms in its 2013 report, stating that the Commission was "reactive" and made "little use of its statutory enforcement powers."[34] Its follow-up report in 2015 was more positive, stating that the Commission had developed a new business model with the intention of using risk assessment and data analysis to guide its work, that it was updating its approach to assessing regulatory risk, and that it had improved its follow-up checks but was not addressing all issues that might be expected.[35]

43. As well as the Charity Commission's regulatory oversight of charities, the Government retains a role in overseeing and supporting the sector, as well as administering grants and contracts. The Office for Civil Society (OCS)

32 The Charity Commission for England and Wales, 'About us': https://www.gov.uk/government/organisations/charity-commission/about [accessed 14 March 2017]

33 Committee of Public Accounts, *The Charity Commission* (Forty-second Report, Session 2013–14, HC 792)

34 National Audit Office, *The regulatory effectiveness of the Charity Commission* (December 2013): https://www.nao.org.uk/wp-content/uploads/2013/11/10297–001-Charity-Commission-Book.pdf [accessed 14 March 2017]

35 National Audit Office, *Follow-up on the Charity Commission* (January 2015): https://www.nao.org.uk/wp-content/uploads/2015/01/Follow-up-on-the-charity-commission.pdf [accessed 14 March 2017]

is responsible for areas of policy including social action, civil society sector support, social enterprise and social investment, and the National Citizen Service and youth policy. Previously part of the Cabinet Office, the OCS was relocated to the Department for Culture, Media and Sport in July 2016.

44. The Government has been particularly supportive of social investment as a means of diversifying the income of the charity sector, and has introduced initiatives including Social Investment Tax Relief and Social Impact Bonds. The Government has also established the independent social investment institutions Big Society Capital and Access: The Foundation for Social Investment, the latter intended in particular to improve the accessibility of social investment to small- and medium-sized charities and social enterprises.

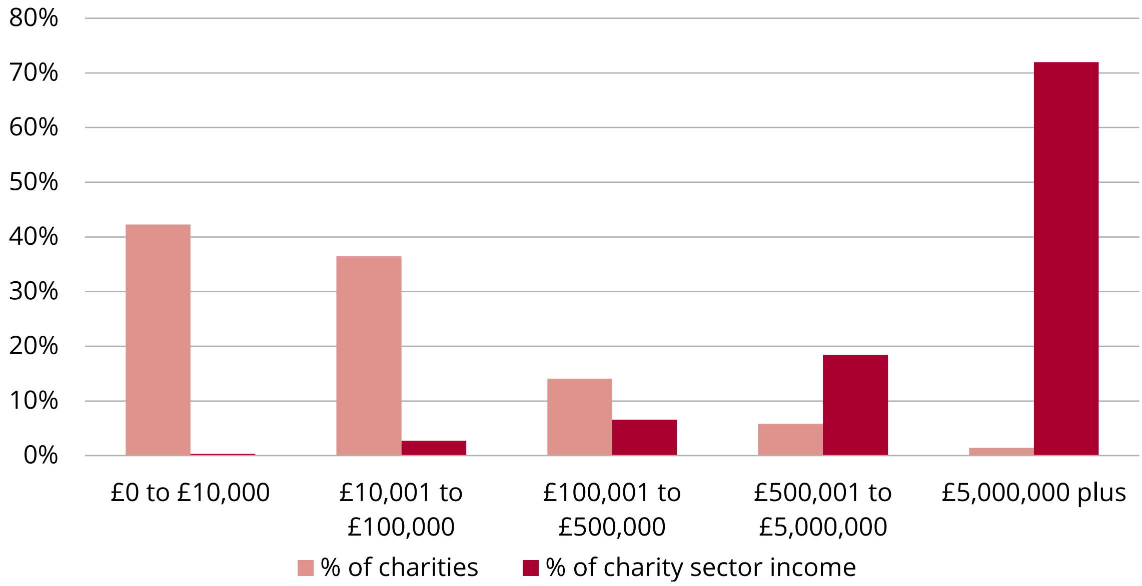
45. In 2016 the Government attracted controversy by proposing that an "anti-advocacy clause" would be included in all future government grants, forbidding any use of public money for advocacy work on the part of charities.[36] Just before our inquiry began, the Government chose to 'pause' the proposals for further consultation,[37] and subsequently amended their plans.[38]

The shape and funding of the charity sector

46. There are currently 167,000 registered charities in England and Wales.[39] Organisations with an annual income of less than £100,000 make up almost three quarters (73%) of the sector, while the largest charities, with an annual income of £5m or above, make up just 1% of the sector. However, the largest charities account for 72% of the income for the sector (see Figure 2).[40] An NCVO study in 2013/14 found that charities with an income of over £1 million were 3% of the sector numerically but accounted for over 80% of the sector's income.[41]

36 Cabinet Office, 'Government announces new clause to be inserted into grant agreements': https://www.gov.uk/government/news/government-announces-new-clause-to-be-inserted-into-grant-agreements [accessed 14 March 2017]
37 Cabinet Office, 'Update on a new clause to be inserted into grant agreements': https://www.gov.uk/government/news/update-on-a-new-clause-to-be-inserted-into-grant-agreements [accessed 14 March 2017]
38 See section on the role of charity advocacy in Chapter 8.
39 The Charity Commission, 'Recent charity register statistics: Charity Commission': https://www.gov.uk/government/publications/charity-register-statistics/recent-charity-register-statistics-charity-commission [accessed 14 March 2017]
40 *Ibid.*
41 NCVO, 'UK Civil Society Almanac 2016: size and scope': https://data.ncvo.org.uk/a/almanac16/size-and-scope [accessed 14 March 2017]

Figure 2: Proportion of charities by annual income and proportion of the income of the sector that they receive



Source: Charity Commission, Recent charity register statistics, https://www.gov.uk/government/publications/charity-register-statistics/recent-charity-register-statistics-charity-commission [accessed 14 March 2017]. Charities where the annual income bracket is not yet known have been excluded.

47. Organisations delivering social services accounted for almost a quarter of the voluntary sector's spending in 2013/14. This was followed by culture and recreation (12%) and health (11%).[42] The most common recorded beneficiary group of charities is children and young people (with 28% of charities specifying this group), followed by the general public (21%), the elderly (14%) and people with disabilities (13%).[43]

48. Many of our witnesses emphasised the considerable diversity in the size of charities, the areas they focus on and the types of work they undertake.[44] We also heard about the variety of organisational structures, such as community groups, social enterprises and Community Interest Companies, that form part of the voluntary and community sector.[45]

49. **We recognise and celebrate the enormous range and variety within the charity sector. The large charities, that raise the most money and are most widely known, are only a tiny fraction of the 167,000 registered charities in England and Wales, let alone the many social enterprises, small voluntary bodies and community groups besides. We acknowledge that the issues raised in this report may affect**

42 NCVO, 'UK Civil Society Almanac 2016: spending': https://data.ncvo.org.uk/a/almanac16/spending-4 [accessed 14 March 2017]

43 NCVO, 'UK Civil Society Almanac 2016: beneficiaries': https://data.ncvo.org.uk/a/almanac16/beneficiaries-2 [accessed 14 March 2017]

44 Q 116 (Martin Sime) and written evidence from Charity Law and Policy Unit, School of Law and Social Justice, University of Liverpool (CHA0104), Charity Tax Group (CHA0122), Children England (CHA0173), Clinks (CHA0084), Professor John Mohan, Dr David Clifford and Dr Rose Lindsey (CHA0158), Mr Andrew Purkis (CHA0146), Public Relations and Communications Association (CHA0030), Stella Smith (CHA0060) and The Institute of Chartered Accountants in England and Wales (CHA0168)

45 Q 72 (Jane Wilson) and written evidence from Community Sector Coalition (CHA0171) and Social Enterprise UK (CHA0117)

different parts of the sector in different ways and that while there are common principles for charities, practices may necessarily diverge.

50. Government income to the charity sector has fallen in absolute terms since the financial year 2009/10, with central government income peaking at £7 billion and local government income at £7.9 billion that year. Central government income then fell in absolute terms in each of the subsequent three years before a slight increase to £6.8 billion in 2013/14. Local government income saw a similar picture, reaching a low point of £7.2 billion in both 2011/12 and 2012/13 before rising to £7.4 billion in 2013/14.[46]

51. The form of income from government, local and national, has also changed significantly. In 2003/04, income for the sector from government grants (£6.1bn) and contracts (£5.8bn) was roughly equal. Since then, however, the value of grants has declined and in 2013/14 was £2.8bn. By contrast, income from contracts has grown, up to £12.2bn in 2013/14.[47] The current Government and its coalition predecessor have also placed a particular emphasis on the ability of charities and other voluntary organisations to demonstrate positive and measurable outcomes from their work, notably by the increasing use of 'Payment by Results' contracts (whereby all or part of the payment depends on the provider achieving outcomes specified by the commissioner).[48]

52. The effect of this transition to contracts, and of the government's policy priorities, have been that the largest charities (those with an income of over £100 million) have benefited most from the recent increase in government income, owing to their ability to bid for the large-scale contracts offered by central and local government. Conversely, the NCVO notes that "small and medium sized charities did not recover income lost from government since 2009/10", perhaps owing to difficulties with bidding for larger contracts with a reduced focus on quality and an emphasis on Payment by Results.[49] These issues are explored further in Chapter 4.

The contribution of charities

53. During our inquiry we heard about the wide variety of contributions that charities make and about the values they contribute to society. In different parts of the sector, different causes and campaigns are championed, such as: cultural charities, providing access to the arts; sporting charities, engaging people in sporting activities; animal welfare charities caring for pets and wildlife; social services charities supporting people at home; and international aid charities helping people abroad. (See Figure 1 for a breakdown of voluntary organisations by area of activity).

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46 NCVO, 'UK Civil Society Almanac 2016: Income from Government': https://data.ncvo.org.uk/a/almanac16/income-from-government [accessed 14 March 2017]

47 *Ibid.*

48 National Audit Office, *Outcome-based payment schemes: government's use of payment by results* (June 2015): https://www.nao.org.uk/wp-content/uploads/2015/06/Outcome-based-payment-schemes-governments-use-of-payment-by-results.pdf [accessed 14 March 2017] and NCVO, *Payment by Results and the voluntary sector* (April 2014): https://www.ncvo.org.uk/images/documents/about_us/media-centre/payment-by-results-and-the-voluntary-sector-april-2014.pdf [accessed 14 March 2017]

49 NCVO, 'UK Civil Society Almanac 2016: Income from Government': https://data.ncvo.org.uk/a/almanac16/income-from-government [accessed 14 March 2017]

54. We were told that charities provided scrutiny and challenge and represent the views of those less able to be heard on their own.[50] Charities were described as catalysts for change.[51] Action Against Hunger said that charities "play a crucial role as a non-partisan watchdog of government actions and the actions of any individual or corporation that may have negative impact on communities."[52]

55. Charities can also inspire collective action and philanthropy, and build social capital.[53] Matthew Taylor from the Royal Society of Arts (RSA) said the sector was "committed in one way or another to social benefit" and that it "seeks to achieve that in part by mobilising the voluntary efforts of people."[54]

56. We heard that charities played an important role in community cohesion with a valuable convening power to bring people from different backgrounds together.[55] We also heard that charities had intimate knowledge of the communities and areas in which they operated and that, along with their values, made them more likely to be trusted.[56] Locality said that:

> "In increasingly uncertain times, the role that community anchor organisations play is more important than ever. They stimulate active citizenship and civic participation through volunteering and community organising, and act as a catalyst for community cohesion, bringing together diverse groups to work together for the local neighbourhood. Community anchors build and harness a huge amount of social capital in their local communities. Through their strong relationships with vulnerable and excluded groups locally, they support people to have a voice in their local community and shape neighbourhood priorities. Community anchor organisations also often play an important role in reinvigorating common assets locally, which ensures that communities can directly control the important activity in their neighbourhoods."[57]

57. Asheem Singh from the Association of Chief Executives of Voluntary Organisations (ACEVO) noted the role of faith charities in social cohesion:

> "That is one of the great under-explored areas by the secular bit of the sector. Sometimes it feels that ne'er the twain shall meet, but one of the things we want to do over the course of the next year is to investigate

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50 Written evidence from British Red Cross (CHA0162), Bolton Community and Voluntary Services (CHA0064), Lucy Caldicott (CHA0170), Citizens Advice Newcastle (CHA0108), Civil Exchange (CHA0141), Community Southwark (CHA075), Mr Andrew Purkis (CHA0146), Rural Community Council of Essex (CHA0096) and Visionary (CHA0174)

51 Written evidence from Locality (CHA0133), National Association for Voluntary and Community Action (CHA0076) and Oxfam GB (CHA0113)

52 Written evidence from Action Against Hunger (CHA0078)

53 Written evidence from Action with Communities in Rural England (ACRE) (CHA0085), Civil Exchange (CHA0141), Common Vision (CHA0136), Camelot UK Lotteries Ltd (CHA0115), Calouste Gulbenkian Foundation (CHA0163), Locality (CHA0133), Voluntary Organisations Disability Group (CHA0050) and VONNE (CHA0123)

54 Q 41 (Matthew Taylor)

55 Q 21 (Rebecca Bunce), Q 46 (David Cutler), Q 61 (Paul Hackwood, Aamer Naeem), and written evidence from Bolton Community and Voluntary Services (CHA0064), Charities Aid Foundation (CHA0089), Children England (CHA0173), Foundation for Social Improvement (CHA0057) and Mr Wally Harbert (CHA0019)

56 Written evidence from Charity Law and Policy Unit, School of Law and Social Justice, University of Liverpool (CHA0104), Community Links Bromley (CHA0100), Localgiving (CHA0016), MHA (CHA0124), Dr Therese O'Toole and Dr Ekaterina Braginskaia (CHA0116) and Pilotlight (CHA0073)

57 Written evidence from Locality (CHA0133)

the social capital-building capabilities of the faith sector in this country, because they are considerable."[58]

58. Aamer Naeem from Penny Appeal said that faith organisations could "leverage the faith conversation as well as the humanitarian conversation."[59] Both he and Paul Hackwood, from the Church Urban Fund, talked about the social cohesion work undertaken by the Near Neighbours programme, engaging multi-ethnic, multi-faith civil society.[60]

59. We also heard that charities were the framework for philanthropy and civil society values.[61] Many of our witnesses emphasised the unique altruistic values of charities to society.[62] Paul Hackwood spoke about charities being "values led", something that was particularly prominent for faith-based charities.[63] Common Vision talked about the ability of charities to promote positive public behaviour.[64]

60. We heard that by operating as a charity, and having the beneficiary at the heart of the service, people get better support than might be provided by other sectors.[65] Many witnesses told us that charities provide support to people who are disadvantaged[66] and fill gaps in the services offered by the public and private sectors.[67] People and Work Talwrn set this in context and suggested that charities should be wary of simply picking up what the state had left behind:

> "During the twentieth century charities adapted as the State took on many of their traditional roles. As the State now moves away from non-statutory interventions, charities will need to change again but it would be wrong for them to just pick up what the State is walking away from, even if they had the resources to do so. The challenge, and opportunity, is to do things differently and better."[68]

61. We also heard about the contribution of charities as employers, with the sector estimated to employ 827,000 people in the UK.[69]

62. Richard Jenkins from the Association of Charitable Foundations concluded that: "At the end of the day, charity is an expression of human passion, resourcefulness, a sense of injustice and the need to do something."[70]

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58 Q 20 (Asheem Singh)
59 Q 62 (Aamer Naeem)
60 Q 61 (Paul Hackwood, Aamer Naeem)
61 Written evidence from RSM UK (CHA0120)
62 Written evidence from British Heart Foundation (CHA00152), Sense, The National Deafblind and Rubella Association (CHA0040), Small Charities Coalition (CHA0140) and Voluntary Organisations Disability Group (CHA0050)
63 Q 62 (Paul Hackwood)
64 Written evidence from Common Vision (CHA0136)
65 Written evidence from Clinks (CHA0084) and Lloyds Bank Foundation for England and Wales (CHA0031)
66 Written evidence from Action Against Hunger (CHA0078), Lucy Caldicott (CHA0170), Charity Tax Group (CHA0122), Chilterns MS Therapy Centre Ltd (CHA0066), Citizens Advice Newcastle (CHA0108) and Community Links Bromley (CHA0100)
67 Written evidence from Alzheimer's Research UK (CHA0074), Chilterns MS Therapy Centre Ltd (CHA0066), Home-Start Slough (CHA0068), Hospice UK (CHA0130), London Funders (CHA0090), MHA (CHA0124), Together for Short Lives (CHA0144), Visionary (CHA0174) and Wellcome Trust (CHA0164)
68 Written evidence from People and Work Talwrn (CHA0034)
69 Written evidence from British Heart Foundation (CHA0152), National Council for Voluntary Organisations (CHA0148) and Sense, The National Deafblind and Rubella Association (CHA0040)
70 Q 36 (Richard Jenkins)

63. **Charities play a fundamental role in our civic life. They are often in the front line of support for the most vulnerable and are therefore in the best place to assess their needs. They not only provide. They inspire and innovate and through their advocacy help shape our laws, government policies and society as a whole.**

64. We note that the Minister for Civil Society, Rob Wilson MP, said in December 2015 that he wanted "government to be one partner among many" for the charity sector, "a helping hand rather than crutch."[71]

65. **We believe that the Government, the rest of the public sector and the private sector should foster robust and meaningful partnerships with the charity sector and support and facilitate charities whenever possible.**

71 Cabinet Office, 'Giving Tuesday 2015: Rob Wilson speech': https://www.gov.uk/government/speeches/giving-tuesday-2015-rob-wilson-speech [accessed 14 March]

CHAPTER 3: IMPROVING GOVERNANCE AND ACCOUNTABILITY

Good governance

66. Improving the governance of charities to ensure they operate effectively was a priority for many of our witnesses.[72] Some witnesses suggested that charities may have given less attention to governance during a period of financial challenge, with their resources devoted to staffing and front-line services.[73]

67. The Charity Commission for England and Wales told us that governance was also one of their top priorities and that they were undertaking research "to evaluate current issues within the trusteeship of charities and to set a baseline for improvement."[74]

68. We heard various suggestions for the characteristics that constitute good governance of charities. Action in Rural Sussex said: "Good governance of charities is about ensuring assets and resources are subject to careful and rigorous stewardship, including their efficient application to each individual charity's purposes."[75]

69. Marged Griffiths, from the charity Y Bont, pointed to the 'Five Ss', articulated by former Charity Commissioner Julia Unwin,[76] as the foundation of good governance:

> "**stewardship** to manage all the matters effectively; **scrutiny**, checking details and asking questions; **strategy**, thinking ahead and direction; **support** of staff, volunteers and service-users; and **stretch** in encouraging us to continue to improve, develop and adapt to changing times."[77]

70. Shaks Ghosh from Clore Social Leadership said she would add a sixth 'S' to the list:

> "which is **skills**, that actually they are concerned about the skills around the board table, the skills within the organisation to do the job and … this issue about the changing needs of the organisation and the board and this continual need to update the skills. Where you see a board doing that, I think you are starting to see signs of really good governance."[78]

71. The voluntary Governance Code for the sector, *Good Governance*,[79] was referred to by a number of witnesses who said that they endorsed it and used it as a benchmark.[80] The Code is the product of a Steering Group

72 See, for example, Q 29 (Karl Wilding), Q 36 (Richard Jenkins), Q 63 (Aamer Naeem) and written evidence from Association of Chairs (CHA0156), Comic Relief (CHA0126), ICSA: The Governance Institute (CHA0093) and New Philanthropy Capital (CHA0055)
73 Q 28 (Rebecca Bunce), Q 30 (Richard Jenkins), Q 31 (Andrew O'Brien) and Q 144 (Daniel Hurford)
74 Q 208 (Kenneth Dibble)
75 Written evidence from Action in Rural Sussex (CHA0001)
76 Julia Unwin, 'The five Ss in governance', *Getting on Board* (19 October 2015): http://www.gettingonboard.org/news/4585134114/The-five-Ss-in-governance/10242909 [accessed 14 March 2017]
77 Q 97 (Marged Griffiths)
78 Q 98 (Shaks Ghosh CBE)
79 *Good Governance: A Code for the Voluntary and Community Sector*, http://www.governancecode.org [accessed 14 March 2017]
80 Written evidence from Action Against Hunger (CHA0078), Association of Chairs (CHA0156), National Council for Voluntary Organisations (CHA0148) and Royal Mencap Society (CHA0154)

composed of the National Council for Voluntary Organisations (NCVO), the Association for Chief Executives of Voluntary Organisations (ACEVO), the Small Charities Coalition, the Association of Chairs, ICSA: The Governance Institute and the Wales Council for Voluntary Action (WCVA), supported by the Charity Commission, the Clothworkers' Company and the Barrow Cadbury Trust.

72. The Code sets out key principles for charity governance and covers areas including organisational purpose and direction, leadership, integrity, decision making, risk and control, diversity, board effectiveness and transparency and accountability.[81] A consultation has recently concluded on proposals to revise and update the Code.[82] The Charity Commission emphasised their support for the Code and their hope that the consultation would facilitate debate about governance standards in the sector and how the bar could be raised.[83] The Commission announced in February 2017 that it would withdraw its guidance, *The Hallmarks of an Effective Charity (CC10)*, in favour of the Governance Code and "would refer charities to the Code as setting out relevant standards of good practice."[84] This makes the Governance Code the *de facto* standard for the sector.

73. We were cautioned against a one-size-fits-all model of governance, given the diversity of the charity sector.[85] We also heard about a number of other tailored governance codes used by specific types of charities[86] and about a number of projects that aim to support good governance in the charity sector.[87]

74. A number of witnesses emphasised the importance of charity boards reviewing their governance arrangements on a regular basis.[88] We were also told about the importance of succession planning for good governance and continuous professional development to ensure that skills become embedded in organisational culture.[89]

75. The Association of Chairs said that: "there is no single magic bullet that will transform charity governance. The reality is that it takes sustained effort and investment to build good governance. It is a long term endeavour and is as much about culture as it is about resources."[90]

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81 The Charity Governance Code Steering Group: *Charity Governance Code consultation document* (November 2016): http://www.governancecode.org/wp-content/uploads/2017/02/NC940_good_governance_11.pdf [accessed 14 March 2017]

82 Rosie Chapman, the specialist adviser to our inquiry, is involved in leading the review of the Governance Code. We stress that the views in this report are ours and ours alone.

83 Written evidence from Charity Commission for England and Wales (CHA0114)

84 Charity Commission for England and Wales, *New code of governance consultation — a response from the Charity Commission for England and Wales* (February 2017): https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/588964/New_code_of_governance_consultation.pdf [accessed 14 March 2017]

85 Written evidence from MHA (CHA0124)

86 Written evidence from The Chartered Institute of Public Finance and Accountancy (CHA0079) and National Union of Students (CHA0111)

87 Q 144 (Daniel Hurford) and written evidence from National Council for Voluntary Organisations (CHA0148)

88 Written evidence from Action Against Hunger (CHA0078), RSPCA (CHA0070) and RSM UK (CHA0120)

89 Q 114 (David Robb) and written evidence from Church Army (CHA0003), The Foyer Federation (CHA0180), Gloucestershire Rural Community Council (GRCC) (CHA0069), Royal National Lifeboat Institution (CHA0153) and SkillShare North East Ltd (CHA0106)

90 Written evidence from Association of Chairs (CHA0156)

76. **Robust governance requires good structures, processes and behaviours. It demands strategy and foresight as well as a culture of scrutiny, support and challenge. While the whole sector should aspire to a high standard of governance, larger charities will necessarily have to adopt more rigorous processes than smaller ones to ensure they meet that aim.**

77. **We welcome the work to update the voluntary Governance Code for the charity sector. We also welcome the Charity Commission's decision to refer to it as the benchmark for governance in the charity sector.**

The role of trustees

78. The role of trustees in good governance was described by witnesses in a variety of ways. These included providing strategic direction to ensure that the charity meets its purpose,[91] acting as the guardian of its values and reputation,[92] stewarding its assets and finances,[93] and acting as ambassadors for its cause.[94] Frances McCandless from the Charity Commission for Northern Ireland concluded that: "Thriving healthy charities need to be independent, and they need to be driven and overseen by skilled and enthusiastic trustees."[95]

79. There was widespread recognition that being a trustee had become more challenging, as the environment for charities had changed substantially, particularly as a result of increased financial pressures and significant shifts in funding models.[96] There were also additional legal and regulatory requirements to comply with, such as new data protection regulations and fundraising standards.[97] The Charity Commission noted that navigating these challenges required "strong strategic leadership and the ability to take managed risks; we see many boards failing to rise to the occasion."[98]

80. The Cranfield Trust said that in their experience "many trustees are not really familiar with the role, its requirements and responsibilities."[99] Other witnesses suggested that, following the collapse of Kids Company, trustees had become more conscious of their responsibilities.[100]

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91 Q 97 (Eve Martin) and written evidence from Alzheimer's Research UK (CHA0074), Big Society Capital (CHA0087), People's Postcode Lottery (CHA0099), Springboard Project (CHA0011), The Woodland Trust (CHA0150) and World Horse Welfare (CHA0127)
92 Written evidence from Devon Air Ambulance Trust (CHA0083)
93 Written evidence from Big Society Capital (CHA0087), The Chartered Institute of Public Finance and Accountancy (CHA0079) and Common Vision (CHA0136)
94 Written evidence from Battersea Dogs & Cats Home (CHA0143) and The Foyer Federation (CHA0180)
95 Q 114 (Frances McCandless)
96 Written evidence from Charity Commission for England and Wales (CHA0114), Charity Finance Group (CHA0092) and Churches' Legislation Advisory Service (CHA0098)
97 Written evidence from Association of Chairs (CHA0156), Charity Tax Group (CHA0122), Comic Relief (CHA0126), Guide Dogs (CHA0109), The Institute of Chartered Accountants in England and Wales (CHA0168) and Wincanton Community Venture (CHA0022)
98 Written evidence from Charity Commission for England and Wales (CHA0114)
99 Written evidence from The Cranfield Trust (CHA0103)
100 Note of the Committee visit to Body & Soul, Appendix 4

81. We were also told that, given the voluntary nature of trusteeship, it was important that trustees were not overburdened with responsibility or regulation, as this might make it difficult to recruit trustees.[101]

Trustee skills

82. The importance of trustee skills and experience for good governance was a frequent theme in the evidence we received. The changing world in which charities operate, with new funding models, digital tools and far greater expectations of accountability and transparency, was seen to have added new requirements to the traditional expectations of trustees.

83. A wide range of skills were identified as needing to be represented on trustee boards, depending on the size of the charity, how it operated and what it did.[102] Finance and fundraising skills were seen as a high priority by many of our witnesses, particularly given the challenging economic conditions.[103] The NCVO suggested that: "The lack of sufficient finance skills and fundraising knowledge have especially been at the heart of some of the most recent governance failures."[104] We were told by a number of charities about the difficulties they faced recruiting treasurers on to their trustee boards.[105]

84. Other skills identified as important on trustee boards were legal and business knowledge, risk management, communication skills, chairing skills, team working, an ability to nurture organisational culture, foster creativity, and a willingness to ask difficult and challenging questions of the executive.[106] A number of witnesses suggested that charities should undertake skills audits of their trustee boards to evaluate the skills and recruit to fill any gaps.[107]

85. We heard that it was important for trustee boards to have an understanding of technology in order to support charities looking to innovate using digital tools.[108] We consider this further in Chapter 6.

86. We were also told that it was important that trustee boards had experience of the voluntary sector, knowledge of and enthusiasm for the subject area of the charity's work, and an understanding of the perspective of beneficiaries.[109] Eve Martin from Brook cautioned, however, that: "it is critical that trustees

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101 Written evidence from Churches' Legislation Advisory Service (CHA0098), Oxfam GB (CHA0113) and Rural Community Council of Essex (CHA0096)

102 Written evidence from National Council for Voluntary Organisations (CHA0148)

103 See for example, Q 98 (Marged Griffiths) and written evidence from Charity Tax Group (CHA0122), Comic Relief (CHA0126), Community Links Bromley (CHA0100), Esmée Fairbairn Foundation (CHA0044), Stella Smith (CHA0060) and vInspired (CHA0118)

104 Written evidence from National Council for Voluntary Organisations (CHA0148)

105 Note of roundtable discussion in Westminster, Appendix 7, note of roundtable discussion in Cardiff, Appendix 8, and written evidence from Church Mission Society (CHA0014), Reach Volunteering (CHA0058), Mr Brian Winder (CHA0017), Stella Smith (CHA0060) and The Institute of Chartered Accountants in England and Wales (CHA0168)

106 Q 98 (Eve Martin) and written evidence from Action Against Hunger (CHA0078), Association of Chairs (CHA0156), Lucy Caldicott (CHA0170), Chilterns MS Therapy Centre Ltd (CHA0066), Comic Relief (CHA0126), Institute of Risk Management (IRM) (CHA0039), National Council for Voluntary Organisations (CHA0148) and vInspired (CHA0118)

107 Note of roundtable discussion in Westminster, Appendix 7, and written evidence from Church Army (CHA0003), RSM UK (CHA0120) and Wales Council for Voluntary Action (CHA0097)

108 Written evidence from Citizens Advice (CHA0177) and National Council for Voluntary Organisations (CHA0148)

109 Written evidence from Comic Relief (CHA0126), Community Links Bromley (CHA0100), The Swinfen Charitable Trust (CHA0007), vInspired (CHA0118) and Wincanton Community Venture (CHA0022)

have a range of skills and expertise relevant to the charity, but not exclusively from the charity field, otherwise their vision becomes too narrow."[110]

87. Alongside all the skills and knowledge, we also heard that it was imperative that trustees devoted time to their governance functions, which could be a challenge for smaller charities.[111] Andrew O'Brien from the Charity Finance Group said:

> "It requires time and effort to understand your organisation's business model and its financial situation and sustainability, and you need to invest that time and understanding, and not just pass it off to the treasurer, chair, chief executive or finance director. You need to understand it yourself, but you can understand it."[112]

88. He added that it was important not to give the impression that trustees were not capable of performing challenging governance tasks:

> "If you genuinely have the needs of your beneficiaries at the heart of your decision-making, if there is a regular flow of correct and accurate financial information to your board, and you have an inquiring and challenging board that uses its common sense, judgment and experience to ask the right questions—that is why it is there—you can successfully financially govern your organisation. What we have to be honest about—I commend the Charity Commission for its work on that—is the commitment it means."[113]

89. **We believe that it is essential that charities regularly undertake skills audits of their trustee boards to ensure that they have the necessary capabilities to undertake their vital governance role. For large charities, this should be an annual occurrence.**

Trustee training

90. We were told that there should be a new focus on training and continuous professional development for charity boards in order to improve trustee skills.[114] The Charity Evaluation Working Group suggested that the resources, training and guidance currently available to charity leaders and managers should also be available to trustees.[115] Barnardo's said that it would be helpful to have a centrally maintained store of knowledge and best practice for trustees to consult.[116] We also heard that there were free and low-cost online training available to address some areas of need.[117]

91. Voluntary Organisations' Network North East argued that, while infrastructure bodies in the sector were able to help charities gain skills, they often lacked the resources to deliver programmes locally.[118] They said that the training offered by national organisations was disproportionately

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110 Q 98 (Eve Martin)
111 Q 98 (Eve Martin, Marged Griffiths)
112 Q 39 (Andrew O'Brien)
113 *Ibid.*
114 Q 208 (Kenneth Dibble) and written evidence from Charity Commission for England and Wales (CHA0114), Charity Law and Policy Unit, School of Law and Social Justice, University of Liverpool (CHA0104) and Royal National Lifeboat Institution (CHA0153)
115 Written evidence from Charity Evaluation Working Group (CHA0067)
116 Written evidence from Barnardo's (CHA0172)
117 Q 91 (Professor John Mohan) and Q 138 (Helen Milner OBE)
118 Infrastructure bodies are considered further in Chapter 5.

London-based, which imposed prohibitive costs for organisations based elsewhere in the country.[119] Action Against Hunger also said that while there were a multitude of training providers, they were not always affordable for charities.[120]

92. This problem was acknowledged by Andrew O'Brien:

> "You are absolutely right that we need to focus on the smaller end of the market … there is a massive gap; 97% of our sector is under £1 million. A lot of our training across the sector is aimed at those who can pay for it, usually the bigger organisations. We need to focus more on the needs of the smaller ones, and they are insatiable.[121]

93. As part of skills audits of boards, charity chairs should be looking to identify where training for trustees can fill gaps in their capacity. However, the Association of Chairs told us that, of the charities they had surveyed, 46% of boards had no budget for board development.[122] Charity Leaders argued that it was vital that trustee boards learnt in teams as well as individually, to allow the board to bond and better understand one another.[123]

94. Our witnesses also said that it was essential to have more formal and rigorous induction processes for new trustees.[124] Locality suggested that it was "often incorrectly assumed" that trustee skills were easily transferrable from the private sector, and stressed that board development and training was important given the different business models and environments that charities operated within.[125]

95. We note that the revised Governance Code suggests that trustees receive an appropriately resourced induction on joining the board that covers all areas of the charity's work and gives the opportunity for ongoing learning and development.[126] ICSA: The Governance Institute suggested that large charities should seek to appoint a governance professional to support trustees in their role.[127]

96. A range of other suggestions were made for supporting trustee skills, including secondments and mentoring between charities[128] and capacity building through peer-group learning among trustees and with business leaders from the private sector.[129] Business in the Community said that there was a growing diversification in the relationships between businesses

119 Written evidence from VONNE (CHA0123)
120 Written evidence from Action Against Hunger (CHA0078)
121 Q 37 (Andrew O'Brien)
122 Written evidence from Association of Chairs (CHA0156)
123 Written evidence from Charity Leaders (CHA0139)
124 Written evidence from Charity Law and Policy Unit, School of Law and Social Justice, University of Liverpool (CHA0104), Comic Relief (CHA0126), Directory of Social Change (CHA0128), Foundation for Social Improvement (CHA0057), RSM UK (CHA0120), RSPCA (CHA0070), The Tim Parry Johnathan Ball Foundation for Peace (CHA0038) and Tree of Hope (CHA0041)
125 Written evidence from Locality (CHA0133)
126 The Charity Governance Code Steering Group, *Charity Governance Code Consultation document* (November 2016) para 6.6: http://www.governancecode.org/wp-content/uploads/2017/02/NC940_good_governance_11.pdf [accessed 14 March 2017]
127 Written evidence from ICSA: The Governance Institute (CHA0093)
128 Written evidence from Action Against Hunger (CHA0078), Pilotlight (CHA0073) and Royal National Lifeboat Institution (CHA0153)
129 Written evidence from Action Against Hunger (CHA0078), Chilterns MS Therapy Centre Ltd (CHA0066), Comic Relief (CHA0126), London Funders (CHA0090), Lucy Caldicott (CHA0170), Stella Smith (CHA0060), vInspired (CHA0118) and Wincanton Community Venture (CHA0022)

and charities, from traditional giving and fundraising to "more complex, integrated social/shared value delivery models."[130] They suggested that there was greater value that could be leveraged from these more equal relationships, but that they required greater effort and sophistication to establish.[131] The RNLI agreed that skills in the charity sector could be enhanced through "networking within sectors and mentoring with other business leaders"[132] and Stella Smith said that "confidential support from established leaders and talented individuals from outside the sector might be most helpful."[133]

97. ***Training and development are essential for charity trustees in order for the sector to work effectively. It is the responsibility of charities' chairs to ensure that this vital activity takes place. We recommend that the sector's infrastructure bodies review the training opportunities that exist, identify where there may be shortcomings in provision, particularly for small charities, and take action to address them. They could assist charities by publishing collated information about available training and providing a platform for users to rate the value of courses they have accessed.***

98. **Induction processes are essential so that new trustees have a well-established understanding of the charity and of their responsibilities. Trustees need to feel confident and well-informed in order to provide strategic direction, oversight and challenge. We welcome the inclusion in the Governance Code of appropriately resourced inductions for all new trustees.**

99. ***We believe that smaller charities would benefit from having free access to a template induction process. We recommend that grant-making bodies consider applications from infrastructure organisations and governance professionals to develop such a best practice template.***

100. ***There is greater potential for charities to benefit from better connections to the business community and vice versa. We recommend that the Government takes fresh measures to get more senior business leaders directly involved with charities to foster those relationships and maximise their value.***

Board diversity and turnover

101. The skills needs of charity boards were linked to a lack of diversity among trustees. The Charity Commission told us that trustee boards "lack diversity, having particular demographic characteristics."[134] David Robb from the Office of the Scottish Charity Regulator (OSCR) said that "diverse boards make better decisions and are better placed to sustain charities in a changing environment"[135] and Lord Hodgson of Astley Abbotts suggested that a lack of diversity on boards could lead to a charity becoming "a bit narrowly led."[136]

130 Written evidence from Business in the Community (CHA0155)
131 *Ibid.*
132 Written evidence from Royal National Lifeboat Institution (CHA0153)
133 Written evidence from Stella Smith (CHA0060)
134 Q 208 (Kenneth Dibble)
135 Q 114 (David Robb)
136 Q 91 (Lord Hodgson of Astley Abbotts CBE)

102. We were told that it was important to make trusteeship more accessible.[137] Matthew Taylor from the RSA said: "We would make governance a bit easier if we made it more possible for people of working age to be able to serve in a trustee capacity without having to ask an enormous favour of their employer."[138] Eve Martin from Brook suggested that employers should be encouraged to promote trusteeship as part of staff development.[139] We also heard that more should be done to educate the public on what being a trustee means and entails, in order to encourage a wider range of people to participate.[140]

103. FaithAction said that the role of trustees should carry as much prestige as that of magistrate.[141] The NCVO went further and suggested that the law should be amended to extend employees' existing right to take reasonable time off for volunteering for "certain public duties (e.g. to serve as magistrates, councillors or on the governing bodies of schools)."[142]

104. We were told about the value of having beneficiaries of charities as their trustees.[143] Eve Martin told us that her board was more diverse because of the presence of co-opted trustees from the age range of their service users. She said that it resulted in:

> "a completely different dynamic of a board and changes things quite a lot, and it is nothing but positive. I cannot say how positive it is. I would really urge other charitable boards to think seriously about how they recruit and develop young trustees."[144]

105. **We acknowledge that recruitment of trustees is challenging for many charities, especially when seeking trustees with particular skill sets. However, we believe that trustee diversity is important, as boards with a range of skills, experiences, ages and backgrounds are likely to lead to better governance.**

106. **We believe that more can be done by the Government, the Charity Commission, infrastructure bodies and by charities themselves to promote trusteeship and incentivise people to become trustees. In particular, there is greater scope to enable disadvantaged people to become trustees and thus improve diversity.**

107. ***We recommend that the Office for Civil Society works with other departments and business leaders to develop a new initiative to promote trusteeship to employees and employers and thereby encourage greater participation and diversity. The initiative should encourage employees to see both the selfless, charitable value of trusteeship and the personal benefits in the form of skills and career development. Employers should be encouraged to give greater recognition to trustee roles in recruitment and progression of their staff.***

137 Q 114 (Frances McCandless)
138 Q 50 (Matthew Taylor)
139 Q 98 (Eve Martin)
140 Written evidence from ICSA: The Governance Institute (CHA0093), RSM UK (CHA0120) and Stella Smith (CHA0060)
141 Written evidence from FaithAction (CHA0015)
142 Written evidence from National Council for Voluntary Organisations (CHA0148)
143 Q 114 (David Robb) and note of the Committee visit to Body & Soul, Appendix 4
144 Q 99 (Eve Martin)

108. ***We further recommend that the Government holds a public consultation on the possibility of introducing a statutory duty to allow employees of organisations over a certain size to take a limited amount of time off work to perform trustee roles.***

109. We also heard that it was important to ensure that there was turnover on charities' boards to ensure that governance skills were regularly refreshed.[145] Lord Hodgson of Astley Abbotts told us that trustees:

> "should serve for three three-year terms, they should be reappointed at the end of every third year and it would be expected that they would be appointed for a second term, and a third term if they did well. It would not be a legal requirement; it would be a 'comply or explain' requirement."[146]

110. Lord Hodgson added that the rotation of trustees was "a way of keeping the sector fresh and providing an effective check on professional staff who may have all the tensions between executives and non-executives."[147] Eve Martin said that it was important to have time limits for trustees to avoid boards becoming complacent and averse to change.[148]

111. David Robb from the OSCR said that:

> "The notion [of maximum terms of office for trustees] is not contentious, but implementing it can be hard for charities. They are often behind the sentiment, but they are not quite sure how to start going about it, so if we can start offering some practical things along the way towards more diversity and a better pipeline for succession planning, we could make progress."[149]

112. The revised Governance Code proposes that trustees are appointed for an agreed length of time, subject to any applicable re-election and statutory provisions. It suggests that if a trustee is to serve for more than nine years, then this should be subject to a rigorous review by the trustee board that takes into account the need for progressive refreshing of the board.[150] Lord Hodgson noted that there may be cases in which a time limit should not apply:

> "if someone is the founder, they have a reason for continuing a little longer as long as it is explained in the annual report that is fine. That enables the public, the Charity Commission or whoever, to know that somebody is there in a special position and it deals with the fact that a founder can be over-mighty and can rule the roost too much."[151]

113. ***We agree that there should be a time limit for individuals to serve as trustees, along with a maximum term of office, and we endorse the proposed inclusion of such time limits in the revised***

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145 Written evidence from Citizens Advice (CHA0177) and National Council for Voluntary Organisations (CHA0148)

146 Q 91 (Lord Hodgson of Astley Abbotts CBE)

147 *Ibid.*

148 Q 98 (Eve Martin)

149 Q 114 (David Robb)

150 The Charity Governance Code Steering Group, *Charity Governance Code Consultation document* (November 2016) para 6.5.3: http://www.governancecode.org/wp-content/uploads/2017/02/NC940_good_governance_11.pdf [accessed 14 March 2017]

151 Q 91 (Lord Hodgson of Astley Abbotts CBE)

Governance Code. We recommend that the materials and draft articles of association provided by the Charity Commission include a suggestion of time limits.

114. **We recognise that in some circumstances, such as family trusts or in respect of the role of the founder of a charity, there may be good reasons for not imposing a time limit. We agree with Lord Hodgson of Astley Abbotts that these charities should explain their reasons for this in their annual report in order to aid transparency.**

115. **We believe that, irrespective of trustee time limits, charities should regularly review the operation of their boards and the tenure of their trustees and chair to ensure that their governance is sufficiently robust. For large charities, this should be an annual occurrence.**

Diversity of the Charity Commission's board

116. We also heard concerns about the board of the Charity Commission. The NCVO said: "We would like to see a greater role for Parliament in future in how the board is appointed, and we are especially keen that it has an independent chair with cross-party support."[152]

117. During our inquiry, the Charity Commission made new appointments to its board, which prompted criticism from the sector. ACEVO said that "the process of appointment was opaque and undemocratic" and that "not a single board member has the deep and cross-cutting experience of charity governance and regulation experienced by those on the front line."[153] Debra Allcock Tyler, Chief Executive of the Directory of Social Change, said that it was "a pity that there is now no one on the Commission board who has actually run a charity full-time."[154]

118. William Shawcross, the Chairman of the Charity Commission, told us that:

> "It is always useful that anybody on the Charity Commission board has previous experience in the charity sector. I think I am right in saying that every member of our board has been a trustee of one or more charities. I agree with you that that is important."[155]

119. Kenneth Dibble, Legal Director at the Charity Commission, said that in the charity sector "trustee boards continue to lack diversity." He went on to say that they recommended "improving diversity of trustees, the availability of equality guidance training and support for trustees."[156]

120. ***We acknowledge the challenges that the Charity Commission faces in securing a diverse board, however the regulator cannot expect to hold the sector to a higher standard than it is able to achieve itself. We recommend that the Commission is mindful of the example it sets to the sector and that when filling future vacancies it explicitly seeks to recruit individuals with a range of skills, charity experiences and demographic characteristics, such as age, gender, ethnicity and***

152 Q 21 (Karl Wilding)

153 'Appointments process for Charity Commission board members 'broken', says Acevo', *Third Sector* (1 December 2016): http://www.thirdsector.co.uk/appointments-process-charity-commission-board-members-brokensays-acevo/governance/article/1417395 [accessed 14 March 2017]

154 *Ibid.*

155 Q 203 (William Shawcross)

156 Q 208 (Kenneth Dibble)

geography. We expect to see the results of this approach in the next set of board appointments.

Executive leadership

121. In addition to skilled trustees overseeing a charity's activity, good governance also requires strong executive leadership skills in order to run the charity effectively on a day-to-day basis. The challenge of running a charity was emphasised by a number of our witnesses. Professor John Mohan, from the Third Sector Research Centre, University of Birmingham, told us that:

> "A colleague in this research field referred to running small charities as "juggling on a unicycle", which seemed quite apt for the range of tasks and the complex balancing acts that people have to engage in."[157]

122. The Lloyds Bank Foundation for England and Wales said that:

> "The skills and qualities needed to run a small charity can differ substantially to those involved in running a multi-million pound organisation. Underpaid and over-worked, small charity chief executives have to be able to multi-task and take a hands-on approach to the day-to-day running of the charity whilst also leading on strategy and external relations. These chief executives need to be innovative and passionate to rise to the incredible challenges they face, often supporting individuals at a local level one day and taking on big businesses and Government the next."[158]

123. ICSA: The Governance Institute told us that, while the skills required to lead and manage a charity were no different from those required in any other type of organisation, the expectations placed upon charity leaders were different from other sectors, such as in relation to salary levels, business practices, funding arrangements, and strategic decisions about how to achieve charitable objects.[159]

124. ACEVO highlighted the strain that charity leaders were facing:

> "calls to our "CEO in Crisis Line" were up 40% last year, so that issue is deteriorating and not ameliorating. Calls to our governance helpline increased by 160% last year … It is a serious issue."[160]

125. Some of our witnesses argued that the sector was lacking adequate leadership skills. Paul Stallard, the former chair of the Public Fundraising Association,[161] said that poor management performance had arisen due to "light-touch" oversight and the "absence of strict rules and regulations" in the sector.[162] The Devon Air Ambulance Trust suggested that inadequate and risk-averse leadership and governance encouraged people to "play safe, not rock the boat."[163] The Association of Chairs said that the relationship between "trustees and the senior management team and especially between Chair and CEO is crucial."[164]

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157 Q 91 (Professor John Mohan)
158 Written evidence from Lloyds Bank Foundation for England and Wales (CHA0031)
159 Written evidence from ICSA: The Governance Institute (CHA0093)
160 Q 28 (Asheem Singh)
161 The Public Fundraising Association merged into the Institute of Fundraising in August 2016.
162 Written evidence from Mr Paul Stallard (CHA0049)
163 Written evidence from Devon Air Ambulance Trust (CHA0083)
164 Written evidence from Association of Chairs (CHA0156)

126. Clinks and Clore Social Leadership both said that more support was needed to help people working in the charity sector to move into leadership roles and to thrive once in post.[165] Clore Social Leadership observed that it was hard for new managers and for trustees to access leadership training, and in the current climate the sector needed to emphasise the benefits of leadership skills and encourage greater participation in leadership development.[166]

127. The Paul Hamlyn Foundation said that grants should be given to sector leaders to help them develop their organisations' work.[167] However, ICSA: The Governance Institute argued that "the sector as a whole is not terribly great at using charitable funds to invest in the future skills and development of trustees, managers and others seeking to contribute fully to the sector."[168]

128. ***Charities recognise that training and development for leaders and staff is important, however there are still significant shortcomings in terms of available training and levels of take-up. We therefore recommend that infrastructure bodies in the sector take the lead on working with government, academics and research institutions, and with the business community, to identify further opportunities to support and fund leadership programmes.***

129. We were told that it was important for the trustees and the chief executive to be a "real leadership team" in order to ensure good governance.[169] Asheem Singh from ACEVO told us that:

> "The principal issue that chief execs in crisis report is a breakdown in governance, which is not about not filling in a form or the register but about the relationship between the chief exec and trustees. Getting that relationship right is key to making this work. We need to support both the trustees and the chief execs to ensure that governance works well."[170]

130. Our witnesses stressed that trustees should focus on their strategic role so far as possible and avoid intervening in executive matters unless necessary. Shaks Ghosh told us that for trustees: "the more you get involved with the day-to-day management and operations of a charity, the less able you are to take the foresight view, the longer view of what is required."[171]

131. However, we heard from many smaller charities at our roundtable events that, because they were dependent on volunteers, they were reliant on trustees pitching in to help the operation of the charity. They said that this made it harder to maintain separation of executive and trustee responsibilities.[172] Other witnesses also noted the risks of blurring the distinction between operations and oversight, and said that it was important to understand the difference between governance and management.[173]

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165 Written evidence from Clinks (CHA0084) and Clore Social Leadership (CHA0132)
166 Written evidence from Clore Social Leadership (CHA0132)
167 Written evidence from Paul Hamlyn Foundation (CHA0059)
168 Written evidence from ICSA: The Governance Institute (CHA0093)
169 Written evidence from Pilotlight (CHA0073)
170 Q 28 (Asheem Singh)
171 Q 102 (Shaks Ghosh CBE)
172 Note of roundtable discussion in Cardiff, Appendix 8
173 Written evidence from Mr Len Jones (CHA0004), Mr Andrew Purkis (CHA0146) and Rural Community Council of Essex (CHA0096)

132. Shaks Ghosh suggested that in such situations charities should:

> "be very careful that it is done deliberately rather than by drift. If you find the chair or board members starting to work on operational issues, because they have to because there is no other way, they need to be very deliberate about it and to think about how quickly they can move back into their role as being the strategic custodians of the organisation."[174]

133. **We agree that maintaining a separation of executive and oversight responsibilities is important for good governance. Governance is about making sure that charities do the right things, while management is about making sure that those things are done right. In a few cases, for the smallest of charities, we acknowledge that a complete separation of roles may be difficult, but it should remain the aspiration nonetheless.**

134. ***We recommend that the Governance Code Steering Group reflect in the Code the importance of executive and trustee relationships and the clear separation of their roles and responsibilities.***

Payment of trustees

135. The contentious question of whether charities should be permitted to pay trustees for their work has been a recurring one in the charity sector, and a number of our witnesses set out the tensions around such a move.[175]

136. A few witnesses suggested that trustees should be paid, particularly trustees of larger charities.[176] Plan International argued that the voluntary nature of trustees limited the pool of talent and the skills available to the sector.[177] We are aware that in a number of cases charity trustees, primarily chairs, do receive some remuneration.[178]

137. However, more of our witnesses said that that the voluntary nature of trusteeship was important and that trustees should not be paid.[179] Eve Martin told us that "there is something really good about this being a voluntary role and that you do it because you are passionate about what the charity is doing and because you believe in it."[180] Stella Smith noted that the payment of trustees would not automatically mean that trustees became more skilled[181] and Shaks Ghosh of Clore Social Leadership said that other options should be considered before payment, such as using training opportunities as an incentive.[182]

138. The Association of Chairs reported that just 38% of charity chairs they had surveyed said they received expenses.[183] The Charity Law and Policy Unit at

174 Q 100 (Shaks Ghosh CBE)
175 Written evidence from ICSA: The Governance Institute (CHA0093), MHA (CHA0124), RSM UK (CHA0120) and Sense, The National Deafblind and Rubella Association (CHA0040)
176 Written evidence from Plan International UK (CHA0102) and Mr Paul Stallard (CHA0049)
177 Written evidence from Plan International UK (CHA0102)
178 The Charity Commission's guidance on trustee expenses and payment can be found at https://www.gov.uk/government/publications/trustee-expenses-and-payments-cc11/trustee-expenses-and-payments [accessed 14 March 2017]
179 Written evidence from the Association of Chairs (CHA0156), Churches' Legislation Advisory Service (CHA0098) and Directory of Social Change (CHA0128)
180 Q 98 (Eve Martin)
181 Written evidence from Stella Smith (CHA0060)
182 Q 98 (Shaks Ghosh CBE)
183 Written evidence from Association of Chairs (CHA0156)

the University of Liverpool suggested that wider provision of insurance for trustees might encourage more people to take the role.[184]

139. **We believe that the voluntary principle of trusteeship is an important one and that trustees should not receive payment for undertaking the role. In highly exceptional circumstances, where people are otherwise unable to act as a trustee, it may be acceptable to consider some form of remuneration. The explanation and justification for such arrangements must be set out in the charity's annual report.**

140. **More broadly, trustees should be able to claim relevant expenses to ensure that financial considerations do not unduly deter people from taking up the role.**

Transparency, accountability and impact

141. Many of our witnesses said that charities should proactively seek to be more transparent and accountable about the way they operate and how they use their funds.[185] ICSA: The Governance Institute said that "good governance cannot exist in a vacuum. It requires accountability and transparency to ensure decisions are being made in the furtherance of the charitable objects."[186] The Governance Code suggests that there should be a presumption that charities are open and accountable unless there is good reason not to be.[187]

142. Karl Wilding from NCVO said that:

> "We have been very clear, and many of NCVO's members have been clear, that greater levels of scrutiny of charities are right and proper. There is no point in shooting any messengers on this issue, so we have to up our game in explaining the decisions we make, for example, and being transparent about how we are run. We probably also have more to do in explaining to the public how modern charities work. In some respects, the public have quite an outdated understanding of the word "charity" and how charities work, and we have to do more to communicate to them how we now work."[188]

143. The National Association for Voluntary and Community Action (NAVCA) suggested that charities had not been good at explaining how they operate and that "maybe there is an unrealistic expectation (or idealistic view) that charities can deliver all that they do without paid staff and government funding."[189]

144. Comic Relief made the positive case for transparency:

> "To be properly accountable to beneficiaries, donors and the general public, charities must ensure that they are genuinely committed to transparency, with a strong set of policies and principles. Transparency

184 Written evidence from Charity Law and Policy Unit, School of Law and Social Justice, University of Liverpool (CHA0104)
185 Written evidence from the Charity Commission for England and Wales (CHA0114), Save the Children (CHA0149), Stella Smith (CHA0060), Social Enterprise UK (CHA0117) and the True and Fair Foundation (CHA0138)
186 Written evidence from ICSA: The Governance Institute (CHA0093)
187 The Charity Governance Code Steering Group, *Charity Governance Code Consultation document* (November 2016), p 4: http://www.governancecode.org/wp-content/uploads/2017/02/NC940_good_governance_11.pdf [accessed 14 March 2017]
188 Q 15 (Karl Wilding)
189 Written evidence from National Association for Voluntary and Community Action (CHA0076)

is not simply being compliant, but being confident, rigorous and proud of your work and clear about the success it has achieved. When a programme has not worked as hoped, the need for transparency and accountability is even greater to enable the charity to explain the reasons why and learnings."[190]

145. We heard that it was important for charities to consider accountability to different groups—funders and donors, beneficiaries and the public, and the Charity Commission and other regulators—and in different respects, such as finance, governance and their charitable activities.[191]

146. New Philanthropy Capital said:

> "In terms of accountability the charity sector model is unique. If a business produces a product consumers will not buy, they will suffer from falling profits. If a government makes 'courageous decisions' that are deeply unpopular they can be voted out. But if a charity delivers a substandard service to the people they are working to help, these beneficiaries lack the ability to act directly … This makes accountability to beneficiaries a hugely important issue for charities."[192]

147. We were also told that expectations of transparency had increased in recent years.[193] Battersea Dogs & Cats Home said:

> "In the current climate charities are expected to be increasingly transparent and are therefore sharing more information and measurements with the public. This information should be meaningful and can include details such as the impact a charity has had, its achievements, income and expenditures, long term plans and commitments."[194]

148. We also heard about the potential for digital technologies to improve charities' accountability and transparency. These issues are considered further in Chapter 6.

149. **Accountability and transparency are essential for charities to ensure they function properly, deliver for their beneficiaries and retain the trust of the public. In order to respond to the greater expectations upon them, charities need to operate with a presumption of openness. We believe that it is important for all but the very smallest charities to have a simple website or public social media page to provide that transparency.**

Financial reporting

150. The NCVO said that:

> "Transparency around charity funding has improved significantly in recent years. Many charities publish detailed information on their website about their activities and how they allocate the funds they

190 Written evidence from Comic Relief (CHA0126)
191 Written evidence from Impetus – The Private Equity Foundation (CHA0131) and Royal National Lifeboat Institution (CHA0153)
192 Written evidence from New Philanthropy Capital (CHA0055)
193 Written evidence from National Council for Voluntary Organisations (CHA0148) and The UK Sustainable Investment and Finance Association (CHA0125)
194 Written evidence from Battersea Dogs & Cats Home (CHA0143)

> receive. However there are areas where this could [be] strengthened further such as senior executive pay."[195]

151. The Charity Tax Group emphasised the importance of "full compliance with all reporting and accounting requirements" for accountability,[196] while the RNLI said that the work carried out by the Charities Statements of Recommended Practice (SORP) Committee[197] was "key to this" and that "there must be robust sanction where charities fail to adhere to such rules to ensure a healthy charity sector."[198]

152. Rebecca Bunce from the Small Charities Coalition noted that it was important that accounting requirements on charities were proportional:

> "[The] reporting that you would expect from a larger charity might not be the same as you would expect from a smaller charity … We have to be very careful that, when accounts are submitted with possibly less information, it is not seen as not being transparent but is seen as proportional to the size of the charity."[199]

153. The Woodland Trust said: "we propose the watchword for accountability should be 'transparency without bureaucracy'. At the moment it feels as though there is rather too much of the latter."[200]

154. The Charity Commission suggested that there were issues with the quality of financial reporting and data it received in relation to "both the extent of compliance and the quality of information that comes in."[201]

155. We heard from a number of sources that there was an increased focus on transparency among charity donors.[202] Karl Wilding said that:

> "They want to understand not just where the money goes but how decisions are made about where it goes. With colleagues, I would like to think about not how we can give charities more regulation or instructions on what to do but how we can support and inspire them to do much more to be transparent and accountable in how they spend their money."[203]

156. **We do not believe that significant additional regulation of the sector through increased mandatory reporting requirements would be desirable, as this would be a substantial bureaucratic burden on smaller charities.**

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195 Written evidence from National Council for Voluntary Organisations (CHA0148)
196 Written evidence from Charity Tax Group (CHA0122)
197 The Charities SORP provides recommendations for accounting and reporting, in particular, how accounting standards should be applied in the context of charities and how to account for charity specific transactions. The aim of a SORP is to bring consistency of accounting treatment within a particular sector and to facilitate accounts to be prepared to give a 'true and fair' view. See http://www.charitysorp.org/about-the-sorp [accessed 14 March 2017]
198 Written evidence from Royal National Lifeboat Institution (CHA0153). See also written evidence from Mr Ian Clark (CHA0161).
199 Q 23 (Rebecca Bunce)
200 Written evidence from The Woodland Trust (CHA0150)
201 Q 14 (Sarah Atkinson)
202 Q 131 (Dr Beth Breeze) and written evidence from Battersea Dogs & Cats Home (CHA0143) and National Council for Voluntary Organisations (CHA0148)
203 Q 15 (Karl Wilding)

157. ***However, as we said at paragraph 149, we believe that it is important for all but the very smallest charities to have a simple website or social media page, and they should use that to set out their basic organisational and financial information. We recommend that public sector funders and other donors should evaluate the transparency of charities when considering requests for funding.***

Governance reporting

158. We heard about the importance for good governance of reporting on governance activities. New Philanthropy Capital suggested that charities should report on their governance processes to the Charity Commission.[204] Patrick Taylor said that as part of their annual reporting, charity trustees should affirm that they have read the charity's articles and all necessary Charity Commission guidance documents.[205]

159. The NCVO proposed that all charity funders should make strong governance arrangements a condition of funding.[206] Philip Lawford said that, in the case of the Linbury Trust, this was already the case: "You very much do your due diligence up front, but ultimately you are backing a person or a team of people to deliver what they say they are going to do. We rely very much on due diligence in advance."[207]

160. ICSA: The Governance Institute suggested that:

> "As with corporate governance developments, there is a role for stakeholders in actively helping improve governance arrangements in charities. Whether it is members actively engaging in the formalities of an AGM, or challenging in an appropriate way the decisions of the board, or even questioning the ongoing relevance of the charity, there is a role for stakeholders in helping to keep the trustees true to the charitable objects."[208]

161. Patrick Taylor made a number of suggestions for greater member involvement in membership charities, such as a requirement to allow members to propose resolutions and to have them voted on at AGMs, a requirement to provide a venue for member discussion on proposed changes to the charity's constitution, and improving the availability of AGM minutes and accounts to members.[209]

162. We also heard about the importance of individual trustees being accountable and sanctions being applied for misbehaviour. The Charity Commission told us that they were starting to work with the new powers to disqualify trustees granted to them by the Charities (Protection and Social Investment) Act 2016,[210] but, as Lord Hodgson of Astley Abbotts noted, it was too early to measure its effectiveness.[211]

163. ***We recommend that the Governance Code Steering Group set out best practice suggestions for governance reporting by charities. This***

204 Written evidence from New Philanthropy Capital (CHA0055)
205 Written evidence from Mr Patrick Taylor (CHA0020)
206 Written evidence from National Council for Voluntary Organisations (CHA0148)
207 Q 125 (Philip Lawford)
208 Written evidence from ICSA: The Governance Institute (CHA0093)
209 Written evidence from Mr Patrick Taylor (CHA0020)
210 Q 9 (Sarah Atkinson)
211 Q 90 (Lord Hodgson of Astley Abbotts CBE)

might involve charities including in their annual report a statement that they follow the Governance Code, or a similar specialist governance code relevant to their work, and report any actions they have taken over the year in light of the Code.

Evaluation and impact reporting

164. The move from grant funding to contracts and the increasing expectations of transparency have put a greater focus on how charities measure and demonstrate the impact they make. There was widespread agreement among our witnesses that charities should be accountable and be able to demonstrate the outcomes of their work.[212]

165. Battersea Dogs & Cats Home said that:

> "Accountability and transparency are essential for charities. In the current climate charities are expected to be increasingly transparent and are therefore sharing more information and measurements with the public. This information should be meaningful and can include details such as the impact a charity has had, its achievements, income and expenditures, long term plans and commitments."[213]

166. A number of charities told us about the impact and transparency reporting they undertake.[214] Some charities, including Citizens Advice and Oxfam, said that they carried out research to understand the difference they make,[215] however the Cranfield Trust said that "many charities are not investing in this work."[216] Some charities noted that it was difficult to secure sufficient funding to support impact measurement.[217]

167. Impetus told us that: "Impact measurement is a crucial supporting competence but frequently turns into an exercise in impressing funders and commissioning, rather than in understanding current impact and the steps needed to take to improve."[218] The Institute of Risk Management suggested that there was scope for improving annual reports through a greater focus on outcomes and value for money and including case studies of "actual or anonymised beneficiaries."[219] New Philanthropy Capital argued that trustee boards should be required to report on their impact to the Charity Commission.[220]

168. Some of our witnesses raised concerns about impact measurement, especially for small charities. The Association of Charitable Foundations stated that impact measurement should not "distort action"[221] while the Charity Evaluation Working Group commented that expectations for charities to report on impact should be "proportionate, realistic and feasible."[222] Body &

212 Q 161 (Nick Pickles) and written evidence from Impetus – The Private Equity Foundation (CHA0131), Sheila McKechnie Foundation (CHA0184), Springboard for Children (CHA0121) and the United Kingdom Accreditation Service (CHA0032)
213 Written evidence from Battersea Dogs & Cats Home (CHA0143)
214 Written evidence from Save the Children (CHA0149), Together for Short Lives (CHA0144) and World Vision UK (CHA0048)
215 Written evidence from Citizens Advice (CHA0177) and Oxfam GB (CHA0113)
216 Written evidence from The Cranfield Trust (CHA0103)
217 Written evidence from Giving Evidence (CHA0027) and MyBnk (CHA0186)
218 Written evidence from Impetus – The Private Equity Foundation (CHA0131)
219 Written evidence from Institute of Risk Management (IRM) (CHA0039)
220 Written evidence from New Philanthropy Capital (CHA0055)
221 Written evidence from Association of Charitable Foundations (ACF) (CHA0082)
222 Written evidence from Charity Evaluation Working Group (CHA0067)

Soul told us that they had to report on their work to different public funders in a variety of ways, and that adhering to lots of different reporting standards was a bureaucratic burden.[223]

169. MHA, the Methodist charity and housing association, said that the practice of producing impact statements was:

> "widespread in large charities, but may be difficult for smaller charities to undertake, as there are no set standards for such publications. It also requires experienced and skilled trustees and executive team[s] to recognise the need for excellent stewardship for donors and clarity of communication to beneficiaries and donors. A guideline for a model Impact Statement may be worthy of consideration."[224]

170. From the perspective of one large donor, Philippa Charles, from the Garfield Weston Foundation, said that smaller organisations were "generally very good at coming back to us" to report on how they had spent their funds.[225] The Robertson Trust observed that "supporting organisations to develop their self-evaluation skills has also enabled them to become more reflective and has the potential to develop a process of learning and improvement across their activities."[226]

171. Gen Maitland Hudson of Power to Change commented that collecting information on impact was "not necessarily all about quantifying or finding hard measures … it is potentially about improving on some of those softer measures and supporting small charities to be more systematic."[227] However, she noted that there was not currently a method of collecting information which was consistently recognised by the sector as being reputable, and that there was a challenge to develop this.[228]

172. We heard that frameworks to incentivise charities to report on their impact were currently limited. For example, Charity Leaders observed that Charity Commission guidance made little reference to impact assessment, instead focusing on the legal and financial responsibilities of trustees.[229]

173. A number of our witnesses supported the Inspiring Impact project, a cross-sector programme funded by the Office for Civil Society, aiming to change the way the voluntary sector thinks about impact by providing online tools for charities to help measure and report their effectiveness.[230] Gen Maitland Hudson spoke about the Impact Management Programme run by New Philanthropy Capital, which helped charities with the practical challenges of data collection and analysis.[231]

174. ***All charities should be seeking independent evaluation of their impact on their beneficiaries, in order to ensure that they are***

223 Note of the Committee visit to Body & Soul, Appendix 4
224 Written evidence from MHA (CHA0124)
225 Q 126 (Philippa Charles)
226 Written evidence from The Robertson Trust (CHA0077)
227 Q 52 (Gen Maitland Hudson)
228 *Ibid.*
229 Written evidence from Charity Leaders (CHA0139)
230 Written evidence from Association of Charitable Foundations (ACF) (CHA0082), Charity Evaluation Working Group (CHA0067), Impetus – The Private Equity Foundation (CHA0131), Institute of Risk Management (CHA0039), Missing People (CHA0094), National Association for Voluntary and Community Action (CHA0076) and New Philanthropy Capital (CHA0055)
231 Q 55 (Gen Maitland Hudson)

delivering for them and to demonstrate this to beneficiaries, funders and the public. The form of such evaluation may vary considerably, depending on the size of the charity and the type of work it is engaged in. We recommend that public sector commissioners assess such evaluation when awarding contracts.

175. ***We welcome initiatives such as Inspiring Impact that seek to assist charities in demonstrating impact. We recommend that the Government and the charity sector continue to pursue initiatives to better understand and promote the impact of charities.***

176. ***We recommend that the Office for Civil Society (OCS) develops guidance for the rest of the public sector on how to set contractual impact reporting requirements appropriately and in a standardised fashion in order to reduce the bureaucratic burden on charities. The OCS should promote its work beyond the public sector in order to maximise its reach and value.***

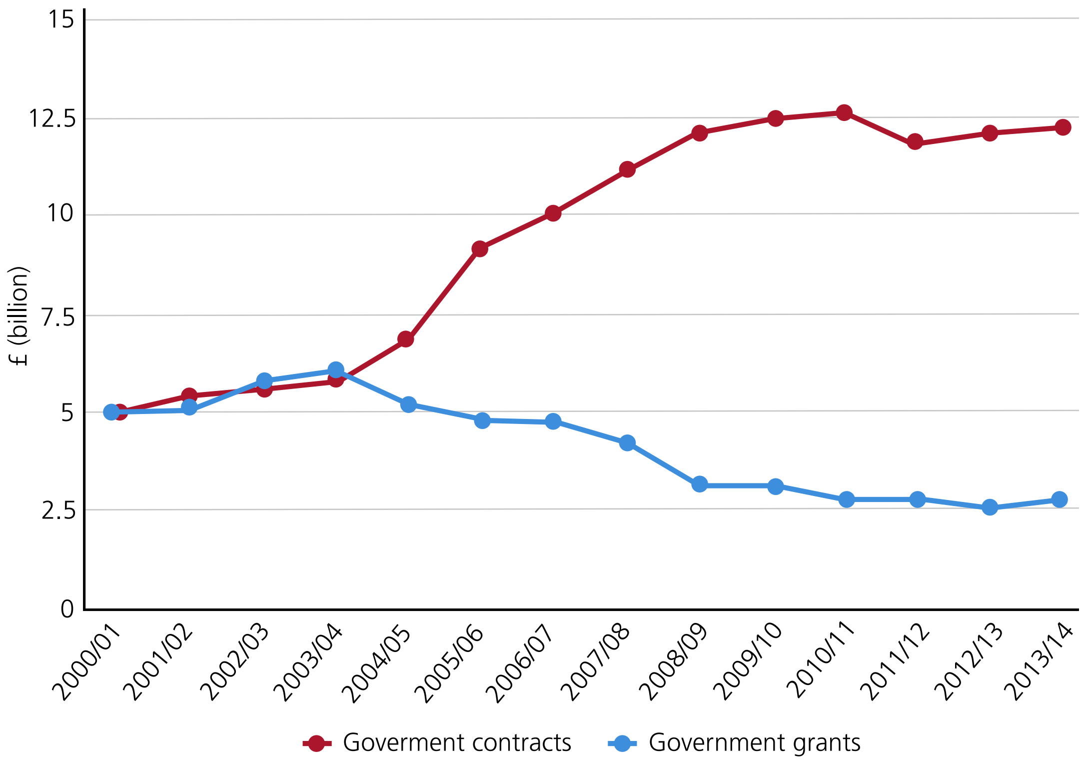
177. **We endorse the suggestion in the Governance Code that charities should provide regular information to stakeholders that enables them to measure the charity's success in achieving its purposes. Such activity ensures that the focus of the charity and its stakeholders is centred on the needs of and outcomes for beneficiaries.**

CHAPTER 4: FUNDING: GRANTS, CONTRACTS AND COMMISSIONING

The decline of public sector grants

178. Grant funding from national and local government has traditionally been a significant source of income for the charity sector.[232] However, grant funding from government has declined since 2003/04, when charity income from grants was estimated by the NCVO to be £6.1 billion, and by 2013/14 it was just £2.8 billion. At the same time, charity income from government contracts has increased substantially, from £5.8 billion in 2003/04 to £12.2 billion in 2013/14.[233]

Figure 3: Charities' income from government contracts and grants, 2000/01 to 2013/14 (£bn, 2013/14 prices)



Source: NCVO, UK Civil Society Almanac 2016

179. The NCVO suggested that the transition from grants to contracts had benefitted the largest charities at the expense of smaller ones. They said that the largest charities:

> "will have been the best placed to secure increasingly large-scale contracts offered by central and local government. Conversely, small and medium sized charities did not recover income lost from Government since 2009/10. These organisations have consistently reported problems in bidding for contracts, from the increasing scale of contracts, to reduced

232 Charities have also received funding from other public bodies such as NHS Trusts, the European Union, devolved and regional governments and a range of non-departmental public bodies (NDPBs).
233 NCVO, 'UK Civil Society Almanac 2016: Income from Government': https://data.ncvo.org.uk/a/almanac16/income-from-government [accessed 14 March 2017]

focus on quality, and payment-by-results mechanisms that disadvantage smaller providers."[234]

180. Paul Streets of the Lloyds Bank Foundation for England and Wales also told us that the redistribution of funding from grants to contracts had led to a gain by larger charities at the expense of smaller ones. He said that between 2008 and 2013 the income from government to charities with an income of between £25,000 and £1 million fell by up to 38%, while income to charities with an income of more than £100 million went up by 38%.[235]

181. The NCVO said that the move from grants to contracts had led to a "different operating environment for charities, and a different relationship with Government; one where charities are seen mainly as service providers and have to compete amongst each other to win contracts."[236] Rebecca Bunce of the Small Charities Coalition told us that the reduction in grant funding was making it harder to support good governance among small charities.[237]

Charities and contracts

182. The transition from grants to contracts, and the challenges for smaller charities bidding for and operating contracts, were frequent topics in the evidence we received.

183. We heard that contracts were increasingly large, and that this excluded smaller charities from accessing them. The Lloyds Bank Foundation said that the proliferation of larger public service contracts meant that new types of charity had emerged, which had little interest in meeting local community need, but were instead "driven by market share" and "prepared to slash costs to win contracts, with little regard to service quality."[238] They added that, in many cases, small contracts had been "rounded up into ever larger contracts over larger geographical areas, forcing smaller charities out of the market place" and that in some cases larger providers had "collude[d] with commissioners to develop ever larger contracts and undercut smaller providers."[239]

184. New Philanthropy Capital said that the transition from grants to larger contracts had "locked out smaller, more specialist organisations, with some charities struggling to even continue their existence."[240] Some of the small charities we spoke to in Cardiff told us that they were unable to bid for many contracts because they required a larger scale or wider geographical reach than they were able to offer.[241]

185. Locality told us that financial pressures on local authorities resulted in larger contracts, covering multiple areas and specialisms, and greater standardisation of services, in order to avoid the costs associated with multiple smaller contracts.[242] They added that "scale in commissioning can also often mean that community organisations are delivering public services

234 NCVO, 'UK Civil Society Almanac 2016: Income from Government': https://data.ncvo.org.uk/a/almanac16/income-from-government [accessed 14 March 2017]
235 Q 57 (Paul Streets OBE)
236 Written evidence from National Council for Voluntary Organisations (CHA0148)
237 Q 28 (Rebecca Bunce)
238 Written evidence from Lloyds Bank Foundation for England and Wales (CHA0031)
239 *Ibid.*
240 Written evidence from New Philanthropy Capital (CHA0055)
241 Note of roundtable discussion in Cardiff, Appendix 8
242 Written evidence from Locality (CHA0133)

as part of a supply chain which can also bring financial pressures, including through a lack of referrals and inability to plan cash-flow."[243]

186. We also heard that seeking funding through funding bids was expensive and potentially restrictive.[244] MyBnk told us that:

> "To maximise our chance of funding we must orientate the application to the funder's vision e.g. a particular age group, geography or innovation. This results in the majority of funding being restricted and, although we are fully costed, free (unrestricted) reserves are low."[245]

187. We heard that small- and medium-sized charities had ethical concerns about their ability to fulfil contracts where they face acute cost pressures. The Lloyds Bank Foundation for England and Wales told us that "unlike larger competitors, they are not prepared to threaten service quality by cutting prices, with grantees reporting that they have not bid for contracts knowing that they would not be able to deliver an effective service at the price available through a contract."[246]

188. In order to help smaller voluntary organisations bid for contracts, NCVO said that Government should provide some support for the development of voluntary sector consortia, which it described as "a vital route, through collaboration, to innovation and efficiency savings" but which had little statutory support following the closure of funding streams such as the Community Right to Challenge grant fund which had been administered by the Social Investment Business.[247]

189. The Lloyds Bank Foundation for England and Wales said that partnerships, consortia and mergers had been suggested as a way for small- and medium-sized charities to respond to commissioners' demands for scale. They added that "while they can offer opportunities, they can present challenges in themselves, particularly where commissioners have gone so far as to specify that charities must merge as a condition of a contract."[248] New Philanthropy Capital advocated a commissioning approach "that provides a level playing field, where competition is focused on who can deliver the greatest impact, not necessarily at the lowest cost."[249]

190. The Minister for Civil Society, Rob Wilson MP, told us that the Government had been having an "open policy discussion" with charities, including smaller charities, "to explore the scope for Government and the voluntary sector to find ways around the barriers that currently exist" to small charities' ability to bid for and fulfil public service contracts.[250]

191. He also said that, as a result of The Public Contracts Regulations 2015, public sector commissioners awarding large contracts were required to explain why they had not been broken up into smaller ones.[251] He added that "a number of charities are perhaps taking on contracts because they feel

243 *Ibid.*
244 Written evidence from Springboard Project (CHA0011)
245 Written evidence from MyBnk (CHA0186)
246 Written evidence from Lloyds Bank Foundation for England and Wales (CHA0031)
247 Written evidence from National Council for Voluntary Organisations (CHA0148)
248 Written evidence from Lloyds Bank Foundation for England and Wales (CHA0031)
249 Written evidence from New Philanthropy Capital (CHA0055)
250 Q 213 (Rob Wilson MP)
251 The Public Contracts Regulations 2015 (SI 2015/102)

they have to. I would strongly advise them not to do that."[252] We understand, however, that given the financial pressures on charities and the move in public funding from grants to contracts (see Figure 3), there are strong incentives and justifiable reasons for charities to apply for contracts.

192. In December 2016, the Government announced new measures and an implementation group to help small charities "shape and deliver" public services. These included a "public services incubator" to record and overcome barriers to the involvement of small charities in public contracts; exploring the development of a "commissioning kitemark" which commissioners could use to show that they were friendly to small charities; and recruiting a "voluntary, community and social enterprise crown representative" to champion commissioning practices that help small charities.[253] We also note that recent changes to EU public procurement directives encourages contracting authorities to break contracts up into smaller "lots" to allow for greater participation from smaller organisations.[254]

193. ***The commissioning landscape is skewed against smaller charities. We recommend that contracting authorities embrace the recent changes to public procurement rules, which allow for smaller contracts, potentially giving charities better access to funding opportunities.***

194. ***We welcome the Government's recent announcement on new measures to improve commissioning and help small charities get commissioned. We recommend that Government provides support for the development of voluntary sector bidding consortia, and takes steps to promote commissioning based on impact and social value rather than simply on the lowest cost.***

195. We also heard that small charities being used as subcontractors by large charities or private sector organisations as part of big contracts were at risk of exploitation. Lord Hodgson of Astley Abbotts said that commissioners were by their nature risk averse, and so the "default option is to award contracts to large organisations with smaller local charities as subcontractors." He added that "too often this means that the large organisations take the vanilla flavoured cases and leave the harder cases to the smaller local organisation."[255]

196. The Lloyds Bank Foundation told us that:

> "Smaller charities report problems of 'bid candy' whereby prime providers use smaller charities to add knowledge and legitimacy to their bids then later fail to pass referrals and money to the smaller subcontractee. The Foundation has even heard examples where larger organisations have demanded that small charities do not negotiate or discuss applications with other prime providers, only to be left out of the

252 Q 213 (Rob Wilson MP)

253 Department for Culture, Media and Sport, 'Putting small charities at the heart of public services': https://www.gov.uk/government/news/putting-small-charities-at-the-heart-of-public-services [accessed 14 March 2017]

254 Crown Commercial Service, *A brief guide to the 2014 EU public procurement directives* (October 2016): https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/560261/Brief_Guide_to_the_2014_Directives_Oct_16.pdf [accessed 14 March 2017]

255 Written evidence from Lord Hodgson of Astley Abbotts CBE (CHA0026)

> larger organisation's bid and having lost the opportunity to work with other primes."[256]

197. Charities have a long and distinguished history of delivering services and, with their focus on the needs of their beneficiaries, the quality of the services they provide can be better than those delivered by other organisations (see Chapter 2). Charities should not be dissuaded from seeking funding through contracts in order to deliver services.

198. ***We recommend that the Government's implementation group on commissioning practices considers the risks of larger organisations exploiting smaller charities through the commissioning and subcontracting process. We recommend that Government guidance on public sector commissioning should highlight these risks and encourage the design of contracts in a way which prevents such practice so far as is possible.***

Commissioning processes

Commissioning skills and co-operative development of contracts

199. We heard that the close proximity of small charities to their beneficiaries meant they were better placed to understand the needs of their beneficiaries and the services required to support them, than those responsible for commissioning services. We also heard that cuts in local authority budgets meant staff no longer had the experience and expertise of commissioning for the relevant sector.[257]

200. Action in Rural Sussex told us that the desire of some commissioners for control over the terms of service delivery was a weakness in practice. They said that:

> "commissioners have to make a choice between short term control in order to deliver a narrowly defined service definition on the one hand and long term impact on the other. Long term impact is achieved by giving ownership and control to a charity, or a group of charities working together, that provides them with an incentive to find a route towards sustainability."[258]

201. We heard about the potential of "co-designed" services, in which commissioners, suppliers, beneficiaries and service users are all involved in developing services to alleviate these difficulties. Such services were said to be better for beneficiaries and could lead to long-term savings for commissioners. Councillor Stephen Powers from Newcastle City Council told us that their "co-operative" approach to service design and delivery "involves, beyond just the council commissioner service, working collaboratively with education providers, with the voluntary and community sector and with business leaders, to make sure that we are making a holistic offer to people."[259]

202. Andrew Seager from Citizens Advice told us that they had successful experience of co-designed services in relation to preventing excess winter

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256 Written evidence from Lloyds Bank Foundation for England and Wales (CHA0031)

257 Note of meeting with Greater Manchester Centre for Voluntary Organisation, Appendix 6, and note of roundtable discussion in Cardiff, Appendix 8

258 Written evidence from Action in Rural Sussex (CHA0001)

259 Q 157 (Councillor Stephen Powers)

deaths and developing an advice centre commissioning strategy in Birmingham.[260] He added, however, that commissioners sometimes paid mere "lip service" to co-design, and that it "needs the proper level of investment; it needs to start at the beginning of a commissioning process."[261] Jacob Tas from Nacro said: "If it is fake, if it is just as a good show, of course it is waste of everybody's time, and usually it is very short-lived."[262] Dan Scorer from Mencap also expressed concern as to whether involvement was taking place at a sufficiently early stage. He said that:

> "we see wide variation in practice in early engagement of people with learning disability and their families when changes to services are being discussed: whether the consultation process is itself accessible, so whether information is made available in an easy read format that people can access; and whether consultation events on the service redesign are widely publicised so that people with learning disability and their families can genuinely engage in the process of designing services."[263]

203. Barnardo's told us that:

> "there remains a concern that legacy commissioning practice and behaviours are not yet fully adjusting to take advantage of the strategic partnering concept. Barnardo's believes that this means there is a risk that the opportunities for genuine dialogue and co-design and production that are integral to true strategic partnering are being missed."[264]

204. We also heard about initiatives related to 'whole systems commissioning', whereby different types of services are commissioned together in order to provide more holistic support to beneficiaries, and a related approach of 'whole person commissioning', where the needs of beneficiaries are the starting point and services are designed around them.[265]

205. Dan Scorer of Mencap gave the example of the Transforming Care programme, which was initiated after the Winterbourne View abuse scandal. The programme is intended to support people with learning disabilities to move from institutional settings into the community. He told us that such a change:

> "obviously requires a huge amount of co-ordination between health services and local authority social services, which in many areas has not existed previously. It requires the pooling of budgets to remove the risk of disputes about who is paying for what when people may be moving out of an NHS-funded service and back into a local authority-funded service in the community."[266]

206. This view was echoed by Andrew Seager, who said that: "fundamentally, we are here to help individuals, and individuals do not fit into neat little funding streams or boxes. Without integration, you commission vertically on those

260 Q 192 (Andrew Seager)
261 *Ibid.*
262 Q 192 (Jacob Tas)
263 Q 192 (Dan Scorer)
264 Written evidence from Barnardo's (CHA0172)
265 Q 195 (Jacob Tas, Andrew Seager) and written evidence from FaithAction (CHA0015) and London Funders (CHA0090)
266 Q 195 (Dan Scorer)

various points and not bottom upwards about what an individual needs."[267] London Funders concurred with these views. They told us that:

> "the role and purpose of charities cannot be seen in isolation, in the review team's view. Charities should be part of an integrated system that works to improve peoples' lives. National governments, local government, health commissioners, independent and statutory funders, businesses, politicians and communities themselves each have a role to play."[268]

207. **We believe it is important that local authorities and other public service commissioners adopt a partnership approach to service design and provision, involving charities, other voluntary bodies, service users and beneficiaries in the commissioning process from an early stage. We do not believe that meaningful relationships of this kind are common, and as a result charities are losing out on potential work and funds and commissioners are missing out on the values, knowledge of local needs and innovation that charities bring to service delivery. Public sector commissioners need to embed a genuine partnership approach in their structures, processes, contracts and cultures to ensure that the best possible results are achieved.**

208. **Public service commissioners should also be encouraged to commission different types of services together. They should consider the potential of whole systems commissioning and whole person commissioning, with services and the commissioning process being designed around the needs of beneficiaries. This will result in better services for end-users and also long-term savings for commissioners.**

Public Services (Social Value) Act 2012

209. One commissioning mechanism that should benefit small- and medium-sized charities is the Public Services (Social Value) Act 2012 (commonly known as the Social Value Act). The Act requires all public bodies in England and Wales to consider how the services they commission and procure might improve the economic, social and environmental well-being of an area.

210. "Social value" was described by Social Enterprise UK as "a way of thinking about how scarce resources are allocated and used."[269] This involves looking beyond simply the price of an individual contract to also consider the value that would be delivered to the community through a contract. An example of this would be a commitment from a potential contractor to provide local employment opportunities as part of the contract.

211. The Cabinet Office commissioned Lord Young of Graffham to carry out a review of the effectiveness of the Social Value Act, which was published in February 2015.[270] Lord Young concluded that, while there was growing awareness of social value among public bodies, this was not reflected by the

267 Q 195 (Andrew Seager)
268 Written evidence from London Funders (CHA0090)
269 Social Enterprise UK, *Public Services (Social Value) Act 2012 — A brief guide* (February 2012): http://www.socialenterprise.org.uk/uploads/files/2012/03/public_services_act_2012_a_brief_guide_web_version_final.pdf [accessed 14 March 2017]
270 Cabinet Office, *Social Value Act Review* (February 2015): https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/403748/Social_Value_Act_review_report_150212.pdf [accessed 14 March 2017]

number and value of procurements. He said that there had been inconsistent practice in bidding and commissioning and that commissioners often lacked the ability to measure and quantify social outcomes.[271]

212. Lord Young recommended that the Cabinet Office should do more to promote awareness of social value, and to promote better understanding of how to apply the Act.[272] He considered options for extending the Act, by strengthening the language, replacing the requirement to "consider" social value with alternatives such as "account for", or by making consideration of social value mandatory, or by making the Act apply more broadly. He concluded that such an extension "would not be beneficial to the Act at this early stage of development."[273]

213. The uses of the Social Value Act were a frequent theme in our evidence. A number of successes were reported: Peter Holbrook of Social Enterprise UK told us that the Department of Health had been "particularly embracing of social value as a concept" and that the Ministry of Defence had also undertaken innovative social value initiatives.[274] He added that the Act should be supported with statutory guidance so that commissioners had a clearer idea of how to secure the best value for money through social value.[275]

214. Councillor Robert Light from the Local Government Association suggested that the Act had had a positive impact. He cited the example of Chelmsford City Council, which in its commissioning procedure required tenderers to set out the percentage of staff they would employ from the local area and the percentage of value arising from the contract which might reasonably be expected to be returned to the local economy.[276] Councillor Stephen Powers from Newcastle City Council told us that "we have absolutely built social value into our whole design process when it comes to commissioning services and procuring services. We have done that right from the start rather than it being an afterthought at the end."[277] The representatives from the Greater Manchester Combined Authority told us that social value in commissioning gave them a lot of flexibility in their decision-making and said they wanted to make more use of it.[278]

215. We also, however, received some evidence that the Act was yet to function as effectively as it might. Andrew Seager from Citizens Advice told us that, while he welcomed the Act, "we have little experience of it coming through and making a difference." He said that social value considerations were not necessarily in every tender and that, where they were included, they often did not contribute to more than 5% of the overall score on which a tender would be judged. He suggested that some commissioners might still view social value as an "afterthought."[279]

216. Locality proposed that commissioners should be required to incorporate social value into their contracts, rather than merely considering it.[280] NCVO

271 *Ibid.*
272 *Ibid.*
273 *Ibid.*
274 Q 74 (Peter Holbrook CBE)
275 *Ibid.*
276 Q 146 (Councillor Robert Light)
277 Q 152 (Councillor Stephen Powers)
278 Note of meeting with Greater Manchester Combined Authority, Appendix 6
279 Q 194 (Andrew Seager)
280 Written evidence from Locality (CHA0133)

echoed this recommendation, arguing that commissioners should be required to "'account' for and report on social value in their commissioning," and that the Act should be extended to cover goods and works.[281]

217. New Philanthropy Capital said that the Act had "not delivered the many significant changes that were hoped for" and that, while they had advocated for and welcomed many of the recommendations contained in Lord Young's review, "it is disappointing there has been little progress since in improving how the Social Value Act works."[282]

218. The Office for Civil Society told us that "we continue to support procurers to improve the way they commission services, including through sharing best practice on implementing the Public Services (Social Value Act) 2012."[283] They said that they had recently published the first two in a series of eight case studies on the Act, under its Social Value Implementation and Measurement Project and that "as well as giving a practical insight, the case studies are intended to serve as starting points for initiating new ideas and for sparking innovative thinking."[284]

219. In February 2017 the Minister for Civil Society, Rob Wilson MP, announced another review of the Social Value Act to consider its progress.[285]

220. **While the Government has taken some steps to promote the implementation of the Public Services (Social Value) Act 2012 and to encourage wider awareness of social value among public sector commissioners, we believe more could be done to maximise its potential. We welcome the Government's new review of the Act and hope that it will result in further improvements.**

221. ***We believe there is merit in considering the options for extending the Public Services (Social Value) Act 2012 as set out by Lord Young of Graffham. We recommend as a first step that the Government requires public sector commissioners to "account for" rather than merely "consider" social value. We further recommend that the Government sets measurable targets for the use of social value in commissioning and outlines the steps it will take if those targets are not met.***

Financial and planning challenges

Payment by Results

222. The use of Payment by Results (PbR) schemes in contracts was raised by many of our witnesses. PbR contracts can take a number of forms and can be commissioned by national government, local government or other public bodies. They are most commonly understood to be based on payments tied to the delivery of specific outcomes or outputs. A 2011 Cabinet Office white paper stated that "open commissioning and payment by results are critical to open public services", and that "payment by results will build yet more accountability into the system—creating a direct financial incentive to

281 Written evidence from National Council for Voluntary Organisations (CHA0148)
282 Written evidence from New Philanthropy Capital (CHA0055)
283 Written evidence from Office for Civil Society, Department for Culture, Media and Sport (CHA0160)
284 *Ibid.*
285 'Minister announces review of Social Value Act', *Civil Society News* (10 February 2017): https://www.civilsociety.co.uk/news/minister-announces-review-of-social-value-act.html [accessed 14 March 2017]

focus on what works, but also encouraging providers to find better ways of delivering services."[286]

223. We received evidence criticising the widespread use of PbR contracts, including from Civil Exchange which informed us that contracts under the Work Programme "have often been poorly designed, transferring financial risk to institutions that are already financially vulnerable and leading to poorer services for people with complex needs."[287]

224. The Lloyds Bank Foundation noted that PbR contracts were often unsuitable for small- and medium-sized charities because they lack the upfront capital or risk capacity to be able to take them on.[288] Locality told us that "the financial risk which is transferred through the payment by results model is often borne largely by the weaker partner. This requires sophisticated management information systems to evidence performance and manage risk."[289]

225. Locality also suggested that, where a PbR contract did not incorporate a sufficient upfront payment, it could cause charities cash flow problems and possibly mean that upfront costs had to be funded through reserves or other income sources.[290] The Springboard Project told us that contracted payments often arrived late and required charities to dip into their reserves to cover them. They noted it was "very difficult" to build up reserves from restricted contracted funding.[291] The NCVO told us that the use of reserves or the sale of assets by charities to fund ongoing expenditure left them "vulnerable to further financial shocks".[292]

226. Andrew Seager from Citizens Advice told us that they had resisted Payment by Results in subcontracting because they were concerned about the risk of delivering services without a guarantee of receiving payment for the work.[293] Dan Scorer from Mencap added that the two key issues were accountability and transfer of risk:

> "clearly, we have to be accountable for delivering outcomes, and payment by results delivers that, but when you are talking about transfer of risk, the financial model has to work for specialist organisations that are trying to work with people who have more complex needs and has to recognise the journey that those individuals will go on."[294]

227. Dan Corry of New Philanthropy Capital told us that Payment by Results contracts may have some benefits for charities:

> "Charities have to be very clear whether they want to get involved in these contracts or not because they can pull you away from the mission. A lot of them feel, though, that they can achieve more if they have some freedom via outcome-based contracts, which causes them cash flow and

286 HM Government, *Open Public Services White Paper*, Cm 8145, July 2011, paragraphs 5.4, 5.16: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/255288/OpenPublicServices-WhitePaper.pdf [accessed 14 March 2017]
287 Written evidence from Civil Exchange (CHA0141)
288 Written evidence from Lloyds Bank Foundation for England and Wales (CHA0031)
289 Written evidence from Locality (CHA0133)
290 *Ibid.*
291 Written evidence from Springboard Project (CHA0011)
292 Written evidence from National Council for Voluntary Organisations (CHA0148)
293 Q 191 (Andrew Seager)
294 Q 191 (Dan Scorer)

risk problems but nevertheless gives them a bit more freedom to deliver in the way they think is right, which is a good thing."[295]

228. In 2015 the National Audit Office (NAO) published a report on outcome-based payment schemes, which concluded that PbR was not suited to all public services and that commissioners should justify their use of PbR over other delivery mechanisms. They said that contracting with PbR had costs and risks that the Government often underestimated, that commissioners should devote more time and effort to designing an appropriate payment mechanism and that they should actively plan and manage provider performance.[296]

229. The NCVO recommended that the Government should systematically collect evidence on the use of PbR so that practice could be improved and that commissioners should be required to use the NAO's analytical framework for decision makers when considering PbR contracts. They also suggested that, when developing new PbR programmes, the Government should support the voluntary sector in building skills in financial planning, risk assessment and the modelling of contracts.[297]

230. **Where contracts—especially those involving Payment by Results—are used for service delivery, public sector commissioners should give greater consideration to the sustainability of organisations which are commissioned to deliver services. The Government should examine whether its guidance to public sector commissioners needs to be amended to ensure that this happens. At the same time, charities need to ensure that they have the cash flow to support undertaking work within such schemes.**

231. ***We recommend that the Government's review of commissioning considers the impact of Payment by Results contracts on charities and examines what support the sector needs to engage in service delivery in a sustainable manner.***

Core costs

232. Many of our witnesses reported that charities had increasing difficulty funding their core costs.[298] Core costs for charities may include staffing, project management, office costs, accountancy, and regulatory compliance. The Robertson Trust reported the results of a survey of its grant holders, which found that 85% saw "lack of funding for core costs" as one of the three biggest challenges facing their charity.[299]

233. The Charity Finance Group told us that charities have had to remove such costs from funding bids, on the basis that local and central government commissioners were not prepared to pay them.[300] The Springboard Project said that they had received advice to "strip out any administrative or back

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295 Q 57 (Dan Corry)

296 National Audit Office, *Outcome-based payment schemes: government's use of payment by results* (June 2015): https://www.nao.org.uk/wp-content/uploads/2015/06/Outcome-based-payment-schemes-governments-use-of-payment-by-results.pdf [accessed 14 March 2017]

297 Written evidence from National Council for Voluntary Organisations (CHA0148)

298 Q 129 (Dr Beth Breeze) and written evidence from Charity Finance Group (CHA0092), Charity Futures (CHA0183), Finchingfield Guildhall Charitable Incorporated Organisation (CHA0063), Locality (CHA0133) and National Association for Voluntary and Community Action (CHA0076)

299 Written evidence from The Robertson Trust (CHA0077)

300 Written evidence from Charity Finance Group (CHA0092)

office costs to have even a remote chance of success" of funding from BBC Children in Need.[301] MyBnk said that funding was offered for 'front-line' services only and did not cover the 'back-office costs' that made services possible.[302]

234. The Garfield Weston Foundation said that only 25% of applicants asked for funding for core costs and that charities told them that they were afraid of seeking this funding for fear of being turned down.[303] Philippa Charles from the Garfield Weston Foundation said that:

> "charities are inevitably under significant pressure to ensure that their costs are as lean as possible in that kind of environment, which has the unintended consequence of placing pressure on them, in some cases, not to apply for their core and running costs. That sometimes concerns us, because it can disguise the true cost of delivering a very important service."[304]

235. Citizens Advice said that, while various funders were willing to support new projects, few were interested in covering core costs or in keeping their programmes running day-to-day.[305] New Philanthropy Capital said that, as the public were unlikely to donate to cover the costs of management capacity and strategic capability, "funders and government need to consider how they can support organisations to be more effective in delivering their mission."[306]

236. Dr Beth Breeze from the Centre for Philanthropy at the University of Kent told us that covering core costs in service delivery had "always been a problem historically", and that it was being exacerbated by the concept of the "golden pound", the notion that all money received by charities must go directly to beneficiaries "and not a penny is wasted on things like getting an accountant to do your accounts properly or all the other things that you need to do."[307]

237. Philip Lawford of the Linbury Trust said that he would always seek to ensure that charities were able to cover their overheads if they were bidding for funding for a new project. He said that "the more thoughtful donor would expect overheads to be included, because they have to be paid for somehow."[308]

238. Some charities and sector representatives called for provision for "full cost recovery" in public sector commissioning, including the Small Charities Coalition and the Charity Finance Group.[309] The Institute for Voluntary Action Research (IVAR) reported the findings of a survey which indicated that voluntary organisations were increasingly having to borrow to cover working capital, and reported the view of one respondent that "full cost recovery" should not just include direct and indirect costs, but also the requirement to produce unrestricted surpluses to finance reserves, working capital and funds for innovation and development.

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301 Written evidence from Springboard Project (CHA0011)
302 Written evidence from MyBnk (CHA0186)
303 'Small charities 'too afraid' to ask for core costs, says major funder', *Civil Society News* (8 June 2016): https://www.civilsociety.co.uk/news/small-charities-too-afraid-to-ask-for-core-costs-says-major-funder.html [accessed 14 March 2017]
304 Q 126 (Philippa Charles)
305 Written evidence from Citizens Advice (CHA0177)
306 Written evidence from New Philanthropy Capital (CHA0055)
307 Q 129 (Dr Beth Breeze)
308 Q 129 (Philip Lawford)
309 Written evidence from Charity Finance Group (CHA0092) and Small Charities Coalition (CHA0140)

239. ***Charities cannot operate unless their core costs are met. We recommend that public sector commissioners should be expected to have regard for the sustainability of the organisations which they commission to deliver services. This should include an expectation that realistic and justifiable core costs are included in contracts.***

Duration of contracts

240. We heard that service delivery contracts tend to be brief in duration, typically lasting for one or two years, which made it difficult for charities to plan for financial sustainability.

241. The NCVO reported that short contracts had become standard in commissioning, and that they often exacerbated bureaucracy, "leaving little time to embed and improve a service before bidding starts afresh."[310] Barnardo's noted that, while this was not a new problem, it was seeing it "not only persist but also become increasingly challenging in the current, tough commissioning climate."[311]

242. The Cranfield Trust observed that, where charities were particularly dependent on a small number of contracts for their income, "this tends to lead to short term planning based on these income sources, rather than setting an independent agenda based on beneficiary needs or factors affecting their beneficiary group."[312]

243. Dan Scorer from Mencap told us that the requirement to demonstrate immediate impact often created problems in relation to the fulfilment of short term contracts. He said:

> "Looking at employment support, a current issue is that many programmes are designed to get people into work within 12 months. Clearly, if you are dealing with people who are further away from the labour market who you think you can make significant progress within that time, you face two issues. One is that you will not get payment within that time. The other is that if you do not get someone in work within 12 months, you get nothing at all."[313]

244. Charity consultant and commentator Stella Smith told us that:

> "Charities invest significant amounts of time and energy filling in funding applications often with limited success. When they are successful, funding is often for just 3 years. By the time staff have been recruited, inducted and skilled up this often only leaves 2.5 years to deliver on the project outcomes. In reality the last eight to six months of the project staff are often preoccupied with trying to extend the funding or find other jobs."[314]

245. New Heights—Warren Farm Community Project told us that short-term funding regimes were also prevalent among grant-makers, and asked "how can a community charity provide local residents with confidence of on-going delivery of essential services when funding commitments are always short-

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310 Written evidence from National Council for Voluntary Organisations (CHA0148)
311 Written evidence from Barnardo's (CHA0172)
312 Written evidence from The Cranfield Trust (CHA0103)
313 Q 194 (Dan Scorer)
314 Written evidence from Stella Smith (CHA0060)

term?"[315] It proposed that there should be a mechanism whereby during the penultimate year of a funding period, an independent evaluation could assess whether there was an ongoing need for the service and, if so, recommend any measures required, including a "continuation funding commitment" if ongoing need was established.[316]

246. The Lloyds Bank Foundation said that there were examples of local authorities entering into longer term partnerships with charities to ensure sustainability and more effective planning. For example, Camden Council offered "strategic partner funding" for the sector of up to seven years "to provide unprecedented security."[317]

247. Councillor Robert Light from the Local Government Association told us that "because of the changing nature of local authority services and finances, local government has shied away a little bit from longer term contracts, because there have been instances where, if you are tied into a long contract and your financial resources are much reduced, that ties your hands very much."[318] He added, however, that there were examples across the country of statutory and voluntary organisations "working together to reconfigure services", which enabled local authorities to give longer-term funding commitments where appropriate.[319]

248. Councillor Anne Brown from Essex County Council expressed a similar view, stating that council contracts were "getting longer as we get more confident in each other." She added that "as I see it, the duration of contracts will get longer and they will improve."[320]

249. We recognise that local authorities are limited in their ability to offer significant long-term funding, given that the size of their annual funding settlements from central government cannot be predicted. However, annual or biennial commissioning and tendering is a costly burden for both local authorities and charities alike.

250. **Long-term contracts, with appropriate break clauses for performance and viability, should be the norm wherever ongoing service delivery is likely. Public sector funders should seek to commission services over a longer period wherever possible, to ensure that the services can be delivered sustainably by charities with the capacity to plan effectively for the future.**

Innovation by charities

251. Another frequently raised topic was the impact of the transition to contract income on charities' ability to innovate. We were told that prescriptive contracts had a detrimental impact on service quality because providers no longer had the flexibility or resources to invest in improvement or alternative delivery mechanisms.[321]

252. The National Council for Voluntary Organisations told us that "payment by results inhibit rather than encourage innovation" and that public sector

315 Written evidence from New Heights — Warren Farm Community Project (CHA0009)
316 *Ibid.*
317 Written evidence from Lloyds Bank Foundation for England and Wales (CHA0031)
318 Q 143 (Councillor Robert Light)
319 *Ibid.*
320 Q 151 (Councillor Anne Brown)
321 Written evidence from Charity Finance Group (CHA0092)

contracts were often structured in a restrictive way which limited the ability of charities to save money which could be invested in risk-taking. They recommended that commissioners provide capital to support charities in early-stage innovation and public procurement processes.[322]

253. Civil Exchange observed that "tightly determined contracts have squeezed out the potential to innovate and deliver services in different ways, the very reason why charities might have been considered a better provider than the public or private sectors in the first place."[323] Jacob Tas from Nacro said: "The more open the delivery model is to you to interpret, the greater the chance that you can bring innovation and new ideas to the fore."[324]

254. The Young Barnet Foundation said that "public service contracts tended to just address the project costs, with no surpluses" that could be invested in development or sustainability.[325] This links to our consideration of funding of core costs, above, and unrestricted funds that charities can use to innovate.

255. During our visit to Cardiff, we also heard that charities faced an inverse pressure: that in some cases they wished simply to provide important services to the best of their ability, but that they sometimes felt under pressure to develop ideas that would be deemed innovative or different simply to secure funding, rather than to improve services to beneficiaries. They also suggested that when some public sector funders requested innovation, they were only really interested in cost efficiencies rather than in improving the quality of services.[326]

256. ***Tightly-prescribed contracts that dictate the process of delivery, rather than the desired outcome, can be the greatest inhibitor of innovation. We therefore recommend that public sector commissioners refrain from setting overly-detailed requirements for the mechanisms of service delivery.***

257. ***Additionally, restrictive commissioning practices can hinder charities' capacity for innovation by limiting their working capital. We recommend that, where appropriate, public sector commissioners pay or provide grants for charities to test new ideas and innovate during both the early scoping and development of services, and their later delivery. Such funding would generate positive returns, through supporting new and more effective ways of working, while also contributing to the sustainability of the charity sector and generating potential cost-savings for commissioners.***

A revitalised role for grants

258. Many of our witnesses emphasised the positives of grant funding compared to contracts. Paul Hackwood from Church Urban Fund said that: "grants are an easier way to do it, and it is easier to make them accountable than commissioning processes that become quite complicated."[327] The Greater Manchester Centre for Voluntary Organisation told us that:

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322 Written evidence from National Council for Voluntary Organisations (CHA0148)
323 Written evidence from Civil Exchange (CHA0141)
324 Q 190 (Jacob Tas)
325 Written evidence from Young Barnet Foundation (CHA0101)
326 Note of roundtable discussion in Cardiff, Appendix 8
327 Q 65 (Paul Hackwood)

> "so often a grant is the most efficient and effective way to commission an outcome, or to invest in the long term work of a small organisation. Investing in small organisations is in turn often the best and best value way to achieve the outcome and can bring immense added value as well."[328]

259. Dawn Austwick from the Big Lottery Fund told us that her organisation had a particular approach to grant making, which involved a commitment "to the notion of the engagement of citizens, people, end-users, service users, beneficiaries … in the process of thinking about our grant making and in looking at the organisations that we might fund".[329]

260. The Directory of Social Change argued that grants from all sources offered a range of benefits over other sources of income, including the ability to adapt to change; invest in local economies; support communities and the use of community resources; nurture innovation; and sustain services.[330] They said that:

> "Grants give organisations freedom to respond to changing priorities, conditions and beneficiary needs. They reduce the risk of tying organisations down into services that aren't working, and can allow organisations to redeploy resources where they are most needed. Grants are especially good for small organisations, which succeed by drawing on resources in the community to deliver their project. By engaging the understanding and skills of the area's people, the needs and capacity of the community are more likely to be met and sustained."[331]

261. Richard Jenkins of the Association of Charitable Foundations noted that sources of grant funding had moved considerably towards foundations in recent years, with foundations now giving more in grants (£2.5 billion) than government (£2.2 billion). He added:

> "One thing that strikes me about what charitable foundation grants can do is that they might not be big in scale, but they are almost unique in their currency. Grants can do things that other forms of funding cannot. It offers flexibility and a bit of freedom for innovation."[332]

262. Matthew Taylor from the RSA observed that grant funding gave an "intangible element" of benefit with regard to service provision which could not be replicated through tightly specified contracts.[333] He said that certain parts of the public sector, such as care commissioning groups, "are going back to a bit of grant funding because they are, possibly, starting to realise that in the act of defining everything through a contract you lose something."[334]

263. The Big Lottery Fund told us that they tried to use grant funding to support the sustainability of charities, notably through its Reaching Communities and Building Capabilities programme, in which grant holders were offered £15,000 to support internal initiatives such as marketing plans, governance

328 Note of meeting with Greater Manchester Centre for Voluntary Organisation, Appendix 6
329 Q 167 (Dawn Austwick)
330 Directory of Social Change, 'Grants for Good Campaign': https://www.dsc.org.uk/grantsforgood [accessed 14 March 2017]
331 Written evidence from Directory of Social Change (CHA0128)
332 Q 31 (Richard Jenkins)
333 Q 47 (Matthew Taylor)
334 *Ibid.*

reviews or income generation reviews.[335] Gemma Bull from the Big Lottery Fund said that it was "very much our role to try to support civil society and charity to be ready for anything and to be able to take the lead in their own organisational development. That is hugely important to us."[336]

264. **While acknowledging the increasing financial constraints that public sector bodies are under, we emphasise the important role that grant funding plays in ensuring the sustainability of charities, particularly with regard to innovation. There should be a wider understanding in the public sector of the use and potential of grant funding for charities and their beneficiaries, drawing on the practices of institutions such as the Big Lottery Fund.**

265. We heard that some councils continued to operate grant funds. Councillor Stephen Powers from Newcastle City Council told us that they maintained a grant fund "focused on building individual and community resilience, linked to the council's overarching priorities around tackling inequalities, decent neighbourhoods, a working city and a fit-for-purpose council."[337] He also said that they were currently undertaking a review to determine the future focus of the fund, with reference to financial pressures.[338]

266. Councillor Anne Brown from Essex County Council told us that it ran a Community Initiatives Fund (CIF), to help charities build capacity, introduce new initiatives and create innovative programmes. She added that the CIF incorporated six-monthly evaluation reports in order to monitor outcomes and spending.[339]

267. However the NCVO noted that local authority grant programmes had been closing, community budgets had been reduced, and that some services that had been provided by charities were returning to direct council delivery.[340] The Esmée Fairbairn Foundation told us that cuts to arts and leisure budgets, and closures of libraries, sports and arts facilities, had "affected many small organisations delivering creative and entrepreneurial programmes of support for communities through those venues."[341]

268. ***We recognise the significantly reduced funding available to local authorities. Nevertheless, grant funding has great potential in sustaining a healthy civil society and in enabling communities to benefit from charities' capacity to innovate. We recommend that local authorities should bear this in mind in the course of their financial planning, and maintain or revive grants wherever possible.***

269. We draw the attention of the Government's review of commissioning practices to all the recommendations in this Chapter, and we expect to see the ones at paragraphs 194, 198, 207–208, 230–231, 239, 250 and 256 addressed as part of their work.

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335 Q 172 (Dawn Austwick)
336 Q 173 (Gemma Bull)
337 Q 156 (Councillor Stephen Powers)
338 Q 156 (Councillor Anne Brown)
339 *Ibid.*
340 Written evidence from National Council for Voluntary Organisations (CHA0148)
341 Written evidence from Esmée Fairbairn Foundation (CHA0044)

CHAPTER 5: SUPPORTING SUSTAINABILITY

Fundraising

270. Fundraising practices have changed dramatically in recent years, as charities have sought to respond to the challenging financial environment and pressure to operate in a more business-like fashion. These developments have led to considerable attention and scrutiny. A cross-party review (the Etherington Review) of fundraising regulation was published in September 2015 and the House of Commons Public Administration and Constitutional Affairs Committee (PACAC) reported in 2016 on issues around fundraising. Both reports concluded that a new, more proactive fundraising regulator was required to tackle the problems that they identified and strengthen public trust and confidence in the sector.[342]

271. The new Fundraising Regulator was established in January 2016 and from July 2016 took over responsibility for fundraising regulation, complaints handling and adjudications from the Fundraising Standards Board, and the codes of fundraising practice from the Institute of Fundraising and Public Fundraising Association.[343]

272. As a result of these developments, we consciously chose not to focus on fundraising in our inquiry.[344]

273. The new regulator was, however, welcomed by a number of our witnesses.[345] The British Heart Foundation, while supporting the new regulator, stressed that “instances of malpractice in charitable fundraising are by far the minority” and that “the implementation of stricter controls must not disproportionately constrict a charity’s ability to develop relationships with donors and raise funds to carry out its charitable aims.”[346] Paul Stallard suggested that the high-profile stories relating to charity fundraising had occurred not from ill-intent but were “more to do with the inability of some to cope with the ever increasing size and scale of their operations.”[347]

274. We were told that it was important for the new regulator to strike the right balance between regulation and compliance, to allow fundraising to take place in a fair and consistent environment, and to be proportionate in its dealings with smaller charities.[348] A common point of concern was the financial burden of funding the new regulator, with a number of our witnesses suggesting that it would fall disproportionately on medium-sized

342 NCVO, *Regulating Fundraising for the Future: Trust in charities, confidence in fundraising regulation*, (September 2015): https://www.ncvo.org.uk/images/documents/policy_and_research/giving_and_philanthropy/fundraising-review-report-2015.pdf [accessed 14 March 2017] and Public Administration and Constitutional Affairs Committee, *The 2015 charity fundraising controversy: lessons for trustees, the Charity Commission, and regulators* (Third Report, Session 2015–16, HC 431)

343 Fundraising Regulator, ‘Homepage’: https://www.fundraisingregulator.org.uk [accessed 14 March 2017]

344 We note that, during the course of our inquiry, the Information Commissioner fined two large charities for their misuse of data for fundraising purposes. Information Commissioner’s Office, ‘ICO investigation reveals how charities have been exploiting supporters’: https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2016/12/ico-investigation-reveals-how-charities-have-been-exploiting-supporters [accessed 14 March 2017]

345 Written evidence from Battersea Dogs & Cats Home (CHA0143), MHA (CHA0124) and Save the Children (CHA0149)

346 Written evidence from British Heart Foundation (CHA0152)

347 Written evidence from Mr Paul Stallard (CHA0049)

348 Written evidence from British Heart Foundation (CHA0152) and Institute of Fundraising (CHA0119)

charities.[349] The Fundraising Regulator has subsequently announced the introduction of a voluntary levy to be applied to all charities which spent £100,000 or more per year on fundraising.[350] The levy will be charged at a varying rate, beginning at £150 per year for those charities which spend less than £150,000 a year on fundraising, and rising in stages to a maximum of £15,000 per year for those charities whose annual fundraising spend is more than £50 million a year.

275. **We welcome the action that has been taken to address the concerns about fundraising practices in the charity sector. The new Fundraising Regulator has only recently been established and therefore we do not recommend that further changes are made to the regulatory landscape for the time being.**

276. ***We are conscious of the concerns from the sector that the voluntary levy to fund the Regulator may be disproportionately burdensome for small- and medium-sized charities. We recommend that the new Fundraising Regulator continually monitors the impact of the levy, particularly on small- and medium-sized charities, and makes changes if appropriate.***

Economic and tax policy

277. We heard a range of views about various elements of tax and economic policy, particularly relating to Gift Aid and Value Added Tax (VAT).[351] Her Majesty's Revenue & Customs (HMRC) estimated that charities received tax relief to the value of £3.67bn in 2015/16. The largest contributor to this figure was national non-domestic rate (business rate) relief, at £1.79bn, followed by Gift Aid payments at £1.26bn.[352]

278. The Charity Tax Group said that the Government's efforts to simplify the eligibility requirements for Gift Aid in the Small Charitable Donations and Childcare Payments Act 2017 was a positive development,[353] but a number of witnesses told us that there was still scope to simplify the rules on Gift Aid and improve take-up.[354] We note that the recent legislation was a missed opportunity to do more to improve Gift Aid processes for charities.

279. The Charity Tax Group told us that: "Irrecoverable VAT (tax which charities cannot recover due to various special exempts and zero ratings that it receives) costs charities over £1 billion a year."[355] A number of witnesses argued for a change in the VAT regulations on buildings used for charitable

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349 Written evidence from Action Against Hunger (CHA0078), Church Army (CHA0003), Church Mission Society (CHA0014), Health Poverty Action (CHA0037) and Together for Short Lives (CHA0144)

350 Fundraising Regulator, 'Information & registration for fundraisers: Levy': https://www.fundraisingregulator.org.uk/information-registration-for-fundraisers/levy [accessed 14 March 2017]

351 In March 2017 the NCVO announced that it would establish an independent commission to review the charity tax system. 'NCVO to establish independent commission to review charity tax system', *Civil Society News* (1 March 2017): https://www.civilsociety.co.uk/news/ncvo-to-establish-independent-commission-to-review-charity-tax-system.html [accessed 14 March 2017]

352 HM Revenue & Customs, *UK Charity Tax Relief Statistics 1990–91 to 2015–16* (June 2016): https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/532722/UKCharityTaxReliefStatisticsCommentary.pdf [accessed 14 March 2017]

353 Written evidence from Charity Tax Group (CHA0122)

354 Written evidence from Centre for Philanthropy, University of Kent (CHA0072), Hallé Concerts Society (CHA0045), Institute of Fundraising (CHA0119), National Council for Voluntary Organisations (CHA0148) and Wales Council for Voluntary Action (CHA0097)

355 Written evidence from Charity Finance Group (CHA0092)

purposes,[356] while Cancer Research UK said that the VAT rules on shared facilities was a "significant disincentive to collaboration" between charities, including universities, and industry.[357]

280. We also heard from small charities that the increase in the National Living Wage (NLW) was a challenge for their operation. They told us that while businesses had been reassured that the cost of paying for the NLW would be counterbalanced by cuts to corporation tax, charities—which do not pay corporation tax—would have no such relief in relation to rising staff costs.[358]

281. The Church Army suggested that the Government should do more to promote payroll giving (the donation of money to charity directly from someone's wages or pension without paying tax on it), in particular by extending payroll giving to more Government staff.[359] The Minister for Civil Society, Rob Wilson MP, said that:

> "I am writing to quite a few businesses, because there is a campaign going on at the moment to encourage more companies to offer payroll giving to their staff. At the moment, it raises about £130 million a year. It is an easy, simple and tax-efficient way to give, and I would like to encourage a lot more businesses to get involved in it. There is a big campaign going on at the moment."[360]

He also said that not every government department currently offered payroll giving.[361]

282. **It is imperative for the charity sector that tax policies and processes are structured to ensure that charities are able to maximise their income and that bureaucracy is kept to a minimum.**

283. ***We welcome the Government's changes to Gift Aid as part of the Small Charitable Donations and Childcare Payments Act 2017. We recommend that the Office for Civil Society works closely with Her Majesty's Revenue & Customs (HMRC) to examine whether there are further changes that would help charities maximise the value of Gift Aid and minimise bureaucracy.***

284. ***We recommend that the Office for Civil Society works with HMRC to ensure that the needs of charities are high on the agenda in relation to future changes to VAT and the National Living Wage.***

285. ***We recommend that the Office for Civil Society works to improve significantly the awareness and availability of payroll giving by companies. In addition, there is no excuse for any Government department not offering payroll giving to their employees. The Government must set an example in this regard by ensuring that payroll giving is offered to staff as standard by all departments and executive agencies.***

356 Written evidence from Association of Medical Research Charities (CHA0151) and National Village and Community Halls Network (CHA0086)
357 Written evidence from Cancer Research UK (CHA0035)
358 Note of roundtable discussion in Cardiff, Appendix 8
359 Written evidence from Church Army (CHA0003)
360 Q 217 (Rob Wilson MP)
361 *Ibid.*

Support within the charity sector

286. There was strong support for more guidance, training and capacity building for charities on a wide range of subjects, including governance, finances, fundraising and organisational development. We also heard calls for better communication between the sector and local and national government.[362] These are all functions that the various infrastructure bodies, or umbrella bodies, in the charity sector might be expected to play.

287. Seamus McAleavey from the Northern Ireland Council for Voluntary Action (NICVA) explained the types of support that they offered to charities:

> "We do quite a lot across a broad range of topics, such as good governance; governance support, helping organisations with their governing documents and the like; providing information to them about what is going on in a very broad range of topics; and helping them face some of the realities of their situation. We provide quite a lot of training in niche areas such as management and leadership, to help people in organisations to do better whatever they are focused on."[363]

288. We heard, however, that the availability of support for charities from these sources had diminished and that there had been a significant loss of support from local Councils for Voluntary Service (CVSs).[364] CVSs are charities that offer a variety of services and support for local charities and voluntary groups in an area, such as training, or advice on funding.[365] We also heard from Rural Community Councils, which perform similar roles and seek to support charities in rural areas with the distinct challenges they face.[366] The small charities we heard from at our roundtable events suggested that infrastructure bodies were under the same pressure as other charities, and that while there were active CVSs in metropolitan areas such as London, Manchester and Cardiff, elsewhere they had declined or disappeared altogether.[367] Other witnesses argued that there needed to be more support from local government for CVSs.[368]

289. At a national level, Karl Wilding from the NCVO said that there were too many infrastructure bodies in the sector.[369] The NCVO's data suggested that in 2013/14 there were 1,160 umbrella bodies, making up 0.7% of voluntary organisations.[370] However, ACEVO and the Small Charities Coalition said there were valuable roles for infrastructure bodies representing different groups.[371]

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362 Written evidence from Lloyds Bank Foundation for England and Wales (CHA0031), NCVO (CHA0148) and Pilotlight (CHA0073)

363 Q 115 (Seamus McAleavey)

364 Q 36 (Richard Jenkins) and written evidence from Springboard Project (CHA0011) and VONNE (CHA0123)

365 The acronym CVS is also sometimes used as Centre for the Voluntary Sector, Council for the Voluntary Sector or Community Voluntary Services, though the organisation it describes is usually the same.

366 Written evidence from Action with Communities in Rural England (ACRE) (CHA0085), Gloucestershire Rural Community Council (CHA0069) and Rural Community Council of Essex (CHA0096)

367 Note of roundtable discussion in Westminster, Appendix 7, and note of roundtable discussion in Cardiff, Appendix 8

368 Written evidence from Bolton Community and Voluntary Services (CHA0064) and Young Barnet Foundation (CHA0101)

369 Q 16 (Karl Wilding)

370 NCVO, 'UK Civil Society Almanac 2016: Scope Data': https://data.ncvo.org.uk/a/almanac16/scope-5 [accessed 14 March 2017]

371 Q 16 (Asheem Singh and Rebecca Bunce)

290. **Small charities in particular need access to timely advice and support, and infrastructure bodies play an invaluable role by providing guidance and services. As with charities themselves, they are diverse, and come in different sizes and have different focuses depending on their intended beneficiaries.**

291. **Infrastructure bodies must ensure that they work together effectively, both to ensure they survive and so that they can improve the services they offer charities. They should explore collaborative service models to raise awareness among charities of the support available, and improve the accessibility and coherence of this support.**

Role of volunteers

292. The charity sector relies heavily on volunteers and many charities told us that they could not do their work without them.[372] The Association of Volunteer Managers suggested that the economic benefit of volunteering could exceed £50 billion a year,[373] while other witnesses highlighted the value of volunteers in community cohesion.[374]

293. Professor John Mohan told us that volunteering rates were high and had been fairly stable since the first reliable national studies in the early 1980s.[375] He noted that there were significant variations in volunteering rates between different geographical areas and between different socio-economic groups, and that some analysis suggested that volunteering may have declined recently as a result of economic austerity. He said that:

> "The implication was that adverse economic circumstances have detectable and relatively immediate effects on engagement, weakening the capacities of communities to cope."[376]

294. Karl Wilding said that volunteering had changed in other ways in recent years:

> "We have moved away from what you might call a substitute labour model, where people give 35 or 40 hours a week to the same organisation over the course of their life, to one that is much more flexible and footloose and is based on the idea of microvolunteering where people give relatively small amounts of time."[377]

295. We also heard that younger people were placing greater importance on volunteering as part of gaining skills to help their employment prospects,

372 Written evidence from British Red Cross (CHA0162), Charity Law and Policy Unit, School of Law and Social Justice, University of Liverpool (CHA0104), Clinks (CHA0084), Community Links Bromley (CHA0100), MHA (CHA0124), National Association for Voluntary and Community Action (CHA0076), RSM UK (CHA0120), RSPCA (CHA0070), Small Charities Coalition (CHA0140) and Together for Short Lives (CHA0144)

373 Written evidence from Association of Volunteer Managers (CHA0065)

374 Written evidence from British Red Cross (CHA0162), RSPCA (CHA0070), Rural Community Council of Essex (CHA0096), Stella Smith (CHA0060) and vInspired (CHA0118)

375 Q 92 (Professor John Mohan) and supplementary written evidence from Professor John Mohan (CHA0188)

376 Supplementary written evidence from Professor John Mohan (CHA0188)

377 Q 27 (Karl Wilding). A similar point was made in the written evidence from Carolyn Cordery (CHA0159).

a pattern one of our witnesses described as "self-interested altruism."[378] Community Southwark said that:

> "Where once the main motivation for volunteers was around philanthropy, there are now more pressing motivations around gaining experience to find paid employment, isolation, creating new networks, supporting passions and interests."[379]

296. Pilotlight suggested that an increase in young people volunteering might be linked to "an environment which allows for increased flexibility and digital engagement with volunteering."[380] The potential for digital technology to communicate with and mobilise supporters is discussed further in Chapter 6.

297. Lloyds Bank Foundation and the Small Charities Coalition both suggested that charities had become increasingly dependent on volunteers, in part due to funding cuts.[381] The Foundation for Social Improvement said that volunteers were no longer just a "helping hand."[382]

298. Karl Wilding suggested that the increasing use of volunteers had prompted charities to think about how they change their business models.[383] Visionary argued that that an over-reliance on volunteers risked hindering the growth of a charity[384] and Age UK Runnymede and Spelthorne noted that charities using volunteers to deliver services were at risk, as volunteers could not be compelled to work.[385]

299. We heard from some witnesses that volunteers were increasingly taking on professional responsibilities akin to those of employees and that this risked conflicts with professional staff.[386] The Association of Volunteer Managers told us that:

> "Volunteers play a significant and complementary role to paid professionals, but the boundaries between staff and volunteers are becoming increasingly blurred and we need to ensure that employment legislation and unions take this into account. Examples include Ambulance Service First Responders, Special Constables and individuals within communities voluntarily taking on the responsibility for running libraries."[387]

300. Karl Wilding said that:

> "all the evidence from the volunteer managers we work with tells us that volunteers do not want to replace paid staff in the sense that they do not want to put people out of jobs, but they absolutely recognise that they can contribute something to a service over and above what the paid staff delivering that service do."[388]

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378 Written evidence from The Brain Tumour Charity (CHA0145)
379 Written evidence from Community Southwark (CHA0075)
380 Written evidence from Pilotlight (CHA0073)
381 Written evidence from Lloyds Bank Foundation for England and Wales (CHA0031) and Small Charities Coalition (CHA0140)
382 Written evidence from Foundation for Social Improvement (CHA0057)
383 Q 15 (Karl Wilding)
384 Written evidence from Visionary (CHA0174)
385 Written evidence from Age UK Runnymede and Spelthorne (CHA0028)
386 Written evidence from Lord Hodgson of Astley Abbotts CBE (CHA0026)
387 Written evidence from Association of Volunteer Managers (CHA0065)
388 Q 27 (Karl Wilding)

301. We heard from a number of small charities that to use volunteers effectively they need a volunteer manager, which costs money. They told us that finding funding for volunteer managers was particularly difficult,[389] as the costs of volunteers in terms of terms of recruitment, training and management were not recognised by funders.[390]

302. Training and support for volunteers are all the more important if they are undertaking roles similar to or in place of paid staff.[391] However charities, particularly smaller charities, have limited resources and capacity to provide for the development of their volunteers.

303. A number of our witnesses suggested there was a need for a fresh vision and drive behind volunteering. Matthew Taylor reflected that there might be an opportunity to rethink the place of volunteering in society given the changes taking place:

> "How we think about a society where being a volunteer has the same status as being an employee, and it is an important part of how people feel they are fulfilled, develop and grow in their lives, is a big opportunity. We still kind of think that the big thing in your life is your work, and you then might do a bit of volunteering on the side. It may be that in 30 years it is reversed."[392]

304. Karl Wilding said that:

> "Volunteering and delivering services are compatible, but we need a clear vision about what the role of volunteering is, and we need to ensure that we adequately support volunteers in discharging the work they do."[393]

305. And Professor John Mohan said:

> "what is important is to consider the basis on which you appeal to people for more voluntary support. It needs to be a positive one, one that is not just about bailing out public services, and it needs to send a message that volunteers are not just a managed resource, but they are making a positive, independent contribution in their own right to an organisation."[394]

306. In terms of practical suggestions, Martin Sime from the Scottish Council for Voluntary Organisations (SCVO) told us that there was a significant opportunity to increase volunteering through allowing unemployed people to volunteer without risking losing their benefits. He said:

> "if you could persuade the DWP [Department for Work and Pensions] to remove all the barriers to unemployed people volunteering, you would do charities a great favour because we would be able to get a whole lot of people engaged in our work in a way that was good for them and good for us."[395]

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389 Note of the Committee visit to Body & Soul, Appendix 4, and note of roundtable discussion in Cardiff, Appendix 8
390 Written evidence from Age UK Runnymede and Spelthorne (CHA0028)
391 *Ibid.*
392 Q 45 (Matthew Taylor)
393 Q 27 (Karl Wilding)
394 Q 92 (Professor John Mohan)
395 Q 123 (Martin Sime)

307. Lesley Michaelis suggested that organisations could provide incentives to encourage staff to volunteer, such as "extra holiday, extra training, and flexible hours" and they could reward staff that volunteer through appraisals and promotion criteria.[396] The NCVO said that a new Access to Volunteering Fund, along the lines of a scheme piloted in 2009, could encourage more disabled people to become volunteers.[397]

308. The Minister, Rob Wilson MP, told us that one of his key priorities was increasing social action and volunteering.[398] On 14 December 2016 he announced an independent review "to look at how to increase participation in full-time social action by young people."[399] He said that: "By helping others, young people can also transform their own lives. Full-time volunteering can provide meaning and purpose, as well as allowing young people to gain the skills they need to transition into full-time work or study."[400]

309. **Charities are the primary conduits for volunteering in the United Kingdom and as such they play a very valuable role in civil society. Charity law and policy should promote and support the role of volunteers, and constraints on volunteering should be reviewed and addressed.**

310. **Harnessing and maximising the efforts of volunteers is central to the principle and the practice of many charities, and comes with a cost. Volunteers may need managing, supporting and training. Investing in volunteers, where possible, is a way of respecting their contribution as well as increasing their value to the charity.**

311. ***Funders need to be more receptive to requests for resources for volunteer managers and co-ordinators, especially where charities are able to demonstrate a strong potential volunteer base. We recommend that Government guidance on public sector grants and contracts is amended to reflect this and set a standard for other funders.***

312. ***There is scope for further efforts by the Government to allow people to incorporate volunteering into their lives. We recommend that, in line with our earlier recommendation on trusteeship (see paragraph 107), the Office for Civil Society should work with other departments, the public sector and businesses to encourage greater flexibility for employees to take time off for charitable work.***

313. The patterns of volunteering are changing. Younger people may be more likely to participate in one-off actions and digital volunteering rather than the traditional volunteering activities of older generations. There are, however, opportunities to encourage younger people to participate in more traditional volunteering, in order to boost their credentials for employment.

396 Written evidence from Lesley Michaelis (CHA0061)
397 Written evidence from National Council for Voluntary Organisations (CHA0148)
398 Q 210 (Rob Wilson MP)
399 Department for Culture, Media and Sport, 'Call for more opportunities to support young people volunteering in the community' (December 2016): https://www.gov.uk/government/news/call-for-more-opportunities-to-support-young-people-volunteering-in-the-community [accessed 14 March 2017]
400 *Ibid.*

314. **We welcome the Minister's review of full-time volunteering by young people. This should be encouraged, by Government, by infrastructure bodies and by employers, with the caveat that volunteering should be a springboard to, not a substitute for, paid employment. Getting young people volunteering early in life may also have longer-term benefits by encouraging a future willingness to volunteer.**

Expectations and trust

315. The expectations on charities have increased significantly in recent years. A greater level of scrutiny has been directed towards charities and greater accountability and transparency are expected of them. We discussed how charities can be more accountable and transparent in Chapter 3. Karl Wilding noted that:

> "Charities are no different from all other institutions, in that they face a greater level of scrutiny over how they work. The fact that they do good in and of itself is no longer good enough. How they do that good is something that people are increasingly asking questions about."[401]

316. Martin Sime from the SCVO told us that:

> "we have come to understand that public trust is the cornerstone of sustainability. If there is such a thing as a sustainable charity, it is one that enjoys lots of support from the public."[402]

317. ICSA suggested that there were greater expectations of charity leaders compared to other sectors, with the public more willing to voice moral judgments as to how charities are run.[403] There is also a greater expectation from funders to demonstrate impact, which we discussed in Chapter 3.

318. The charity sector has recently experienced high profile failings in respect of fundraising and governance, as we noted in the introduction to this report. The Charity Commission said that its research into public trust and confidence in charities in 2016 had found a significant drop for the first time since they began tracking public trust in 2005.[404] They noted that:

> "Time will tell whether this is a long term trend or a short term dip but it is our view that both the leadership of the sector and the regulator should respond to this drop in confidence."[405]

319. The picture is complicated. Dr Eddy Hogg told us that his research had found that people "on the whole trust charities" and "have high expectations of them."[406] Survey research by nfpSynergy in autumn 2016 found that charities had risen to being the fourth most trusted public institution after the NHS, schools and the armed forces. This was a rise from twelfth place a year before.[407] On the other hand, Edelman's 2017 trust barometer showed

401 Q 15 (Karl Wilding)
402 Q 115 (Martin Sime)
403 Written evidence from ICSA: The Governance Institute (CHA0093)
404 Written evidence from Charity Commission for England and Wales (CHA0114)
405 *Ibid.*
406 Written evidence from Dr Eddy Hogg (CHA0134)
407 nfpSynergy, 'nfpSynergy Trust in Charities Research — Autumn 2016 update' (2 December 2016): https://nfpsynergy.net/press-release/nfpsynergy-trust-charities-report-december-2016 [accessed 14 March 2017]

a small fall in trust in NGOs in the UK from the previous year,[408] though the definitions of charities in each survey were not the same and they were therefore not directly comparable.

320. nfpSynergy suggested that:

> "we need other measures of the health of the sector. For instance, the growth in income of different sizes of charities, levels of individual giving and volunteering, the number of new charities, and (perhaps most difficult of all) the differences that charities make."[409]

321. We heard varying opinions on impacts that a loss of trust might have had on the sector.[410] However a common theme was that the small number of high profile failures should not be allowed to tarnish the good work of charities more broadly. FaithAction said:

> "We are concerned that the great work that many smaller charities do often goes unnoticed, unrecorded and unappreciated. Such organisations may do an excellent job but do not necessarily invest in making their work known; their work should still be championed."[411]

322. Lord Hodgson of Astley Abbotts also emphasised that it was important not to forget the positives:

> "It is very easy … to end up talking about the negatives. The charity sector does a lot of very, very good work and it is important that we keep it in perspective … we need to remember that there is a lot of good work going on there all the time."[412]

323. Paul Stallard suggested that the Government should appoint a "charity tsar" to speak for the sector to help ameliorate trust issues.[413] Mr Diarmuid McDonnell and Dr Alasdair Rutherford suggested that the Charity Commission might strengthen public trust and confidence in charities through greater transparency in its regulatory work.[414]

324. **We believe that charities continue to enjoy a very positive public reputation—one of which other sectors would be envious—and are a highly valued part of public life.**

325. **That trust cannot be taken for granted, however, and charities should continue to be mindful of the impact of recent negative publicity, as well as of any indication that trust may be declining. The sector has learned hard lessons and charities need to be conscientious and scrupulous in order to retain that trust, maintaining their focus on transparency and accountability. We believe that the recommendations in this report will help them to do so.**

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408 Edelman, '2017 Edelman Trust Barometer Global Report': http://www.edelman.com/global-results [accessed 14 March 2017]

409 nfpSynergy, 'nfpSynergy Trust in Charities Research — Autumn 2016 update' (2 December 2016): https://nfpsynergy.net/blog/ten-things-it-useful-know-about-trust-charities-and-other-bodies [accessed 14 March 2017]

410 Q 44 (Matthew Taylor), Q 100 (Marged Griffiths) and written evidence from Clore Social Leadership (CHA0132) and Mr Elliot Harris (CHA0185)

411 Written evidence from FaithAction (CHA0015)

412 Q 96 (Lord Hodgson of Astley Abbotts CBE)

413 Written evidence from Mr Paul Stallard (CHA0049)

414 Written evidence from Mr Diarmuid McDonnell and Dr Alasdair Rutherford (CHA0023)

Mergers

326. The duplication of work by some charities was raised as an issue by some of our witnesses, who suggested that collaborations, partnership work and, where appropriate, mergers should be considered more frequently to improve the service they deliver to their beneficiaries. Matthew Taylor from the RSA told us that:

> "charities are not as good at collaboration as they ought to be. There is too much of what Freud called "the narcissism of small differences"; charities that are, basically, around the same thing are competing with each other, when they would do much better to collaborate with each other or to merge."[415]

327. Mencap noted that:

> "There are many charities which occupy the same policy space and try to operate on the same problems. This … has implications for financial sustainability with a number of charities focused on raising support from a limited pool of donors. This could be addressed by closer co-operation or mergers."[416]

328. The proposed revised Governance Code suggests that charity boards should undertake or oversee strategic reviews that should consider partnership working, merger or dissolution if other organisations are seen to be fulfilling similar charitable purposes more effectively.[417]

329. A number of witnesses gave examples of successful mergers.[418] Family Action said that they had merged with Friendship Works "to make both organisations stronger by combining our talents and diversifying our service delivery."[419] Simon Prior-Palmer described the benefits of the merger of the two largest cancer research charities to form Cancer Research UK, and the collaboration and division of responsibilities between Cancer Research UK, Macmillan and Marie Curie.[420]

330. The Brain Tumour Charity said that the gradual consolidation of brain tumour charities over 20 years had "helped to enhance the scope of research, support, information and fundraising for the cause of helping people personally affected by a brain tumour and finding breakthroughs to tackle the disease."[421] They noted that despite the merger there were "over 50 charities for this purpose still in existence."[422]

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415 Q 48 (Matthew Taylor)

416 Written evidence from Royal Mencap Society (CHA0154). See also written evidence from Mr John Dale (CHA0005).

417 The Charity Governance Code Steering Group, *Charity Governance Code Consultation document* (November 2016) para 1.4.2: http://www.governancecode.org/wp-content/uploads/2017/02/NC940_good_governance_11.pdf [accessed 14 March 2017]

418 Written evidence from Lloyds Bank Foundation for England and Wales (CHA0031) and True and Fair Foundation (CHA0138)

419 Written evidence from Family Action (CHA0135)

420 Written evidence from Mr Simon Prior-Palmer (CHA0187)

421 Written evidence from The Brain Tumour Charity (CHA0145)

422 *Ibid.*

331. Some of our witnesses were more cautious about mergers. Lloyds Bank Foundation said that:

> "not all mergers are successful and nor should small and medium-sized charities be forced to merge, as they have been in some situations. Other forms of partnership working can be more effective, whether formally or informally and the resources need to be available to facilitate this. It also needs to be recognised that in other cases, partnership working is not suitable and organisations should have the ability to remain autonomous."[423]

332. Locality suggested that while mergers might appear to be a viable option, they were not necessarily a sustainable solution:

> "These actions might build temporary sustainability but it often subverts purpose and can lead to mission drift in the longer term and potentially failure to meet original needs locally. This will therefore lead to the need for new grassroots organisations being set up in their place in order to address this unmet need."[424]

333. Richard Jenkins from the Association of Charitable Foundations said:

> "in my walk from Clapham to Stockwell, from the big supermarket to the place where I live in Stockwell, I pass four Sainsbury Locals. We could take a lesson from the private sector. Locally based, small high street organisations doing substantially similar things may not necessarily be a bad thing. It is the best way to be close to the beneficiary group you are trying to reach. I would be sceptical that merger is going to be the silver bullet. At the end of the day, charity is an expression of human passion, resourcefulness, a sense of injustice and the need to do something. You would not want to say to anyone that they should be doing that somewhere else."[425]

334. We also heard about the risks and challenges of mergers between charities. The Wales Council for Voluntary Action noted that: "Mergers can be delicate and complex to navigate, and when charities fail can have severe consequences both on the services provided and the reputations and financial stability of the charities involved."[426]

335. The Esmée Fairbairn Foundation detailed the barriers to successful mergers, ranging from liability issues, poor financial knowledge and management, high costs, and a lack of desire to merge.[427] Gloucestershire Rural Community Council also suggested that the legal requirement for trustees to act in the interests of their own charity might discourage mergers even when conditions were right.[428]

336. Lord Hodgson of Astley Abbotts added that:

> "One of the difficulties at present is that there are a number of technical problems that stop charities merging, such as, notably, legacies. If

423 Written evidence from Lloyds Bank Foundation for England and Wales (CHA0031)
424 Written evidence from Locality (CHA0133)
425 Q 36 (Richard Jenkins)
426 Written evidence from Wales Council for Voluntary Action (CHA0097)
427 Written evidence from Esmée Fairbairn Foundation (CHA0044)
428 Written evidence from Gloucestershire Rural Community Council (CHA0069)

> two charities merge and one charity disappears, under the present law, legacies left to that charity are voided. That cannot be what was intended. What was meant was that, if it is all done properly and all the boxes are ticked, those legacies should be valid."[429]

337. We also heard that mergers were too often a last resort for charities. Both the Cranfield Trust and NAVCA noted that a "rescue" scenario was not desirable and a lot more difficult to manage successfully.[430] Family Action said that the sector needed "to learn that not all mergers are a result of failure, and they should not be a last resort."[431]

338. We heard that strong, effective governance and mutual understanding by both boards were essential to making mergers work.[432] The Esmée Fairbairn Foundation said that, alongside governance and leadership, successful mergers occurred when organisations had a healthy financial forward plan, a positive approach to the merger, and time to consider all the options available. They added, however, that mergers often failed owing to disagreements over pension and lease liabilities as well as redundancy costs.[433]

339. Some of our witnesses suggested that the Charity Commission should increase support for mergers to help avoid duplication of effort in the charity sector.[434] Kenneth Dibble noted that the Commission had historically had a mergers unit to help charities, though this had not undertaken proactive work and now no longer existed.[435]

340. The Office for Civil Society told us that:

> "In relation to mergers the Government (and its predecessors) has put in place measures to encourage and support mergers, or make the process of merger simpler. However, anecdotal evidence suggests that many mergers in the charity sector arise as a result of the financial distress of one of the parties, and that relatively few mergers are strategically driven."[436]

341. The WCVA said that for mergers to work it was important to have access to clear and accessible guidance and that charities needed to be "aware of the type of support that is available and how they can access it."[437] Lord Hodgson of Astley Abbotts pointed out that the Law Commission was preparing a technical Bill that would make a number of "quite technical but nevertheless important changes" to the law which should make it easier for charities to merge.[438]

342. **We believe that mergers can often be considered a measure of success and maturity, and a reflection of a charity keeping a proper focus on**

429 Q 95 (Lord Hodgson of Astley Abbotts CBE)
430 Written evidence from The Cranfield Trust (CHA0103) and National Association for Voluntary and Community Action (CHA0076)
431 Written evidence from Family Action (CHA0135)
432 Written evidence from Devon Air Ambulance Trust (CHA0083) and Wales Council for Voluntary Action (CHA0097)
433 Written evidence from Esmée Fairbairn Foundation (CHA0044)
434 Written evidence from Institute of Risk Management (CHA0039) and Tree of Hope (CHA0041)
435 Q 206 (Kenneth Dibble)
436 Supplementary written evidence from Office for Civil Society, Department for Culture, Media and Sport (CHA0165)
437 Written evidence from Wales Council for Voluntary Action (CHA0097)
438 Q 90, Q 95 (Lord Hodgson of Astley Abbotts CBE)

its beneficiaries. Staff, trustees and volunteers should reflect upon the possibilities for mergers and consult with their beneficiaries where opportunities may exist. Mergers should not be seen as a sign of failure.

343. **We note that it would be easier to avoid overlapping work in the charity sector by discouraging charities with similar purposes from being established where existing charities in the same field are working well and delivering for their beneficiaries. However, we would not want to discourage people from establishing new charities, which could be the effect of such a system. We also note that only the Charity Commission could realistically undertake such a task, but that the Commission currently has neither the structure nor the financial capacity to carry out this work.**

344. ***We welcome the Law Commission's work to address some of the legal and technical barriers to charities looking to merge. We recommend that the Government brings forward the Bill at the earliest opportunity.***

345. ***We recommend that the Charity Commission, as part of its emphasis on enabling regulation, considers what support and guidance it can offer to charities seeking to merge, and provides signposts to help that may exist elsewhere. The Commission should take a positive approach to assisting charities that choose to merge and assist in removing any barriers that may exist, notably with regard to liabilities such as pension arrangements.***

Closures

346. We heard that charity closures were more likely to occur when trustees fail to recognise the charity's financial position until it is too late. The Office for Civil Society said that:

> "Where trustees have an up-to-date grasp of the charity's financial circumstances and plan ahead properly, it is usually possible to have a more orderly winding-up, including in some cases making provision for some of the charity's services to transfer to another charity, or at least identify alternative provision for service-users."[439]

347. We heard that charities should be required to maintain larger reserves in order to guard against disorderly closure,[440] however we note that in the current economic environment such a suggestion would be unrealistic for many charities. Clinks said that charities they had surveyed were already at risk of using reserves at an unsustainable rate to maintain services.[441] Localgiving said that 42% of the groups they had surveyed had used their reserves in the last 12 months.[442] Voluntary Organisations' Network North East (VONNE) said that only 43% of the charities they surveyed in the North East had reserves to last up to three months and 53% planned to or were likely to use reserves in the coming financial year.[443] The Charity Finance Group said

439 Supplementary written evidence from Office for Civil Society, Department for Culture, Media and Sport (CHA0165)
440 Written evidence from Mr Len Jones (CHA0004)
441 Written evidence from Clinks (CHA0084)
442 Written evidence from Localgiving (CHA0016)
443 Written evidence from VONNE (CHA0123)

that 54% of charities reported in a survey that they could not increase their reserves, even if they wanted to do so.[444]

348. Academics from the Bristol Business School said that: “Compounding the challenge is the notion that holding reserves within the charity sector has been considered taboo by significant regularity bodies and advisors to the sector.”[445]

349. In some circumstances, closures may be the right option for charities. An example of this would be small foundations or memorial funds that have delivered on their objective and no longer have the resources to continue. The NCVO said that:

> “Charities may naturally dissolve if their charitable purpose is achieved, or where the trustees decide their purpose can be best achieved by transferring assets to another organisation with similar objects.”[446]

350. Where such an outcome can be anticipated, it is preferable that the charity is set up with an expected time limit at its foundation, making it easier to close when the moment arrives. An example would be the Diana, Princess of Wales Memorial Fund that consciously chose to spend all its resources to fulfil its mission and closed in an orderly manner after 12 years of operation.[447]

351. **Time-limited structures are a good option for ensuring that small charities such as memorial foundations are able to dissolve when they have delivered on their charitable objectives. A merged or closed charity does not necessarily mean a failed charity.**

352. ***We recommend that the Charity Commission include options for time-limited structures in the model governing documents that they produce for charities, as such clauses would prompt new charities to consider their lifespan from their inception.***

444 Written evidence from Charity Finance Group (CHA0092)

445 Written evidence from Elizabeth Green, Dr Felix Ritchie, Dr Glenn Parry and Dr Peter Bradley (CHA0052)

446 Written evidence from National Council for Voluntary Organisations (CHA0148)

447 Other examples include The Tubney Charitable Trust, *Giving our all: reflections of a spend out charity:* http://www.issuelab.org/resources/17440/17440.pdf [accessed 14 March 2017] and The Queen’s Trust, which is aiming to spend its remaining funds by 2020: http://www.queenstrust.org.uk [accessed 14 March 2017]

CHAPTER 6: CHARITIES AND DIGITAL TECHNOLOGY

The potential of digital technology

353. The integration of digital technologies into people's lives and the changing nature of communications, particularly through social media, have significantly changed the environment charities operate within. These changes present new challenges but also considerable opportunities for charities.

354. Nick Pickles from Twitter told us that there were a growing number of small charities and social enterprises that had been established and were only possible as a result of digital technology.[448] On our visit to Manchester, the Greater Manchester Centre for Voluntary Organisation said that small, local charities that had been the "well-kept secrets" of the charity sector were now a bit less secret, as a result of a growing trend towards having an online presence.[449]

355. David Robb from OSCR said that:

> "The realities of operating in a digital age mean that most charities have a website, although not all; we have lots of Brownie packs and mother or parent and toddler groups, and for them maintaining a website might not be realistic. However, for single-instance charities, it would be pretty unusual to find one without a website these days."[450]

He also noted that: "A lot more charities have Facebook accounts than have websites." [451]

Digital fundraising

356. Many of our witnesses talked about the potential for digital technology to assist with fundraising.[452] David Skelton from Google said that: "In terms of fundraising, a really strong benefit of digital is that you can reach a bigger audience more quickly, more widely and in a more scalable way."[453] Charity Checkout spoke about the potential for online donation systems to increase charities' revenue.[454] Chester Mojay-Sinclare said:

> "We have seen examples of charities increase their overall giving from donors by up to 600% purely through adopting digital fundraising methods, the basic and essential fundraising methods being a mobile-optimised website, an embedded payment system within their site enabling them to accept online credit and debit card payments, direct debits and various methods such as those. Digital can play a huge part in helping charities to be more sustainable, to raise more income from their local communities, but also in service delivery."[455]

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448 Q 164 (Nick Pickles)
449 Note of meeting with Greater Manchester Centre for Voluntary Organisation, Appendix 6
450 Q 108 (David Robb)
451 *Ibid.*
452 Written evidence from Alzheimer's Research UK (CHA0074), Localgiving (CHA0016) and RSM UK (CHA0120)
453 Q 161 (David Skelton)
454 Written evidence from Charity Checkout (CHA0051)
455 Q 133 (Chester Mojay-Sinclare)

357. The Charities Aid Foundation said that their research had found that "young people are much more likely to engage in digital giving than older audiences, with a particular appetite for donating through apps as well as demonstrating their support for causes via social media."[456]

Awareness raising

358. Digital technology and especially social media were also seen as powerful new tools for charities to gain attention and promote their cause.[457] Helen Milner, from the Tinder Foundation,[458] said that digital technology meant relevance and reach, in a world where many people expected to run their lives digitally and use their phone for all kinds of services.[459] Nick Pickles said that it was:

> "an opportunity for charities to communicate with the world on whatever issue they are working on without intermediaries. Ten years ago, you might have needed to know someone at a newspaper or to be invited on television, or you might have needed an advertising budget. Now you can jump that, so it levels the playing field for small and large organisations."[460]

359. The Centre for Philanthropy at the University of Kent similarly noted the power of social media to open new opportunities for more specialist causes, such as the "ice bucket challenge" campaign for motor neurone disease.[461] Nick Pickles added that it had changed the ways that charities campaign:

> "It is about constantly educating and persuading people. Rather than spending all your energy on an awareness week in one week of the year, you are now working every day to try to change the social conversation. While a lot of charity work is focused on fundraising and awareness raising, there is also an opportunity for digital and social media to help drive social change, not just to raise awareness but to try to deal with some of the underlying issues."[462]

Engagement

360. Digital communications also allow for better engagement with existing supporters, volunteers and beneficiaries.[463] Community Links Bromley said that:

> "Engaging in communication with your supporters in a direct way releases a world of opportunity. Not only is it low cost compared to traditional media, it can also reach out to a far wider range of people, of all ages, in different countries around the world. Keeping social media up to date is key to keeping people interested in the content you have to share."[464]

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456 Written evidence from Charities Aid Foundation (CHA0089)
457 Written evidence from Sense, The National Deafblind and Rubella Association (CHA0040), RSPCA (CHA0070), Community Links Bromley (CHA0100), Comic Relief (CHA0126), RSM UK (CHA0120), Visionary (CHA0174), Sheila McKechnie Foundation (CHA0184) and Foundation for Social Improvement (CHA0057)
458 The Tinder Foundation has since been renamed the Good Things Foundation.
459 Q 133 (Helen Milner OBE)
460 Q 160 (Nick Pickles)
461 Written evidence from Centre for Philanthropy, University of Kent (CHA0072)
462 Q 160 (Nick Pickles)
463 QQ 160–161 (David Skelton)
464 Written evidence from Community Links Bromley (CHA0100)

361. Devon Air Ambulance noted that it allowed charities to "build more trust and showcase the impact of their work," although they noted that this "works best for causes that are generally attractive to the public."[465] Alzheimer's Research UK suggested that greater use of digital services increased the pressure to show that donations were being used appropriately.[466]

362. David Skelton from Google and Nick Pickles from Twitter noted that not only did digital technology help to demonstrate impact to the public and to funders, it could help charities understand their own impact through the use of analytics.[467] Chester Mojay-Sinclare said that technology helped charities with service delivery[468] and RSM UK said that it allowed them "to manage data and processes more efficiently and effectively."[469] We heard that charities could use technology to reduce costs, and improve their finance and administration processes.[470]

363. Citizens Advice told us that:

> "The shift to a modern technology approach has required investment from our reserves, to cover double-running of services while we moved on from traditional approaches and suppliers, but has significantly reduced ongoing operating costs."[471]

The challenges of digital for the charity sector

364. Some of our witnesses said that charities were lagging behind on digital technologies and not making the most value of them. Asheem Singh said that: "If you are asking me, however, whether the charity sector as a whole is one of the leading industries in the use of the internet and social and digital technology to drive efficiency within its organisations, regrettably the answer is probably no."[472] Do-it.org said that: "The sector as [a] whole is lagging at least five years behind the corporate sector in terms of utilising digital tools. This is a great concern as technology evolves at an ever faster pace."[473]

365. Charity Checkout reported that:

> "A recent in-house study conducted by Charity Checkout of 500 recently registered charities from May/June 2016 showed that, of the 60% with websites, 45% were not mobile responsive and over 85% lacked 'an attractive and professional design' in the view of the assessor."[474]

They also noted that 62% of the charities they examined did not have a regular giving option within their online donation system and were therefore potentially missing out on income.[475]

366. Helen Milner said that it was important to understand that there was a continuum of usage of digital technologies by the charity sector, from digitally

465 Written evidence from Devon Air Ambulance Trust (CHA0083)
466 Written evidence from Alzheimer's Research UK (CHA0074)
467 Q 160 (David Skelton) and Q 163 (Nick Pickles)
468 Q 133 (Chester Mojay-Sinclare)
469 Written evidence from RSM UK (CHA0120)
470 Written evidence from Churches' Legislation Advisory Service (CHA0098) and Wales Council for Voluntary Action (CHA0097)
471 Written evidence from Citizens Advice (CHA0177)
472 Q 25 (Asheem Singh)
473 Written evidence from Do-it.org (CHA0046)
474 Written evidence from Charity Checkout (CHA0051)
475 *Ibid.*

immature charities, through to the digitally innovative. She cited the Lloyds Bank UK Business Digital Index, which found that "49% of charities are digitally immature" and had "no skills whatsoever, no confidence and no awareness."[476] This compared to 38% of small businesses.[477]

367. The Cranfield Trust also noted differences within the charity sector between charities of different sizes: "With a far more competitive funding environment and many more communication channels open through social media, small- to medium-sized charities are racing to catch up with marketing and communications skills in order to compete with larger charities with established marketing activity."[478]

368. A range of issues were highlighted as constraints for charities, particularly smaller charities, seeking to exploit fully the value of digital technology.[479] Localgiving told us that "many small, local groups lack the capacity, skills and confidence to fully benefit from this technology."[480]

369. A lack of funding and resources was another reason for charities not being able to fully embrace digital technology. The Foundation for Social Improvement said that:

> "Small charities often face a difficult trade-off, [they] want to innovate but if innovation requires investment they are often not able to move forward as they have minimal resources for development [and] instead the majority of their income is needed to cover service delivery. This suggests small charities are still far behind in the digital arena in comparison to larger charities, who are more likely to be able to afford to direct resources to this area." [481]

370. The Cranfield Trust pointed out that: "It takes a lot of time and energy to remain active and afloat on social media, and to take advantage of profile raising activities as soon as they arise."[482] Survivors UK noted that: "There is a high pool of talent in the not-for-profit sector in this field but salaries are not competitive with the commercial sector and so turnover can be high."[483] Other concerns raised included expensive and poor quality broadband access and digital exclusion.[484]

371. We also heard that risk aversion and a lack of organisational flexibility were a problem.[485] NAVCA said that "charities need to be bolder, and boards need a greater appetite for risk, if the sector is to adapt and deliver greater impact in a changing world."[486] Rebecca Bunce from the Small Charities Coalition

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476 Q 133 (Helen Milner OBE)
477 Lloyds Bank, *UK Business Digital Index 2016* (October 2016): https://resources.lloydsbank.com/pdf/uk-business-digital-index-2016.pdf [accessed 14 March 2017]
478 Written evidence from The Cranfield Trust (CHA0103)
479 Written evidence from The Brain Tumour Charity (CHA0145), Foundation for Social Improvement (CHA0057), National Village and Community Halls Network (CHA0086) and St Ann's Hospice (CHA0167)
480 Written evidence from Localgiving (CHA0016)
481 Written evidence from Foundation for Social Improvement (CHA0057)
482 Written evidence from The Cranfield Trust (CHA0103)
483 Written evidence from SurvivorsUK (CHA0169)
484 Q 25 (Rebecca Bunce), Q 135 (Helen Milner OBE) and written evidence from Bolton Community and Voluntary Services (CHA0064), Community Southwark (CHA0075), Charity Checkout (CHA0051) and National Village and Community Halls Network (CHA0086)
485 Written evidence from Alzheimer's Research UK (CHA0074) and National Village and Community Halls Network (CHA0086)
486 Written evidence from National Association for Voluntary and Community Action (CHA0076)

highlighted the consequences that resulted from trustees not understanding digital technology sufficiently.[487] We discussed trustee skills further in Chapter 3.

372. Helen Milner said that trustees who were risk averse on digital tools were approaching the issue from the wrong starting point:

> "If they are saying, 'Digital feels like a risk', they are asking themselves the wrong question. They should be saying, 'What is our strategy? Where do we want to be in three years' time? How are we going to get there? Do we want to help more people and how are we going to reach them?' Digital ought then, naturally, to become part of that solution."[488]

373. Chester Mojay-Sinclare added that:

> "By far the biggest risk that is posed, if we continue the way we are with the lack of digital adoption in the charity sector, is to small charities, which potentially could become obsolete without the funding and the ability to access the funding that they need through their supporters. I would urge charities not to be too cautious, although I understand why they are."[489]

374. Nick Pickles suggested that it was not necessarily small charities that would struggle with adapting to digital technology. He said that it was "sometimes harder for larger organisations that are more hierarchical and that have staff who have been working in a certain way for a long time, to change, whereas smaller and newer organisations can embrace technology quicker."[490]

Helping charities to embrace digital technology

375. We were told that more training was needed to help charities develop digital skills. Do-it.org suggested that more digital training should be facilitated by the Government.[491] Alzheimer's Research UK said that: "Greater learning from the private sector could support charity innovation, given the right culture of support for charitable risk-taking."[492] We also heard about the training and resources offered by Google, Twitter and the Tinder Foundation, among others, and that many free tools and training exist.[493]

376. Home-Start Slough suggested that more could be done to co-ordinate the development and promotion of software for the charity sector.[494] ACEVO said that there was a role for infrastructure bodies in the sector to do more to co-ordinate the technology and tools available to the sector.[495] David Skelton emphasised that such tools need not be expensive for charities.[496]

377. While there were calls for more money to support innovation, we heard that there were already a range of bodies with funds, such as Comic Relief's Tech for Good fund, Nominet Trust's Social Tech Seed Fund and Nesta's Impact

487 Q 25 (Rebecca Bunce)
488 Q 134 (Helen Milner OBE)
489 Q 134 (Chester Mojay-Sinclare)
490 Q 162 (Nick Pickles)
491 Written evidence from Do-it.org (CHA0046)
492 Written evidence from Alzheimer's Research UK (CHA0074)
493 Q 160 (David Skelton), Q 164 (Nick Pickles), Q 134 (Helen Milner OBE), and written evidence from Wales Council for Voluntary Action (CHA0097)
494 Written evidence from Home-Start Slough (CHA0068)
495 Q 25 (Asheem Singh)
496 Q 160 (David Skelton)

Investments.[497] Helen Milner said that charities struggling with digital should seek to employ people who already had the skills to help bring about a culture change in their organisations:

> "I do not mean just employing some young people who can do the social media for them. I mean absolutely bringing people in who understand the transformational effect of digital within helping them to achieve their strategic goals and strategic vision."[498]

378. She added that such people "are not expensive. You just have to know where to find them."[499] NACVA made a similar argument, telling us that the sector "needs a more diverse trustee base, and new skills such as expertise in digital, if organisations are to thrive in the modern world."[500]

379. Chester Mojay-Sinclare from Charity Checkout said:

> "I would like to see that every new charity has a technology trustee or a digital trustee, much in the same way that the majority of them have a treasurer or something like that. That would do several things. It would bring a focus to digital. It would create a role to which younger people would be drawn, and younger people would lean towards trusteeship more. That could be quite a simple way of attracting more of these skills, because there are a lot of digitally savvy people out there and, if the path into charity was clear and open, we would see many more such people taking leadership roles."[501]

380. **The capacity of the charity sector to embrace digital technology varies considerably, and while some are at the cutting edge of the use of technology, others risk organisational stagnation and decay by not embracing it successfully. This is a risk to the charity sector.**

381. **Charities should actively consider including a digital trustee role on their boards. We note the potential benefits to board diversity that would be likely to result from adopting such an approach.**

382. ***We recommend that infrastructure bodies share knowledge and best practice on innovation and digitisation across the sector and co-ordinate training opportunities, at minimal cost, for charities with limited digital experience. We recommend that the Big Lottery Fund provides support to enable this.***

383. **The technology sector should work to ensure that charities can develop the skills and capacity to fully engage with the digital realm. This may include the more widespread promotion of training and development opportunities, particularly to smaller charities with limited experience of digital engagement.**

497 Q 136 (Helen Milner OBE)
498 Q 134 (Helen Milner OBE)
499 *Ibid.*
500 Written evidence from National Association for Voluntary and Community Action (CHA0076)
501 Q 134 (Chester Mojay-Sinclare)

CHAPTER 7: ALTERNATIVE FORMS OF CHARITY FINANCE

Social investment: potential and barriers

384. The Government has been keen to promote social investment as a new way of financing charity work. Social investment is any investment activity which has an expectation of both a positive social outcome and a financial return, which would usually be below the market rate. It can take the form of loans, equity, 'quasi equity' (where the lender takes their returns as a proportion of the organisation's future revenue), overdraft facilities or Social Impact Bonds (SIBs).[502]

385. The Government has sought to grow the market for social investment through a range of initiatives and incentives, telling us that "social investment brings new finance into the social sector, and many of those who have accessed social investment have also increased their impact by scaling up their services or creating new services that wouldn't have otherwise been commissioned."[503]

386. Announcing its social investment strategy in 2016, the Government said that "the UK is widely recognised as the most advanced social investment market in the world", having created the world's first social investment tax relief and the first ever social impact bond. They had the ambition to have a SIBs market "worth more than £1 billion by the end of this parliament."[504]

387. The Government also established Big Society Capital, an independent financial institution, to grow social investment in the UK by making and arranging investments to charities and social enterprises, as well as to promote the social investment sector and encourage engagement from investors and financial institutions.[505] The Office for Civil Society told us that Big Society Capital and private match investors had made £587 million new investment available for the social sector through intermediaries. £195 million of this had been drawn down and was in use by charities and social enterprises.[506]

388. We heard that social investment was a useful tool for charities in the right circumstances, and that it had the potential to grow considerably both as a source of charity finance and as a means of engaging more people in financial support to the sector. Geoff Burnand from Investing for Good told us that the potential scale of social finance compared to grants was much larger, "so the opportunity of getting those funds into the market is pretty significant, if you can do it. It can also represent less challenging capital, it can be more patient."[507]

389. Sir Harvey McGrath of Big Society Capital told us that "the market is there and it is growing. It is part of the toolkit. It is not a panacea."[508] He said that while social investment would continue to grow in importance, it would

502 NCVO, 'What is Social Investment?': https://knowhownonprofit.org/funding/social-investment-1/what-is-social-investment [accessed 14 March 2017]
503 Written evidence from Office for Civil Society, Department for Culture, Media and Sport (CHA0160)
504 Cabinet Office, *Social investment: a force for social change, 2016 strategy* (March 2016): https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/507215/6.1804_SIFT_Strategy_260216_FINAL_web.pdf [accessed 14 March 2017]
505 Written evidence from Office for Civil Society, Department for Culture, Media and Sport (CHA0160)
506 *Ibid.*
507 Q 76 (Geoff Burnand)
508 Q 179 (Sir Harvey McGrath)

continue to be a relatively small element of charity income because "the business models of many charities simply do not support repayable funding."[509]

390. Dr Beth Breeze from the Centre for Philanthropy at the University of Kent said that social investment was not new: "Collaborative philanthropy and associational philanthropy are called by new names like crowd funding and social investment."[510] Andrew O'Brien of the Charity Finance Group said that "the sector was borrowing consistently between £1 billion and £2 billion over the ten years before ministers discovered social investment and decided they wanted to make it a term."[511] He added that the vast majority of the charity sector was working in areas of market failure, "so the idea that you can commercialise those services and try to generate a surplus that could pay an investor is in most cases quite limited."[512]

391. Jonathan Jenkins from Social Investment Business told us that while the Government had been very supportive in creating the social investment "ecosystem", there had been less of a focus on how to provide money that had "more relevance to a greater selection of frontline deliverers."[513] This point was echoed by the Charities Aid Foundation, which argued that the majority of social investment demand was for simple repayable finance, and that a "finance first" view of the market might result in a proliferation of products for which there is little demand.[514] Social Enterprise UK similarly noted that while social investment had "considerable promise", it had yet to live up to expectations and said that it was "not a replacement for grants or income from other sources."[515]

392. The Minister for Civil Society Rob Wilson MP told us that social investment "is not there to displace other forms of finance, such as voluntary income, trading or grants. It is not there to replace that." He added that the most important benefit of social investment was that it could be continually reinvested, as a sustainable form of finance. He said that he believed the Government had promoted social investment "in a balanced and proportionate way, and a way that, over time, charities will find more and more attractive."[516]

393. Social investment has potential to improve the range of financial options for some, though not all, charities. As the market grows and matures, there needs to be a continued focus on improving its accessibility to investors and charities alike.

Social investment and small charities

394. To date, social investment has largely been associated with larger loans and has thus been perceived to be less accessible or appropriate for small- and medium-sized charities. During our roundtables in Cardiff and Manchester, a number of small charities told us that social investment was of no interest to them, either because it was seen to be high risk, because interest rates

509 Q 179 (Sir Harvey McGrath)
510 Q 126 (Dr Beth Breeze)
511 Q 34 (Andrew O'Brien)
512 *Ibid.*
513 Q 85 (Jonathan Jenkins)
514 Written evidence from Charities Aid Foundation (CHA0089)
515 Written evidence from Social Enterprise UK (CHA0117)
516 Q 212 (Rob Wilson MP)

were prohibitively high, or simply because it was not applicable to their organisation.[517]

395. Cliff Prior from Big Society Capital told us that:

> "The biggest gap is for smaller amounts of social investment going into smaller and younger charities, but there are a number of problems. The transaction cost may be just as high as a much bigger investment, so it becomes somewhat unviable. Newer organisations are inherently more risky, so the price goes up."[518]

396. The NCVO said that "smaller organisations may experience difficulty in accessing social investment due to the higher cost of borrowing smaller amounts."[519] Karl Wilding told us that "it is probably very difficult to [lend] sums below £150,000 or £200,000 because the cost of doing the deal is too high."[520] Jane Wilson from City Healthcare Partnership said that they had found that "often you can only have one bite at the cherry, or one opportunity" to obtain social investment and suggested that it needed to be more accessible and equitable.[521]

397. To seek to remedy these issues, the Government set up Access: The Foundation for Social Investment (the Access Foundation) to make it easier for charities and social enterprises in England to access social investment.[522] The Foundation has £45 million to commit and recently opened its first fund for lending to charities and social enterprises in south west England.[523]

398. The Access Foundation told us that:

> "Blended finance is helping to make social investment more relevant to charities and social enterprises by connecting the varying objectives of investors with the current needs of social organisations. It's helping to make sure that supply of social investment matches demand from charities and social enterprises. The principle of blending finance is to mix together a number of sources of capital, each investor with their own objectives and requirements, and create an investment product which better meets the needs of charities and social enterprises."[524]

399. Cliff Prior from Big Society Capital explained to us that the purpose of blending grant with the loan was partly to "blend into the deal to the charity", and partly to cover the transaction costs incurred by investment intermediaries, who may otherwise have been put off facilitating the loans by their small scale relative to the cost of the transaction.[525]

400. Jonathan Jenkins from the Social Investment Business explained that, as a social investor, they were "working alongside grant givers, because they

517 Note of roundtable discussion in Manchester, Appendix 6, and note of roundtable discussion in Cardiff, Appendix 8
518 Q 180 (Cliff Prior)
519 Written evidence from National Council for Voluntary Organisations (CHA0148)
520 Q 19 (Karl Wilding)
521 Q 80 (Jane Wilson)
522 Written evidence from Access: The Foundation for Social Investment (CHA0095)
523 *Ibid.*
524 *Ibid.*
525 Q 180 (Cliff Prior)

have done their due diligence already; they have sunk costs in what they are doing, and we might be able to support that."[526]

401. The Minister told us that:

> "we have set up the Access Foundation, with a big endowment, and it is there to support charities, to grant funds if they have problems getting to scale, to give the support that they need to get to the point where they can take on these types of contracts. We have put mechanisms in place to make sure that the support is there, if they want and need it."[527]

402. Cliff Prior of Big Society Capital told us that, in addition to blended finance, social investment tax relief could be a useful tool for mitigating transaction costs for smaller loans. He told us that "a tax relief giving investors a 30% return—a 30% tax break—means that a deal that would be too expensive because of the transaction costs can come right down."[528]

403. **We welcome the Government's efforts, through the Access Foundation, to broaden the accessibility of social investment to small- and medium-sized charities.**

Investment capacity and skills

404. Another challenge to the potential of social investment for smaller charities is their capacity to receive investment. Lord Hodgson of Astley Abbotts told us that "many of us feel that social investment is a real opportunity to scale up the funding available to charities, but it requires charities being prepared to make the changes necessary to take the money on board."[529] Rebecca Bunce of the Small Charities Coalition told us that "most people do not even think of going to social investment, because they do not have the skills to be able to consider that as a model."[530]

405. The Access Foundation told us that "managing repayable finance is a new proposition for many organisations in the sector. It requires business planning, systems and skills for managing impact and financial information, robust governance and strong leadership amongst many other things."[531] They noted that charities and social enterprises needed greater skills and capacity in relation to leadership, governance, data analysis, impact management, finance and business modelling, and risk appetite.[532]

406. The Institute for Voluntary Action Research (IVAR) referred to the results of a survey conducted in 2013, which found that most charities using social investment only approached one investor. Charities also reportedly found the social investment market to be "opaque and confusing", and did not usually compare loan terms, interest rates, or lender experience in the sector.[533] IVAR added that "charities do not know, and it remains difficult to find out, what range and type of finance different lenders provide and which to approach for particular needs and in particular circumstances." They noted that the

526 Q 87 (Jonathan Jenkins)
527 Q 213 (Rob Wilson MP)
528 Q 180 (Cliff Prior)
529 Q 95 (Lord Hodgson of Astley Abbotts CBE)
530 Q 19 (Rebecca Bunce)
531 Written evidence from Access: The Foundation for Social Investment (CHA0095)
532 *Ibid.*
533 Written evidence from Institute for Voluntary Action Research (CHA0091)

nature of marketing and promotion by social lenders made it difficult for charities to differentiate between lenders, products and offers of support.[534]

407. The Office for Civil Society acknowledged that "there are barriers for social enterprises and charities to take on investment from capacity and capability to knowledge, skills and awareness." It stated that it continued to take "extensive" steps to improve the investment market for social sector organisations, including enabling charities to purchase capacity building support through the £14 million Investment and Contract Readiness Fund, and through the £10 million Social Incubator Fund, which supported incubator organisations that provide finance and advice to social start-ups.[535]

408. Caroline Mason of the Esmée Fairbairn Foundation gave a different perspective, telling us that "the social investment market I do not think really understands the absolute fabric of the social sector." She observed that investment needs differed between different sectors and that "you probably need to know quite a lot about the underlying context in which those charities operate, and I think many social investors do not."[536] Ben Jupp from Social Finance Ltd said that it was "worth putting in the time to make sure there is an aligned interest between the needs of individuals and communities, the right interests of local government and central government, and those of investors."[537] Caroline Mason concluded that charitable organisations were in many cases having to balance grant funding, contract funding, trading revenue, volunteering time and donations along with social investment, "so their blend and mix is complex."[538]

409. Cliff Prior expressed concern that, while a significant amount of money had been put into investment readiness in recent years, the same did not appear to be the case for future years. He told us that "the concern is that most of those programmes are ending. With over half a billion in the last 10 years, the only thing we can identify in the next few years is £25 million. So there is a risk there."[539] The Access Foundation informed us that it would be looking at investment readiness, and that it had been granted an endowment of £60 million from the Cabinet Office to spend over 10 years on funding future initiatives. They told us that "we believe that helping more charities and social enterprises to be investment ready in this way will increase the demand for and effective use of social investment from the sector."[540]

410. **The social investment market is unlikely to reach its potential unless further resources are put into the investment readiness of smaller charities. We welcome the endowment granted to the Access Foundation for this purpose. The Government must continue to monitor this issue and provide additional resources to support charities to ensure that they are not left behind as the market expands.**

Investor expectations

411. Another challenge with the social investment market was that of the financial expectations of investors. We heard that high interest rates deterred charities

534 *Ibid.*
535 Written evidence from Office for Civil Society, Department for Culture, Media and Sport (CHA0160)
536 Q 85 (Caroline Mason)
537 Q 84 (Ben Jupp)
538 Q 85 (Caroline Mason)
539 Q 183 (Cliff Prior)
540 Written evidence from Access: The Foundation for Social Investment (CHA0095)

from engaging with social investment, and that in some cases charitable organisations had taken on unsustainable levels of debt.[541]

412. Locality told us that "some members who accessed debt finance have found themselves heavily, and in some cases unsustainably, indebted. Social finance intermediaries have found they need to charge high interest rates to reflect risk and their own running costs and as elsewhere in the financial market place finance for the most innovative new projects is limited."[542]

413. Andrew O'Brien told us that members of his organisation found social investment to be "frightfully expensive. It is more expensive than going to a high street bank, and that creates an issue. Why would you go to a social investor when you can get the money cheaper elsewhere?"[543] He added that, in his experience, private investors were not necessarily engaging in the market for philanthropic reasons:

> "When I first started looking into that space, I thought private investors assumed they would not make the same level of return they would get in the private sector but were doing it for social good reasons, but it seems now that we are not only trying to deliver very complex services; they want to make even more money on them. That is a tension we need to resolve fairly quickly."[544]

414. Geoff Burnand agreed that "the cost of financing that comes through the wholesale lenders can be expensive—too expensive." He also argued that the cost of capital from Big Society Capital was "unrealistic for this market", and that this "is a significant drain … on the way this market could develop."[545]

415. Peter Holbrook of Social Enterprise UK told us that there were "a number of environmental conditions" which meant that higher rates of return were currently being sought from social enterprises than from private enterprises. These included that many social enterprises were seeking small loans, the transaction costs for which were the same as for larger loans, and that this was borne out in the cost of capital. He noted that the Government, the sector and intermediaries were trying to simplify transaction processes so "that products can be taken directly off the shelf rather than every transaction being created from a bespoke perspective."[546] He added that the market was maturing partly through initiatives such as crowdfunding and community shares, which involved a retail offer to individual consumers who were willing to take higher levels of risk or accept lower levels of return, rather than to institutional investors.[547]

416. Tim Jones of Allia told us that high rates of interest for social investment loans often came about because the nature of the market was different to that of other providers of finance and capital to the sector. He said:

> "You have to deal with the costs of the intermediary, their overheads, their governance structure, what their requirements might be, and make sure that the pricing covers that. You have to deal with the price of

541 Note of meeting with Greater Manchester Centre for Voluntary Organisation, Appendix 6
542 Written evidence from Locality (CHA0133)
543 Q 34 (Andrew O'Brien)
544 *Ibid.*
545 Q 77 (Geoff Burnand)
546 Q 77 (Peter Holbrook CBE)
547 *Ibid.*

> your capital and the regulatory regime within which you operate … the effective rate of interest can be rather more than they were hoping for because of the structure of the supply that is coming to them."[548]

He also noted issues related to the securitisation limit for bonds that he described as "very high", and added that the costs for charities could be "prohibitive."[549]

417. Sir Harvey McGrath told us that, while there were some investors who were willing to lend below market rates, "there is a huge swathe of the mainstream market that will not. As this market evolves, we are working with a clearing mechanism that will bring together those various elements and, over time, will bring down some of those costs that, for some organisations today, do look high in absolute terms."[550]

418. **We welcome the measures being taken in the sector to seek to reduce the transaction costs for social investment and to promote the market to a wider range of investors who would be willing to accept lower rates of return. Government and sector leaders should do more to address the reasons for high transaction costs and work to bring them down. Investors should also be encouraged to have more realistic expectations of the potential for returns from social investment.**

Social Impact Bonds

419. Social Impact Bonds (SIBs) are outcome-based contracts between public and private sector bodies. The public body agrees to pay for interventions on the basis that improvements in social outcomes will be delivered. The private provider pays for the intervention upfront, and is repaid by the public body on condition that significant social impact is achieved.[551] Often, private providers will contract charities to carry out the intervention, while retaining the financial risk.

420. The Office for Civil Society also told us that its Centre for Social Impact Bonds works across Government to encourage other departments to develop and commission SIBs. This has included working with the Department for Communities and Local Government on an outcomes fund for SIBs to support rough sleepers into stable accommodation, and with the Department of Health's Work and Health Unit to develop a SIB fund supporting people with mental health problems into work.[552]

421. We heard evidence, however, that the advantages and potential of SIBs may be more limited than the Government has suggested. Geoff Burnand told us that "it is a mystery to me why you would look to develop a new market with a very complicated product", adding that "it is incomprehensible to mainstream investors and broadly irrelevant to many front-line, smaller organisations."[553] Social Enterprise UK told us that "even the strongest

548 Q 181 (Tim Jones)
549 *Ibid.*
550 Q 181 (Sir Harvey McGrath)
551 NCVO, 'Social Impact Bonds': https://knowhownonprofit.org/funding/social-investment-1/investment-types/social-impact-bonds [accessed 14 March 2017]
552 Written evidence from Office for Civil Society, Department for Culture, Media and Sport (CHA0160)
553 Q 78 (Geoff Burnand)

advocates of SIBs admit that they will never be relevant to the vast majority of charities and social enterprises."[554]

422. Peter Holbrook also informed us that SIBs "have received a disproportionate amount of government attention, government resources, and investment focus." He added that, while SIBs were appropriate in certain circumstances, there were other forms of social finance that could be equally effective as well as being cheaper and similar, but that the Government had "become a hostage to their own fortune in some respects. They have developed this totem, the social impact bond, and are now committed to achieving success with it."[555]

423. Sir Harvey McGrath of Big Society Capital told us that, of the £1.5 billion in the social investment market, only around £15 million were in SIBs. He added that "the concept is one that is potentially very significant" but that "it is a young market and one that is finding its way because these structures, as you can imagine, in terms of agreeing those contract terms, are difficult to negotiate; they are difficult to monitor."[556]

424. RSM UK told us that, while SIBs could be an "exciting way of raising funds to enable a scaling up of activity", they rely inherently on a beneficiary making a cashable saving and being able to transfer part of that saving to an investor. Since the required outcomes were usually only realised at a point some time in the future, it was very difficult for public bodies to commit to SIBs. They suggested that a way to encourage greater use of SIBs would be for the Government to underwrite the lending.[557]

425. **Social Impact Bonds can be a useful tool for both charities and the public sector in reducing the cost risk of particular interventions. However, they are only relevant where they produce a saving that can be transferred to a private investor, and that limits their potential contribution to the mix of alternative finance options for charities.**

426. **The expectations placed upon Social Impact Bonds have yet to materialise and we believe the Government's focus on them has been disproportionate to their potential impact. While the Government should redouble its efforts to make them work better, future public funding should be reoriented towards financial products with application to a wider range of charities and beneficiaries.**

554 Written evidence from Social Enterprise UK (CHA0117)
555 Q 78 (Peter Holbrook CBE)
556 Q 182 (Sir Harvey McGrath)
557 Written evidence from RSM UK (CHA0120)

CHAPTER 8: REGULATION AND THE ROLE OF GOVERNMENT

Office for Civil Society: priorities, initiatives and sector engagement

427. The Office for Civil Society (OCS) is responsible for policy and support to charities and the voluntary sector, while the Charity Commission acts as the regulator. Previously based in the Cabinet Office, the OCS was relocated to the Department for Culture, Media and Sport (DCMS) in July 2016.

428. The policy priorities of the Office for Civil Society, set out in the 2015–20 departmental plan for the Cabinet Office, include:

- Supporting social investment, innovation, and an independent and capable voluntary sector
- Guaranteeing every child a place on the National Citizen Service
- Scaling up social impact bonds and Payment by Results
- Supporting an increase in public service mutuals.[558]

429. The OCS told us that it sees the Government's role in relation to the charity sector in the following terms:

> "It is responsible for ensuring that charities have an effective legal and regulatory framework that supports public trust and confidence in charity; Government is a direct funder, through programmes such as the Local Sustainability Fund, a commissioner of services, and a partner in designing and delivering public services and tackling social issues at local, regional, national and international levels."[559]

430. It added that "supporting small charities continues to be a priority", and that the £20 million Local Sustainability Fund, launched towards the end of the last parliament, was intended to support this part of the sector in particular as a "direct response to sector concerns that small and medium charities were struggling more than others to adapt to the challenging operating environment."[560] The OCS also noted that it had launched a Small Charities Fundraising Training Programme, designed to help small charities to fundraise more effectively, and that it had been engaging in a "policy conversation" with the voluntary sector with the intention of helping more charities to become involved in the delivery of public services.[561]

431. We heard a range of evidence from other organisations as to how the Office for Civil Society currently operates, and what its priorities should be. The Small Charities Coalition told us that, following the change of department, the OCS should continue to focus on embedding its work across Government and on how different departments focus and engage with the sector. They added that "it may be that a more formal network of OCS leads is required across all departments to ensure that work is strategically embedded."[562]

558 Written evidence from the Office for Civil Society, Department for Culture, Media and Sport (CHA0160)
559 *Ibid.*
560 *Ibid.*
561 *Ibid.*
562 Written evidence from Small Charities Coalition (CHA0140)

432. Health Poverty Action told us that the move of department for the OCS may cause problems and that "the lack of clarity around new roles and responsibilities within DCMS mean it could be more difficult to collaborate and influence any decisions made which will have an impact on the charity sector."[563] The National Association for Voluntary and Community Action (NAVCA) took a similar view, stating that the departmental move "was a downgrading, making it impossible to fulfil its role of being an advocate for civil society across Government."[564] It added that there was a risk that the OCS might simply become a delivery agency for the National Citizen Service "and a few other less funded programmes."[565]

433. The Social Investment Business told us that the move to the DCMS might make it more difficult to promote understanding of social investment across government, but that it might provide an opportunity to "imbed how social investment can help deliver policy outcomes across an entire department."[566]

434. We also heard criticism that the Government did not engage effectively with the charity sector, especially when developing new policies and initiatives. Mencap told us that "recent Government policy announcements have too often been rushed, ill thought through and thus destabilising to the sector" and that "there is also an impression in the charitable sector that the Government are hostile to feedback or discussion."[567]

435. Karl Wilding from the NCVO echoed this view, telling us that there had been a period "based on constructive engagement in both the delivery of services and the design of policies" but that this had been replaced by "a more distant relationship, which is, I suggest, more instrumentalist, where government sees charities as just one of a number of independent sectors that are potentially useful in the delivery of services."[568] Richard Jenkins from the Association of Charitable Foundations suggested that the Government no longer appeared to see itself as the "curator and champion" of the charity sector, and that as it had reduced its strategic funding programmes, there were "fewer strategic partners around."[569]

436. Alzheimer's Research UK told us that "Government is not perceived to be championing the sector by highlighting its vital contribution to society or providing measures of support." It added that "Government decision-making discounts the unique perspective of the sector" and that efforts should be made to engage the sector through channels of communication that support the value of charity expertise."[570]

437. We also heard evidence on the proper role of government in relation to charities and wider civil society. The Cranfield Trust told us that "the role of the OCS in particular should be around charity excellence—through sharing examples, highlighting opportunities, networking with support providers and communicating resources to charities." It added that many smaller charities were not aware of the Government's role in supporting the sector beyond funding and so "there is a great opportunity for focused communications to

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563 Written evidence from Health Poverty Action (CHA0037)
564 Written evidence from National Association for Voluntary and Community Action (CHA0076)
565 *Ibid.*
566 Written evidence from Social Investment Business (CHA0137)
567 Written evidence from Royal Mencap Society (CHA0154)
568 Q 21 (Karl Wilding)
569 Q 35 (Richard Jenkins)
570 Written evidence from Alzheimer's Research UK (CHA0074)

feature smaller organisations—the majority of charities—where they have particular strengths in performance."[571]

438. On a similar theme, the Centre for Philanthropy told us that "the role for Government is to enable and encourage all charities to maximise their voluntary income, which involves paying attention to the distribution and destination of causes, as well as to raising the general propensity to give and the total amounts given."[572] It suggested a range of initiatives to help the Government better fulfil this role, including increasing investment in capacity building, and promoting and supporting volunteer fundraisers.[573]

439. Unite the Union told us that the Government should take a "hands off approach to the sector's activities" and instead concentrate on "building coherent support, regulation and infrastructure that enables the sector to develop and excel, building infrastructure skills and funding that strengthens autonomy and advocacy."[574]

440. The Minister for Civil Society Rob Wilson MP said that:

> "In terms of supporting the sector, the most important thing that the Government can do is to make sure that we maintain an effective legal and regulatory framework for charities, and to promote, encourage and support civil society in a number of ways … in essence, we want to increase social action, develop a culture of giving in this country, support a strong and diverse voluntary sector and empower communities to look after themselves."[575]

Local government engagement

441. The relationship for charities with local and regional government is of particular importance. As the NCVO noted, the majority of charities are local and their engagement with the state is most likely to be with local government.[576]

442. A considerable proportion of the public income received by charities comes from local government, including through grants and contracts. As with the picture at the national level, charity income from local government has been under pressure. While income from local government increased to £7.4 billion in 2013/14, from £7.2 billion the previous year, it remains well below its peak of £8.1 billion in 2007/08.[577]

443. The Lloyds Bank Foundation reported a similar picture with its own figures, telling us that many small-and medium-sized charities received a significant proportion of their income from local government grants, but that the value of government grants overall had declined by 64% since 2008/09.[578]

444. The Esmée Fairbairn Foundation told us that of all the recent changes affecting charities, loss of local government funding "had the most significant

571 Written evidence from The Cranfield Trust (CHA0103)
572 Written evidence from Centre for Philanthropy, University of Kent (CHA0072)
573 *Ibid.*
574 Written evidence from Unite the Union (CHA0105)
575 Q 209 (Rob Wilson MP)
576 Written evidence from National Council for Voluntary Organisations (CHA0148)
577 NCVO, 'UK Civil Society Almanac 2016: Income from Government': https://data.ncvo.org.uk/a/almanac16/income-from-government [accessed 14 March 2017]
578 Written evidence from Lloyds Bank Foundation for England and Wales (CHA0031)

effect on those organisations we fund." They cited in particular the example of youth services, noting that their reduction had not just affected the services themselves but also those voluntary organisations which used youth clubs to reach and help the most disadvantaged young people.[579]

445. We heard a range of evidence from both the charity sector and local government representatives on how relations between the two sectors had developed in recent years. Daniel Hurford from the Welsh Local Government Association told us that charities had a vital role in local communities as:

> "they have access and engagement with parts of the community that local authorities cannot always reach. It is also about challenging local authorities and public services, challenging the status quo, bringing innovation into play, and, increasingly … an approach of co-production where the third sector and charities work very closely with local authorities in designing and delivering services."[580]

446. Councillor Robert Light from the Local Government Association added that, while funding reductions had created pressures on local authorities and charities to make savings, it had also created opportunities to work together to restructure services:

> "We have seen a situation where, in relation to some of those contracts, such as for adult social care, which many of the big charities have with local authorities, those charities have been able to engage in service reconfiguration in a very positive way, driving innovation and helping local authorities. We have seen both bodies helping each other to address a major significant issue."[581]

447. Councillor Stephen Powers told us that he saw local charities as key to local innovation, and that Newcastle City Council's focus had been "on identifying innovations that generate both community benefit and cash-flow efficiency." He added, however, that there were some skills shortages in the charity sector locally, particularly with regard to digital innovation, so the focus of the council had been on "upskilling the sector" in data analysis, evaluation and impact assessment.[582]

448. We heard that, in addition to financial support, local government had a role in championing the charity sector in their areas. The Young Barnet Foundation told us that local authorities should be working with local charities to help build their capacity, particularly in light of the widespread expectation that charities will take responsibility when statutory local services are reduced or removed due to funding cuts.[583] Bolton Community and Voluntary Services said that "the role of Local Government should be to allocate adequate resource to a local infrastructure organisation so that the voluntary and community sector can engage local structures through its membership, whilst retaining independence."[584]

449. We also heard that local government should avoid competing with the charity sector, or duplicating resources and effort where charities were already

579 Written evidence from Esmée Fairbairn Foundation (CHA0044)
580 Q 141 (Daniel Hurford)
581 Q 142 (Councillor Robert Light)
582 Q 153 (Councillor Stephen Powers)
583 Written evidence from Young Barnet Foundation (CHA0101)
584 Written evidence from Bolton Community and Voluntary Services (CHA0064)

providing a valuable local service. Age UK Runnymede & Spelthorne told us that in their area the County Council had established ‘hubs’ to provide information and advice services, even though such services were already provided by many charities in Surrey.[585]

Charities and devolution

450. We also heard evidence on the experience of charities in Scotland and Northern Ireland where charity law and regulation is devolved, as well as on the opportunities and challenges of devolution to the English regions.

451. We were told by representatives of the sector in Northern Ireland and Scotland that UK legislation did not always take account of the impact on the charity sectors in devolved areas. Frances McCandless of the Charity Commission for Northern Ireland told us that issues including tax and company law, data protection legislation and fundraising self-regulation had “consequences”, but that the Northern Ireland Commission had only been consulted at a late stage.[586] Seamus McAleavey from NICVA echoed this view, telling us that issues affecting the sector were not always properly communicated to devolved areas by Westminster:

> “Charity law is a devolved matter, but there are lots of other things that have an impact, particularly issues of tax and financial matters. Sometimes, Westminster departments flag up some of those issues and engage with us—the Department for Exiting the EU has been over and has engaged with us on the Brexit issue—but a whole range of things never hit our agenda at all … we often find out about them too late. If something is likely to impact on Scotland, Wales or Northern Ireland, people need to be thinking about that and flagging that.”[587]

452. Similarly, Martin Sime from the SCVO told us that engagement by the Westminster Government with voluntary sector issues in Scotland was “an episodic thing rather than systematic engagement.”[588]

453. Small charities we spoke to during our visit to Cardiff told us that the existence of devolved government helped charities, even though charity law was not devolved in Wales, as it enabled closer contact with government representatives on the issues facing the charity sector in Wales. This meant that the Welsh Government was perceived to be closer to the concerns and priorities of the charity sector than was the case with the Westminster Government, and thus able to be more responsive to the issues they were facing.[589]

454. On our visit to Manchester we heard from local government and voluntary sector representatives on the ways in which they were seeking to take advantage of the localisation of budgets and powers to provide for a strong voluntary sector. The representatives from the Greater Manchester Combined Authority (GMCA) told us that they valued charities and that, while there had formerly been a paternalistic relationship between local authorities and

585 Written evidence from Age UK Runnymede & Spelthorne (CHA0028)
586 Q 112 (Frances McCandless)
587 Q 122 (Seamus McAleavey)
588 Q 122 (Martin Sime)
589 Note of roundtable discussion in Cardiff, Appendix 8

charities, they were keen to change this and they had established a third sector partnership group to ensure that the voice of the sector was heard.[590]

455. The representatives from the Greater Manchester Centre for Voluntary Organisation (GMCVO) said that relationships between local government and the charity sector in Greater Manchester were probably better than elsewhere, but that more work was needed to strengthen the partnership. They had some concerns that the amalgamation of local authorities to form the GMCA meant that some of the power was being drawn up and away from the more local level of individual authorities and that this could risk weakening relationships between local authorities and the voluntary sector. The GMCVO representatives concluded that it was still early days for devolution in Manchester, but they were hopeful that it might help bring more funding to the area and give the sector a chance to demonstrate a distinctive "Greater Manchester way of doing things."[591]

456. Views of the English devolution experience to date were mixed. The Lloyds Bank Foundation for England and Wales told us that "devolution has largely failed to involve local charities and communities" and that "small and medium-sized charities need to be involved in strategic decisions at the start of the devolution process so they have the ability to shape processes that will most benefit local communities." They argued that a requirement for the involvement of small- and medium-sized charities should be included in future devolution deals.[592]

457. Locality said that devolution had "the potential to bring about a renaissance in neighbourhood level governance and community empowerment, as well as the opportunity to harness the capacity and expertise of local organisations in public service transformation."[593] They added, however, that if there was not proper engagement with the community sector and wider civil society, there was a risk that devolution would be "a technocratic exercise which simply shifts marginal responsibilities between different parts of the public sector, adding new layers of sub-regional governance which actually push influence, power and resources away from local people."[594]

458. Councillor Robert Light said that: "I would urge, and hope the Committee would urge, the voluntary sector to engage with the devolution agenda" because it provided considerable opportunities for large and small charities alike. He added that "that ability to have a more consistent approach, to engage with an organisation based around an economic area rather than just lines on a map, which is what many local authorities are, will help voluntary sector organisations."[595]

459. The NCVO emphasised that, in order for devolution to be truly successful, power passed down to local authorities would have to be passed onward to local communities, with voluntary organisations acting as a conduit between citizens and local authorities. They said that "without proper dialogue with civil society there is a risk that devolution will see poor commissioning

590 Note of meeting with Greater Manchester Combined Authority, Appendix 6
591 Note of meeting with Greater Manchester Centre for Voluntary Organisation, Appendix 6
592 Written evidence from Lloyds Bank Foundation for England and Wales (CHA0031)
593 Written evidence from Locality (CHA0133)
594 *Ibid.*
595 Q 147 (Councillor Robert Light)

practices applied at a combined authority level", in particular the aggregation of services into larger contracts that exclude smaller charitable providers.[596]

460. NAVCA referred us to a document it had produced in conjunction with Locality, entitled *Devolution for People and Communities*,[597] which set out principles of devolution for charities and the voluntary sector including representation of the voluntary and community sector within new leadership structures, ensuring accountability through effective community engagement, and working with local organisations to transform public services. They added that "devolution has largely been viewed around the devolution deals but it is equally important to encourage policies that transfer power to people and communities through transforming public services."[598]

461. **Regional devolution in England is a significant opportunity for charities to develop stronger and closer relationships with decision-makers and commissioners and to become more closely involved in the design and delivery of services. There are valuable lessons that can be learned from the experience of some charities in Wales that have benefitted from devolution.**

462. **While the Government has been willing to devolve powers and budgets in certain areas, we believe it has been insufficiently committed to engagement with charities and other external bodies to help devolution work in practice.**

463. ***Central Government needs to understand better, and take account of, the implications of devolution for charities and civil society. There needs to be a proper dialogue between charities and new regional administrations at every stage of the devolution process, and voluntary sector representatives should be involved in leadership structures and decision-making where appropriate. We recommend that the Office for Civil Society works closely with the Department for Communities and Local Government and infrastructure bodies to ensure that this happens.***

464. **In addition, the Government must improve the way it consults with devolved administrations and infrastructure organisations when developing legislation on reserved matters which may impact charities in Scotland and Northern Ireland.**

National and local compacts

465. Compacts exist between government and voluntary sector bodies at both national and local levels. Compacts are voluntary agreements that are intended to promote partnerships between public bodies and voluntary organisations. At a local level, they usually cover local public bodies such as councils, police and fire services and health commissioners. At a national level, all Government departments are signed up to the principles of the national Compact, which was last reviewed in 2010.[599] However, the

596 Written evidence from National Council for Voluntary Organisations (CHA0148)
597 NAVCA and Locality, *Devolution for People and Communities*: https://www.navca.org.uk/assets/000/000/121/Devolution_key_principles_FINAL_original.pdf [accessed 14 March 2017]
598 Written evidence from National Association for Voluntary and Community Action (CHA0076)
599 Compact Voice, 'About Compact': http://www.compactvoice.org.uk/about-compact [accessed 14 March 2017]

Commission for the Compact, which had an important monitoring role, was abolished in 2011.[600]

466. The principles of the national Compact are a strong, diverse and independent civil society; effective and transparent design and development of policies, programmes and public services; responsive and high-quality programmes and services; clear arrangements for managing service changes; and an equal and fair society.[601]

467. The NCVO told us that "the Compact provides a framework which helps guide the relationship between Government and the sector at every level. It recognises that Government and the sector fulfil complementary roles in the development of public policy and the delivery of services, and that Government has a role in not only providing legitimacy to civil society, but also in respecting its independence in all areas of society."[602]

468. The evidence we heard on the status of compacts indicated that, while they were a positive initiative, their principles were not always adhered to in practice, and that awareness of them was not always high. Civil Exchange told us that "the Compact has been repeatedly broken by Government", for example in its lack of consultation over legislation affecting the charity sector, such as the Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act 2014. They argued that a new Compact was needed, "supported by a new state funded agency to promote and enforce it, which is independent and accountable directly to Parliament."[603]

469. Others took a similar view on the Government's failure to observe Compact principles in practice, including the Sheila McKechnie Foundation which said that the Compact "established some key principles for consultation which serve as excellent practice, but are not being followed",[604] and Unite the Union, which told us that "the Compact is largely ignored when politically expedient."[605] David Cutler of The Baring Foundation told us that "I really regret the demise of the compact as a framework between the state and the Government" and that "a lot of things that have gone wrong would not have gone wrong if we had continued to subscribe to that principle."[606]

470. The NCVO concluded that "now more than ever before is the time for government, led by the Office for Civil Society, to restate and demonstrate its support for the Compact principles as a framework for respectful collaboration between the voluntary and statutory sectors, while recognising their separation and the independence of the voluntary sector."[607]

471. We heard similar evidence that local compacts may be in need of renewal. Councillor Robert Light from the Local Government Association told us that "they are probably not the highest on the agenda at the moment and the

600 Independence Panel, *Voluntary Sector Independence* (July 2011), p 15: http://www.independencepanel.org.uk/wp-content/uploads/2011/10/Independence-Panel_Report-webcopy.pdf [accessed 14 March 2017]
601 Compact Voice, 'About Compact': http://www.compactvoice.org.uk/about-compact [accessed 14 March 2017]
602 Written evidence from National Council for Voluntary Organisations (CHA0148)
603 Written evidence from Civil Exchange (CHA0141)
604 Written evidence from Sheila McKechnie Foundation (CHA0184)
605 Written evidence from Unite the Union (CHA0105)
606 Q 50 (David Cutler)
607 Written evidence from National Council for Voluntary Organisations (CHA0148)

time is probably now for a refresh … we need to push the LGA and others to reinvigorate the compacts a little more."[608]

472. Daniel Hurford from the Welsh Local Government Association told us that compacts risked being purely symbolic if they were not taken seriously by partners. He told us that the Welsh Government had considered making compacts statutory, but that most Welsh local authorities had them and their effectiveness was not necessarily related to the strength of the Compact itself: "It is largely down to the organisations, the interpersonal relationships and the history between the local third sector and the local authority."[609]

473. Councillor Anne Brown told us that Essex County Council was currently reviewing its compact with the intention of making it a more practical guide to best practice, for both local public services and for the local voluntary sector.[610] Councillor Stephen Powers told us that Newcastle City Council had recently refreshed its compact and said:

> "It is not the bit of paper that defines the relationship. It is the people working together to make good on the commitment to that compact, and working relationships are most important rather than what is in its detail. For me, the compact is, above all, a commitment to dialogue, to fairness and to respect between our different organisations."[611]

474. ***Compacts are a valuable statement of principle about the relationships between government, both local and national, and the voluntary sector. We recommend that, where compacts do not currently exist, they are re-established in consultation with the sector.***

475. ***We also recommend that, where they have not done so recently, national and local government should review their compacts in collaboration with the voluntary sector to ensure that they continue to be fit for purpose, reflecting the changing role of charities. They should restate their intent to apply the principles of the compact and include a mechanism for review to ensure that they are observed.***

Legislation

476. There have been a number of recent pieces of legislation concerning the charity sector, most directly the Charities Act 2006, the Charities Act 2011, and the Charities (Protection and Social Investment) Act 2016. The Public Services (Social Value) Act 2012 and the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 have also been of significant importance to the sector, and during the course of our inquiry the Small Charitable Donations and Childcare Payments Act 2017 was passed.

477. In addition, the Law Commission has recently undertaken a series of consultations on a number of technical matters relating to charity law, and intends to publish a final report on these matters along with a draft bill in the summer of 2017.[612]

608 Q 148 (Councillor Robert Light)
609 Q 148 (Daniel Hurford)
610 Q 158 (Councillor Anne Brown)
611 Q 158 (Councillor Stephen Powers)
612 Law Commission, 'Charity Law, selected issues': http://www.lawcom.gov.uk/project/charity-law-selected-issues [accessed 14 March 2017]

478. Although some of the proposals we heard for reforms to support charities might require primary legislation, we did not detect an appetite in the evidence we heard for major new legislation affecting the sector. For example, World Horse Welfare told us that "we do not believe there is a need to change arrangements nor is there a need for more legislation. Most charities are well-governed, there is plenty of support available for trustees to fulfil their duties, and the Charity Commission can take a more proactive role in imposing consequences for bad practice."[613]

479. We were, however, told that when Government prepares legislation it should consult more widely, and seek a fuller understanding of the impacts of certain laws, particularly on smaller charities. Age UK Runnymede & Spelthorne told us that "it would be good if those making and agreeing legislation recognise that any one rule can have a profound effect on smaller organisations, and take this into account."[614]

480. The Wellcome Trust told us that "we are concerned that changes to regulation often impact civil society organisations in a way that does not appear to have been properly considered and does not reflect the primary driver of the proposals. We believe that this is often due to insufficient consideration of the breadth of the charity sector, and variations in sizes, structures and funding models."[615] They cited examples including changes to the Research & Development Expenditure Credit which meant that charities were no longer eligible, and changes to the Corporation Tax Code 2010 which imposed additional charges on charities.

481. The Churches' Legislation Advisory Service described "the huge—and increasing—amount of regulation and legislation that trustees are expected to be aware of and to comply with" as a "major pressure" on churches as charities.[616] The Institute of Chartered Accountants in England and Wales took a similar view, telling us that "charity legislation and accounting requirements can be complex and charities may have to use highly specialised professionals to comply with them. This can be costly and add to the disadvantages faced by small charities."[617]

482. **We note that charities rarely feel fully consulted about proposed new laws and regulations, and that this increases the risk of unintended consequences. This particularly applies to smaller charities, which do not have the resources to devote to additional legal and regulatory compliance.**

The role of charity advocacy

483. We heard considerable concern from charities about the Government's perceived attitude to advocacy and lobbying. This was in relation both to the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 (often known as the Lobbying Act) and the controversy in early 2016 regarding the proposed "anti-advocacy clause" in Government contracts, by which charities would be forbidden to use public funds to advocate on behalf of their beneficiaries.

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613 Written evidence from World Horse Welfare (CHA0127)
614 Written evidence from Age UK Runnymede & Spelthorne (CHA0028)
615 Written evidence from Wellcome Trust (CHA0164)
616 Written evidence from Churches' Legislation Advisory Service (CHA0098)
617 Written evidence from the Institute of Chartered Accountants in England and Wales (CHA0168)

484. Karl Wilding of NCVO told us that the Lobbying Act was a "good example of where the relationship has gone wrong" between charities and Government, as the sector had received no warning that the planned legislation was expected.[618] The Brain Tumour Charity told us that the Lobbying Act had "created legal uncertainty for charities about the extent to which they can campaign in the run-up to regional and national elections … this legislation, whilst well intentioned, has created an additional regulatory burden on many charities who receive no public funding."[619]

485. The Charity Law and Policy Unit of the University of Liverpool said that the Act had been "a minefield for charities in terms of the interaction between charity law and electoral law" and that the confusion had created a "chilling effect" on charities' campaigning activities.[620] Homeless Link said that the Act was seen as "part of a culture in which charities may be afraid of expressing opinions which could be seen to be critical of Government."[621]

486. The Voluntary Organisations Disability Group concurred with this view, stating that "the Lobbying Act has made charities more cautious at speaking out on policy implementation issues and done much to inhibit dialogue between charities and government. Charities are often best placed to understand and articulate the interests of people who experience social inequality and this has been a key feature of their contribution to society over centuries."[622]

487. Lord Hodgson of Astley Abbotts' review of the Act proposed a number of changes to reduce its scope and increase its focus. These included that the definition of relevant campaigning should be changed to cover only activity that intended to influence voters (as opposed to activity that could be "reasonably regarded" as influencing them); that the regulated campaign period should be reduced from a year to four months; and that there should be changes to registration and reporting rules to prevent arbitrary restrictions on joint campaigning.[623]

488. ***We believe that Lord Hodgson of Astley Abbotts' proposals for a review of the rules set out in the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 are eminently sensible and will provide reassurance to charities that they will not face censure for carrying out ordinary campaigning activity during election periods. We recommend that the Government implement Lord Hodgson's recommendations in full.***

489. We also heard criticism in relation to the Government's proposal to introduce an "anti-advocacy clause" in public sector grant agreements. The Public Relations and Communications Association described it as a "gagging clause" which should be resisted. It compared the proposal by analogy to the notion that private outsourcing companies such as Capita might be forbidden

618 Q 21 (Karl Wilding)
619 Written evidence from The Brain Tumour Charity (CHA0145)
620 Written evidence from Charity Law and Policy Unit, School of Law and Social Justice, University of Liverpool (CHA0104)
621 Written evidence from Homeless Link (CHA0012)
622 Written evidence from Voluntary Organisations Disability Group (CHA0050)
623 Lord Hodgson of Astley Abbotts CBE, *Third Party Election Campaigning - Getting the Balance Right* (March 2016): https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/508568/2904969_Cm_9205_Complete_Text_V0.5.pdf [accessed 14 March 2017]

from having a public affairs function owing to their receipt of public money.[624] The Scottish Council for Voluntary Organisations described the proposal as one which would "harm the prospect of vigorous or even evidential debate on public policy."[625]

490. Bond said that there was a lack of clarity around the proposed clause, stating that many charities were "concerned that the broad drafting of this clause could restrict important opportunities to pass on valuable insights on policy to government and to MPs and Peers."[626] The Small Charities Coalition said that "any quietening of small charities voices only diminishes government's capacity to make good decisions and understand the populations they serve."[627]

491. Towards the end of our evidence programme, the Government announced new grants standards that made clear that activities such as contributing to consultations, giving evidence to Parliament or taking part in public policy debate would not be covered by rules against advocacy.[628] The new standards were largely welcomed by the sector, with Sir Stuart Etherington of NCVO stating that the "new guidance is crystal clear in saying that activities such as raising issues with ministers and civil servants, responding to consultations and contributing to the general policy debate are not only permitted but actively welcomed."[629]

492. **We welcome the Government's decision not to proceed with a restrictive anti-advocacy clause in public sector grant agreements.**

493. In relation to charities' ability to advocate on behalf of their causes, we also heard concerns about the Charity Commission's initial guidance on campaigning during the EU referendum, which had been interpreted as restricting their ability to speak on the issue. Bond told us that the guidance risked further undermining public trust in charities, and reducing the legitimate contributions charities could make to the democratic debate.[630] NAVCA described it as an unwelcome intervention in the "legitimate and valuable role that charities have in civil society" and a "negative development in the relationship between charities, government and the regulator."[631] While the guidance was subsequently revised, it clearly created a negative impression in the sector in relation to their freedom to comment and advocate on relevant issues.

494. Kenneth Dibble, Legal Director at the Charity Commission, acknowledged to us that the guidance had been imperfect and that lessons had been learned. He told us:

> "If there is a lesson to be learned from that piece of guidance, it is about the way we positioned it and our style of communication. There were some immediate concerns about the width of the guidance, and at that point we revisited the guidance and reissued it to deal with those

624 Written evidence from Public Relations and Communications Association (CHA0030)
625 Written evidence from Scottish Council for Voluntary Organisations (CHA0181)
626 Written evidence from Bond (CHA0129)
627 Written evidence from Small Charities Coalition (CHA0140)
628 Cabinet Office, 'New standards announced for Government grants': https://www.gov.uk/government/news/new-standards-announced-for-government-grants [accessed 14 March 2017]
629 NCVO, 'Charities welcome new grants standards': https://www.ncvo.org.uk/about-us/media-centre/press-releases/1607-charities-welcome-new-grants-standards [accessed 14 March 2017]
630 Written evidence from Bond (CHA0129)
631 Written evidence from the National Association for voluntary and Community Action (CHA0076)

particular concerns, which we were happy to do. The general message about that particular guidance is that the style with which it was written did look restrictive, even though it was technically correct in law. That is a lesson on making any future guidance that we need to take away.”[632]

495. **Charities are the eyes, ears and conscience of any society; advocacy is a central part of their work and a sign of a healthy democracy. Whilst charities are quite properly regulated in their campaigning activities, particularly at election times, any new regulation or guidance should clearly recognise that advocacy is an important and legitimate part of their role and be set out in clear and unambiguous language.**

496. **Just as charities must be judicious in their activities, in order to remain politically impartial, the Charity Commission must take care in its public communications to ensure that it retains the confidence of the public and the charity sector.**

497. ***Poor consultation and ill-thought-through policy proposals have caused serious unease and disruption to the work of charities. We recommend that the Government reviews its approach to engagement with the charity sector before policy announcements are made, with a view to ensuring that charities feel better informed about legal changes which may affect them and have a greater opportunity to provide input on new policies.***

Impact on charities of the UK’s departure from the European Union

498. We heard some evidence in relation to the impact of the UK’s forthcoming departure from the European Union on the charity sector. The Institute of Fundraising told us that charities receive around £200 million from the EU each year.[633] Much of this comes from European Structural and Investment Funds (ESIF), in particular the European Social Fund (ESF).

499. The Royal Mencap Society described the ESF as a “major source of revenue”, which helped support fairer living standards and greater job opportunities, in particular for young people and the long-term unemployed. They added that the ESF was scheduled to fund a total of €4.9 billion of services in the UK between 2014 and 2020 (including services not delivered by charitable organisations).[634] They called on the Government to underwrite ESF funding and replace it once the process of withdrawal was complete. The charities we spoke to at our roundtable in Cardiff also noted the challenge that the withdrawal of EU funding would pose.[635]

500. The Association of Medical Research Charities told us that departure from the EU would have a particular impact on their part of the sector, as EU membership offered considerable research funding and opportunities for collaboration.[636] The Brain Tumour Charity concurred, telling us that there was “concern that the UK Government would not be able to guarantee the level of funding currently leveraged by [Higher Education Institutions] and researchers from the EU.”[637] The British Heart Foundation noted that the

632 Q 204 (Kenneth Dibble)
633 Written evidence from Institute of Fundraising (CHA0119)
634 Written evidence from Royal Mencap Society (CHA0154)
635 Note of roundtable discussion in Cardiff, Appendix 8
636 Written evidence from Association of Medical Research Charities (CHA0151)
637 Written evidence from The Brain Tumour Charity (CHA0145)

UK obtained the second highest contribution across all EU member states from Horizon 2020, the current EU research and innovation programme.[638]

501. The Small Charities Coalition told us that "there are concerns that the loss of EU funding will impact heavily on small charities, both in money previously budgeted for devolution and current funds provided by the EU and distributed either directly or through intermediaries to small charities."[639] The NCVO said that Government should "ensure the sector is involved in the negotiation process led by the Department for Exiting the European Union. It is important that formal engagement opportunities are in place to ensure the sector's views and contributions can be fed into the discussions."[640]

502. Minister for Civil Society Rob Wilson MP told us:

> "We recognise that charities will be affected by exiting the EU, and there are a broad range of implications. Different parts of the charity sector could be affected in different ways. The important thing is that we are listening to their concerns and talking to them about the opportunities as well as the potential pitfalls that might arise from Brexit. We have looked at some of the funding issues, particularly around the European Social Fund, which is about £200 million worth of funding. One positive thing is that all the legislation is local, incountry legislation, not European legislation, so the disentanglement in the charity sector is not as big a problem as in other areas of the economy."[641]

503. He added that "if charities show strong value for money in projects going forward, they will continue to be funded", and that the Government was holding ongoing roundtable meetings with sector representatives to discuss issues arising from the UK's withdrawal from the EU.[642]

504. ***As part of its ongoing engagement with the charity sector in relation to the UK's withdrawal from the EU, the Office for Civil Society should undertake an audit of the potential impact of Brexit on charities. This should include the impact of loss of funding as well as on research collaboration. We recommend that the OCS publish its assessment by the end of 2017.***

Regulation of the charity sector

505. Following criticism of its regulatory abilities from, among others, the House of Commons Public Accounts Committee and the National Audit Office in 2013–14, the Charity Commission undertook to focus on its regulatory role and to become more proactive in this regard.

506. Lord Hodgson of Astley Abbotts told us that the Commission "has to be a regulator; public trust and confidence in the sector depends on there being an effective regulator. Such a role is not compatible with acting as a 'cheerleader' for the sector."[643] Karl Wilding of NCVO said "having a strong regulator is good for public trust and confidence in charities",[644] though he

638 Written evidence from British Heart Foundation (CHA0152)
639 Written evidence from Small Charities Coalition (CHA0140)
640 Written evidence from National Council for Voluntary Organisations (CHA0148)
641 Q 215 (Rob Wilson MP)
642 *Ibid.*
643 Written evidence from Lord Hodgson of Astley Abbotts CBE (CHA0026)
644 Q 21 (Karl Wilding)

warned against it confusing "strong" regulation with "tough", and suggested its approach had at times undermined public trust.

507. On the Commission's performance, Minister for Civil Society Rob Wilson MP told us that "the Charity Commission is performing extremely well … there have been a number of different reviews over recent years … they all said the same thing: that the Charity Commission was not a robust enough regulator. We have changed that, and I think the Charity Commission is doing a very good job. According to the most recent assessment of how it is doing, it is making good progress."[645]

508. On our visit to the Commission we heard about the work that had been done to improve their operation, and in particular on their digital transformation programme to enhance the efficiency and quality of their regulatory functions.[646] The Commission's chief executive Paula Sussex set this in the context of a 40% cut in their budget.[647]

509. At our roundtables with small charities, some participants spoke of their concern about the risk of seeking guidance from the Charity Commission if they suspected something had gone wrong, in case it resulted in punitive actions.[648] One of our participants likened the Commission to Ofsted (the Office for Standards in Education, Children's Services and Skills), saying that it was "only there to tell you off".[649] At our roundtable in Cardiff we were told that the Commission was an "overstretched resource" and some took the view that a separate Commission may be of benefit to Wales as devolved agencies were perceived to be more effective and engaged.[650]

510. **We commend the Charity Commission's efforts to improve the effectiveness of its regulatory functions, particularly in the context of reduced resources. There is much still to do until it can be considered to be fully effective, however.**

511. ***Charity staff and trustees who have concerns with regard to their charities should be encouraged to report them to the Charity Commission where appropriate. We recommend that the Commission makes clear that those charities which are proactive in reporting issues to them will be supported to help put things right.***

512. We heard some evidence, however, that the Charity Commission's regulatory focus may have come at the expense of its other role as an advisor and enabler to the charity sector. The Lloyds Bank Foundation told us that "in response to significant resource constraints, the Commission appears to be moving away from an advisory role. The implications of this for small- and medium-sized charities is that they lack support on the interpretation of legal requirements."[651]

513. The Association of Charitable Foundations told us that it had observed the effects of the reduction in the Commission's advice and support functions, as it had received more calls from organisations and members of the public

645 Q 211 (Rob Wilson MP)
646 Note of Committee visit to the Charity Commission, Appendix 5
647 Q 2 (Paula Sussex)
648 Note of roundtable discussion in Westminster, Appendix 7
649 Note of roundtable discussion in Manchester, Appendix 6
650 Note of roundtable discussion in Cardiff, Appendix 8
651 Written evidence from Lloyds Bank Foundation for England and Wales (CHA0031)

seeking technical information.[652] The Charity Law and Policy Unit at the University of Liverpool told us that the advice function of the Commission "remains very important" and that "a structural split of its advice and regulatory functions would remove some fear among charities that seeking advice will attract regulatory attention with its attendant reputational risks."[653]

514. The NCVO agreed that the Charity Commission should continue its focus on the regulation of charities, but added that it should consider a model of "enabling regulation." It described this model as being "based on the recognition that the best way to ensure the regulated community understands and fulfils its obligations is to provide appropriate guidance and tools."[654]

515. The NAVCA told us that:

> "the Charity Commission should be a regulator not, as some suggest, a cheerleader for the sector. The Commission is there to make sure that the public can be confident in charities, a role more important than ever in the wake of falling levels of trust. There is plenty to do to ensure boards prioritise impact and good governance, and the Charity Commission should concentrate on this."[655]

516. In addition, the role of the Commission in promoting and supporting trusteeship was a particularly frequent theme of evidence. The Abbeyfield Society told us that the Commission should take a more proactive role in the recruitment of trustees by putting trustee guidance into context and promoting the benefits of being a trustee.[656] Similarly, the Association of Chairs told us that the Commission should be promoting chairs and trustees, but noted that it did not currently provide any specific advice or support for chairs.[657]

517. On the same subject, the NCVO said that "the Charity Commission should review the information and guidance it makes available to new trustees, both in terms of its content and how it is communicated to trustees, so that it is widely disseminated but most importantly it sends the right message to trustees about the importance of their role, their responsibilities and the importance of continually investing in their skills."[658]

518. Sarah Atkinson, Director of Policy and Communications, from the Charity Commission told us that:

> "guidance is a really important part of our job as a regulator, to ensure that trustees understand the rules and are able to keep within the rules, which most of them want to do and are able to do if they understand the framework in which they are operating."[659]

519. Paula Sussex, the Chief Executive of the Commission noted that it handled around 1,500–1,600 "permission and consent" cases each year which fulfilled part of its enabling role. She added that "since the strategic plan, we

652 Written evidence from Association of Charitable Foundations (CHA0082)
653 Written evidence from Charity Law and Policy Unit, School of Law and Social Justice, University of Liverpool (CHA0104)
654 Written evidence from National Council for Voluntary Organisations (CHA0148)
655 Written evidence from National Association for Voluntary and Community Action (CHA0076)
656 Written evidence from The Abbeyfield Society (CHA0062)
657 Written evidence from Association of Chairs (CHA0156)
658 Written evidence from National Council for Voluntary Organisations (CHA0148)
659 Q 5 (Sarah Atkinson)

have had a clear focus on understanding what compliance and enforcement means … as we move into the second year we are putting a good deal more focus on the enablement strand across the piece."[660]

520. **In light of the Charity Commission's reduced budget, and its necessary focus on regulatory work, it should seek to be clearer to charities about what support it can and cannot offer. It should also be more proactive in helping charities to find the most appropriate sources of external support and advice.**

521. The future funding structure for the Charity Commission was noted as an issue, as the Commission had indicated that it might seek to introduce a charge to cover some of its work.

522. Kenneth Dibble, Legal Director at the Charity Commission, told us that the Commission had had the power to charge for its services since 1992. He said that it had not chosen to do so because "it would be counter to our regulatory mandate, because if charities were charged for registration they might not wish to register, so it acted in a contrary way."[661]

523. Lord Hodgson of Astley Abbotts, who had previously recommended some form of charging mechanism in his review of the Charities Act 2006, told us that:

> "in my view some form of hybrid funding is both appropriate and inevitable. I believe that the general public would accept that it is not unreasonable that the charity sector which receives £billions in tax relief should be asked to put some very small percentage back into helping maintain an effective regulatory structure."[662]

524. The Chairman of the Charity Commission, William Shawcross, told us:

> "Given the fact that we cannot expect the Treasury to give us more when everybody else is being cut, it is imperative that I seek funding from the sector. This will be a huge cultural change, because ever since the commission was created in 1853 it has been funded by the taxpayer. Government officials and others have made clear to me that we should try to reduce the burden on the taxpayer of the £21 million that now finances us."[663]

525. He added that "many sectors pay for their own regulator, and the regulator still remains at an arm's length from the sector that is paying them. It will be a cultural change but we have to face it", and he expressed a wish that small charities should be excluded from the burden of any payment.[664] He also confirmed that the Commission's preferred method of charging was an annual fee to be on the register. Kenneth Dibble told us that as part of an internal reorganisation the Commission was structuring its operational units into more discrete functions, but that it was not yet at the point where it was considering generating revenue through marketing and selling particular services.[665]

660 Q 10 (Paula Sussex)
661 Q 201 (Kenneth Dibble)
662 Written evidence from Lord Hodgson of Astley Abbotts CBE (CHA0026)
663 Q 201 (William Shawcross)
664 *Ibid.*
665 Q 206 (Kenneth Dibble)

526. William Shawcross told us that he hoped any funding to come from charging charities would be additional to the funding the Commission received from Government, and not simply a replacement for cuts to Government funding. He added that he hoped the Commission could "gradually relieve the burden on the taxpayer", but that this would be a "long process."[666] The point was also made by Lord Hodgson of Astley Abbotts, who told us that charging "will of course require an undertaking from the Treasury that if the sector does provide some funding there will not be an immediate commensurate reduction in the Treasury grant."[667] The Charity Commission subsequently wrote to us to say that the Treasury had "clarified that any funding by the sector would be in addition to existing grant in aid."[668]

527. The Wellcome Trust told us that any charging plan "does not take into account the breadth and variation across the sector" and that "imposing additional costs on smaller charities may have a disproportionate effect on their ability to work for the public good."[669]

528. On 3 January 2017 Chairman William Shawcross said that the Commission was considering a model by which the largest charities would pay between £60 and £3,000 per year to fund the regulator, depending on the size of the charity. He added that a public consultation on the proposal would take place "very soon."[670] At the time of writing, no consultation has yet been published.

529. The Minister for Civil Society, Rob Wilson MP, told us that:

> "Charities want further services beyond the policeman/regulatory functions, and if they want those services then they will have to contribute something towards them. There is no suggestion that Government will step out completely from funding the Charity Commission, because we have already made a commitment, but it is wise to have a look at other ways to fund things."[671]

530. **We recognise the resource pressures and the wider economic climate that have led the Charity Commission to consider charging charities an annual fee to be on the register. Any charging model must ensure that the burden does not fall upon small charities which will not be able to afford it. This should be established not just at the outset of any charging regime, but by continual monitoring and testing of the impact of charging, with changes made to lift the burden on charities where necessary.**

531. **A mandatory charge for registered charities would mark a fundamental change in the sector's relationship with its regulator. No longer merely an independent overseer, it would become a body in which charities themselves have a financial stake, and to which they are required to divert funds which might otherwise be spent on their beneficiaries. Charities might, not unreasonably, seek to be**

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666 Q 201 (William Shawcross)
667 Written evidence from Lord Hodgson of Astley Abbotts CBE (CHA0026)
668 Written evidence from Charity Commission for England and Wales (CHA0192)
669 Written evidence from Wellcome Trust (CHA0164)
670 'William Shawcross says consultation on charging could come by end of January', *Third Sector* (10 January 2017): http://www.thirdsector.co.uk/william-shawcross-says-consultation-charging-end-january/governance/article/1420360 [accessed 14 March 2017]
671 Q 211 (Rob Wilson MP)

represented on the board of the Charity Commission to ensure they have a say in how the money is spent. It might also prompt calls for the regulator to become fully independent of government.

532. **It is not yet clear that the Charity Commission has taken full account of the potential impact of charging for regulation. A charge would by definition have an immediate financial impact on charities and their beneficiaries. It may also have an impact on the confidence of the public, who may question why their donations are being used to subsidise an arm of Government. Nor is it clear that the Commission yet understands how charities' expectations of it as a regulator may change if they are required to pay for its upkeep. If charging is mishandled, there are significant risks for the strength of the charity sector, its relationship with the regulator, and overall public confidence and trust in charities.**

533. ***Because of these issues, we have grave concerns about the Commission proceeding with any proposal to charge charities. We recommend that the Charity Commission makes clear how a charge would benefit charities and strengthen the sector overall. To achieve such clarity, the Commission must be transparent from the outset as to how additional revenue from charities would be spent, and what services would be delivered or enhanced in return. The Commission must set out how it envisages its supporting and enabling role developing or expanding if a charge for registration was introduced.***

534. **We welcome the assurance given to the Charity Commission by the Treasury that any funding from the sector would be in addition to, and not a replacement for, funding from the Government. This is essential. The purpose of any charge must be to enhance the ability of the Commission to operate effectively, not to take money from charities to help Government meet its fiscal targets.**

535. ***We recommend that the Treasury maintains adequate direct funding of the Charity Commission, irrespective of any proposal from the Commission to seek additional funding from other sources.***

536. The charity sector faces many challenges but also has so much to celebrate and be optimistic about. We hope that our report and its recommendations will go some way to ensuring that charities thrive in the years to come and have greater confidence in themselves.

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

The role and contribution of charities

1. We are living through a time of profound economic, social and technological change and the environment in which charities are working is altering dramatically. We do not believe that this is a temporary aberration: such disruptive changes are likely to become the norm. (Paragraph 9)

2. However, charities have always helped society through periods of upheaval. We are confident they will do so again. It is our intention that the recommendations in this report will go some way to ensuring that they do. (Paragraph 10)

3. We recognise and celebrate the enormous range and variety within the charity sector. The large charities, that raise the most money and are most widely known, are only a tiny fraction of the 167,000 registered charities in England and Wales, let alone the many social enterprises, small voluntary bodies and community groups besides. We acknowledge that the issues raised in this report may affect different parts of the sector in different ways and that while there are common principles for charities, practices may necessarily diverge. (Paragraph 49)

4. Charities play a fundamental role in our civic life. They are often in the front line of support for the most vulnerable and are therefore in the best place to assess their needs. They not only provide. They inspire and innovate and through their advocacy help shape our laws, government policies and society as a whole. (Paragraph 63)

Improving governance and accountability

5. We believe that the Government, the rest of the public sector and the private sector should foster robust and meaningful partnerships with the charity sector and support and facilitate charities whenever possible. (Paragraph 65)

6. Robust governance requires good structures, processes and behaviours. It demands strategy and foresight as well as a culture of scrutiny, support and challenge. While the whole sector should aspire to a high standard of governance, larger charities will necessarily have to adopt more rigorous processes than smaller ones to ensure they meet that aim. (Paragraph 76)

7. We welcome the work to update the voluntary Governance Code for the charity sector. We also welcome the Charity Commission's decision to refer to it as the benchmark for governance in the charity sector. (Paragraph 77)

Trustee skills and training

8. We believe that it is essential that charities regularly undertake skills audits of their trustee boards to ensure that they have the necessary capabilities to undertake their vital governance role. For large charities, this should be an annual occurrence. (Paragraph 89)

9. Training and development are essential for charity trustees in order for the sector to work effectively. It is the responsibility of charities' chairs to ensure that this vital activity takes place. We recommend that the sector's infrastructure bodies review the training opportunities that exist, identify where there may be shortcomings in provision, particularly for small charities,

and take action to address them. They could assist charities by publishing collated information about available training and providing a platform for users to rate the value of courses they have accessed. (Recommendation 1) (Paragraph 97)

10. Induction processes are essential so that new trustees have a well-established understanding of the charity and of their responsibilities. Trustees need to feel confident and well-informed in order to provide strategic direction, oversight and challenge. We welcome the inclusion in the Governance Code of appropriately resourced inductions for all new trustees. (Paragraph 98)

11. We believe that smaller charities would benefit from having free access to a template induction process. We recommend that grant-making bodies consider applications from infrastructure organisations and governance professionals to develop such a best practice template. (Recommendation 2) (Paragraph 99)

12. There is greater potential for charities to benefit from better connections to the business community and vice versa. We recommend that the Government takes fresh measures to get more senior business leaders directly involved with charities to foster those relationships and maximise their value. (Recommendation 3) (Paragraph 100)

Board diversity and turnover

13. We acknowledge that recruitment of trustees is challenging for many charities, especially when seeking trustees with particular skill sets. However, we believe that trustee diversity is important, as boards with a range of skills, experiences, ages and backgrounds are likely to lead to better governance. (Paragraph 105)

14. We believe that more can be done by the Government, the Charity Commission, infrastructure bodies and by charities themselves to promote trusteeship and incentivise people to become trustees. In particular, there is greater scope to enable disadvantaged people to become trustees and thus improve diversity. (Paragraph 106)

15. We recommend that the Office for Civil Society works with other departments and business leaders to develop a new initiative to promote trusteeship to employees and employers and thereby encourage greater participation and diversity. The initiative should encourage employees to see both the selfless, charitable value of trusteeship and the personal benefits in the form of skills and career development. Employers should be encouraged to give greater recognition to trustee roles in recruitment and progression of their staff. (Recommendation 4) (Paragraph 107)

16. We further recommend that the Government holds a public consultation on the possibility of introducing a statutory duty to allow employees of organisations over a certain size to take a limited amount of time off work to perform trustee roles. (Recommendation 5) (Paragraph 108)

17. We agree that there should be a time limit for individuals to serve as trustees, along with a maximum term of office, and we endorse the proposed inclusion of such time limits in the revised Governance Code. We recommend that the materials and draft articles of association provided by the Charity Commission include a suggestion of time limits. (Recommendation 6) (Paragraph 113)

18. We recognise that in some circumstances, such as family trusts or in respect of the role of the founder of a charity, there may be good reasons for not imposing a time limit. We agree with Lord Hodgson of Astley Abbotts that these charities should explain their reasons for this in their annual report in order to aid transparency. (Paragraph 114)

19. We believe that, irrespective of trustee time limits, charities should regularly review the operation of their boards and the tenure of their trustees and chair to ensure that their governance is sufficiently robust. For large charities, this should be an annual occurrence. (Paragraph 115)

20. We acknowledge the challenges that the Charity Commission faces in securing a diverse board, however the regulator cannot expect to hold the sector to a higher standard than it is able to achieve itself. We recommend that the Commission is mindful of the example it sets to the sector and that when filling future vacancies it explicitly seeks to recruit individuals with a range of skills, charity experiences and demographic characteristics, such as age, gender, ethnicity and geography. We expect to see the results of this approach in the next set of board appointments. (Recommendation 7) (Paragraph 119)

Executive leadership

21. Charities recognise that training and development for leaders and staff is important, however there are still significant shortcomings in terms of available training and levels of take-up. We therefore recommend that infrastructure bodies in the sector take the lead on working with government, academics and research institutions, and with the business community, to identify further opportunities to support and fund leadership programmes. (Recommendation 8) (Paragraph 128)

22. We agree that maintaining a separation of executive and oversight responsibilities is important for good governance. Governance is about making sure that charities do the right things, while management is about making sure that those things are done right. In a few cases, for the smallest of charities, we acknowledge that a complete separation of roles may be difficult, but it should remain the aspiration nonetheless. (Paragraph 133)

23. We recommend that the Governance Code Steering Group reflect in the Code the importance of executive and trustee relationships and the clear separation of their roles and responsibilities. (Recommendation 9) (Paragraph 134)

Payment of trustees

24. We believe that the voluntary principle of trusteeship is an important one and that trustees should not receive payment for undertaking the role. In highly exceptional circumstances, where people are otherwise unable to act as a trustee, it may be acceptable to consider some form of remuneration. The explanation and justification for such arrangements must be set out in the charity's annual report. (Paragraph 139)

25. More broadly, trustees should be able to claim relevant expenses to ensure that financial considerations do not unduly deter people from taking up the role. (Paragraph 140)

Transparency, accountability and impact

26. Accountability and transparency are essential for charities to ensure they function properly, deliver for their beneficiaries and retain the trust of the public. In order to respond to the greater expectations upon them, charities need to operate with a presumption of openness. We believe that it is important for all but the very smallest charities to have a simple website or public social media page to provide that transparency. (Paragraph 149)

27. We do not believe that significant additional regulation of the sector through increased mandatory reporting requirements would be desirable, as this would be a substantial bureaucratic burden on smaller charities. (Paragraph 156)

28. However, as we said at paragraph 149, we believe that it is important for all but the very smallest charities to have a simple website or social media page, and they should use that to set out their basic organisational and financial information. We recommend that public sector funders and other donors should evaluate the transparency of charities when considering requests for funding. (Recommendation 10) (Paragraph 157)

29. We recommend that the Governance Code Steering Group set out best practice suggestions for governance reporting by charities. This might involve charities including in their annual report a statement that they follow the Governance Code, or a similar specialist governance code relevant to their work, and report any actions they have taken over the year in light of the Code. (Recommendation 11) (Paragraph 163)

30. All charities should be seeking independent evaluation of their impact on their beneficiaries, in order to ensure that they are delivering for them and to demonstrate this to beneficiaries, funders and the public. The form of such evaluation may vary considerably, depending on the size of the charity and the type of work it is engaged in. We recommend that public sector commissioners assess such evaluation when awarding contracts. (Recommendation 12) (Paragraph 174)

31. We welcome initiatives such as Inspiring Impact that seek to assist charities in demonstrating impact. We recommend that the Government and the charity sector continue to pursue initiatives to better understand and promote the impact of charities. (Recommendation 13) (Paragraph 175)

32. We recommend that the Office for Civil Society (OCS) develops guidance for the rest of the public sector on how to set contractual impact reporting requirements appropriately and in a standardised fashion in order to reduce the bureaucratic burden on charities. The OCS should promote its work beyond the public sector in order to maximise its reach and value. (Recommendation 14) (Paragraph 176)

33. We endorse the suggestion in the Governance Code that charities should provide regular information to stakeholders that enables them to measure the charity's success in achieving its purposes. Such activity ensures that the focus of the charity and its stakeholders is centred on the needs of and outcomes for beneficiaries. (Paragraph 177)

Funding: grants, contracts and commissioning

Contracts and commissioning processes

34. The commissioning landscape is skewed against smaller charities. We recommend that contracting authorities embrace the recent changes to public procurement rules, which allow for smaller contracts, potentially giving charities better access to funding opportunities. (Recommendation 15) (Paragraph 193)

35. We welcome the Government's recent announcement on new measures to improve commissioning and help small charities get commissioned. We recommend that Government provides support for the development of voluntary sector bidding consortia, and takes steps to promote commissioning based on impact and social value rather than simply on the lowest cost. (Recommendation 16) (Paragraph 194)

36. We recommend that the Government's implementation group on commissioning practices considers the risks of larger organisations exploiting smaller charities through the commissioning and subcontracting process. We recommend that Government guidance on public sector commissioning should highlight these risks and encourage the design of contracts in a way which prevents such practice so far as is possible. (Recommendation 17) (Paragraph 198)

37. We believe it is important that local authorities and other public service commissioners adopt a partnership approach to service design and provision, involving charities, other voluntary bodies, service users and beneficiaries in the commissioning process from an early stage. We do not believe that meaningful relationships of this kind are common, and as a result charities are losing out on potential work and funds and commissioners are missing out on the values, knowledge of local needs and innovation that charities bring to service delivery. Public sector commissioners need to embed a genuine partnership approach in their structures, processes, contracts and cultures to ensure that the best possible results are achieved. (Paragraph 207)

38. Public service commissioners should also be encouraged to commission different types of services together. They should consider the potential of whole systems commissioning and whole person commissioning, with services and the commissioning process being designed around the needs of beneficiaries. This will result in better services for end-users and also long-term savings for commissioners. (Paragraph 208)

39. While the Government has taken some steps to promote the implementation of the Public Services (Social Value) Act 2012 and to encourage wider awareness of social value among public sector commissioners, we believe more could be done to maximise its potential. We welcome the Government's new review of the Act and hope that it will result in further improvements. (Paragraph 220)

40. We believe there is merit in considering the options for extending the Public Services (Social Value) Act 2012 as set out by Lord Young of Graffham. We recommend as a first step that the Government requires public sector commissioners to "account for" rather than merely "consider" social value. We further recommend that the Government sets measurable targets for the use of social value in commissioning and outlines the steps it will take if those targets are not met. (Recommendation 18) (Paragraph 221)

Financial and planning challenges

41. Where contracts—especially those involving Payment by Results—are used for service delivery, public sector commissioners should give greater consideration to the sustainability of organisations which are commissioned to deliver services. The Government should examine whether its guidance to public sector commissioners needs to be amended to ensure that this happens. At the same time, charities need to ensure that they have the cash flow to support undertaking work within such schemes. (Paragraph 230)

42. We recommend that the Government's review of commissioning considers the impact of Payment by Results contracts on charities and examines what support the sector needs to engage in service delivery in a sustainable manner. (Recommendation 19) (Paragraph 231)

43. Charities cannot operate unless their core costs are met. We recommend that public sector commissioners should be expected to have regard for the sustainability of the organisations which they commission to deliver services. This should include an expectation that realistic and justifiable core costs are included in contracts. (Recommendation 20) (Paragraph 239)

44. Long-term contracts, with appropriate break clauses for performance and viability, should be the norm wherever ongoing service delivery is likely. Public sector funders should seek to commission services over a longer period wherever possible, to ensure that the services can be delivered sustainably by charities with the capacity to plan effectively for the future. (Paragraph 250)

Contracts and innovation

45. Tightly-prescribed contracts that dictate the process of delivery, rather than the desired outcome, can be the greatest inhibitor of innovation. We therefore recommend that public sector commissioners refrain from setting overly-detailed requirements for the mechanisms of service delivery. (Recommendation 21) (Paragraph 256)

46. Additionally, restrictive commissioning practices can hinder charities' capacity for innovation by limiting their working capital. We recommend that, where appropriate, public sector commissioners pay or provide grants for charities to test new ideas and innovate during both the early scoping and development of services, and their later delivery. Such funding would generate positive returns, through supporting new and more effective ways of working, while also contributing to the sustainability of the charity sector and generating potential cost-savings for commissioners. (Recommendation 22) (Paragraph 257)

A revitalised role for grants

47. While acknowledging the increasing financial constraints that public sector bodies are under, we emphasise the important role that grant funding plays in ensuring the sustainability of charities, particularly with regard to innovation. There should be a wider understanding in the public sector of the use and potential of grant funding for charities and their beneficiaries, drawing on the practices of institutions such as the Big Lottery Fund. (Paragraph 264)

48. We recognise the significantly reduced funding available to local authorities. Nevertheless, grant funding has great potential in sustaining a healthy civil society and in enabling communities to benefit from charities' capacity to

innovate. We recommend that local authorities should bear this in mind in the course of their financial planning, and maintain or revive grants wherever possible. (Recommendation 23) (Paragraph 268)

Supporting sustainability

Fundraising

49. We welcome the action that has been taken to address the concerns about fundraising practices in the charity sector. The new Fundraising Regulator has only recently been established and therefore we do not recommend that further changes are made to the regulatory landscape for the time being. (Paragraph 275)

50. We are conscious of the concerns from the sector that the voluntary levy to fund the Regulator may be disproportionately burdensome for small- and medium-sized charities. We recommend that the new Fundraising Regulator continually monitors the impact of the levy, particularly on small- and medium-sized charities, and makes changes if appropriate. (Recommendation 24) (Paragraph 276)

Economic and tax policy

51. It is imperative for the charity sector that tax policies and processes are structured to ensure that charities are able to maximise their income and that bureaucracy is kept to a minimum. (Paragraph 282)

52. We welcome the Government's changes to Gift Aid as part of the Small Charitable Donations and Childcare Payments Act 2017. We recommend that the Office for Civil Society works closely with Her Majesty's Revenue & Customs (HMRC) to examine whether there are further changes that would help charities maximise the value of Gift Aid and minimise bureaucracy. (Recommendation 25) (Paragraph 283)

53. We recommend that the Office for Civil Society works with HMRC to ensure that the needs of charities are high on the agenda in relation to future changes to VAT and the National Living Wage. (Recommendation 26) (Paragraph 284)

54. We recommend that the Office for Civil Society works to improve significantly the awareness and availability of payroll giving by companies. In addition, there is no excuse for any Government department not offering payroll giving to their employees. The Government must set an example in this regard by ensuring that payroll giving is offered to staff as standard by all departments and executive agencies. (Recommendation 27) (Paragraph 285)

Infrastructure bodies

55. Small charities in particular need access to timely advice and support, and infrastructure bodies play an invaluable role by providing guidance and services. As with charities themselves, they are diverse, and come in different sizes and have different focuses depending on their intended beneficiaries. (Paragraph 290)

56. Infrastructure bodies must ensure that they work together effectively, both to ensure they survive and so that they can improve the services they offer charities. They should explore collaborative service models to raise awareness

among charities of the support available, and improve the accessibility and coherence of this support. (Paragraph 291)

Role of volunteers

57. Charities are the primary conduits for volunteering in the United Kingdom and as such they play a very valuable role in civil society. Charity law and policy should promote and support the role of volunteers, and constraints on volunteering should be reviewed and addressed. (Paragraph 309)

58. Harnessing and maximising the efforts of volunteers is central to the principle and the practice of many charities, and comes with a cost. Volunteers may need managing, supporting and training. Investing in volunteers, where possible, is a way of respecting their contribution as well as increasing their value to the charity. (Paragraph 310)

59. Funders need to be more receptive to requests for resources for volunteer managers and co-ordinators, especially where charities are able to demonstrate a strong potential volunteer base. We recommend that Government guidance on public sector grants and contracts is amended to reflect this and set a standard for other funders. (Recommendation 28) (Paragraph 311)

60. There is scope for further efforts by the Government to allow people to incorporate volunteering into their lives. We recommend that, in line with our earlier recommendation on trusteeship (see paragraph 107), the Office for Civil Society should work with other departments, the public sector and businesses to encourage greater flexibility for employees to take time off for charitable work. (Recommendation 29) (Paragraph 312)

61. We welcome the Minister's review of full-time volunteering by young people. This should be encouraged, by Government, by infrastructure bodies and by employers, with the caveat that volunteering should be a springboard to, not a substitute for, paid employment. Getting young people volunteering early in life may also have longer-term benefits by encouraging a future willingness to volunteer. (Paragraph 314)

Expectations and trust

62. We believe that charities continue to enjoy a very positive public reputation—one of which other sectors would be envious—and are a highly valued part of public life. (Paragraph 324)

63. That trust cannot be taken for granted, however, and charities should continue to be mindful of the impact of recent negative publicity, as well as of any indication that trust may be declining. The sector has learned hard lessons and charities need to be conscientious and scrupulous in order to retain that trust, maintaining their focus on transparency and accountability. We believe that the recommendations in this report will help them to do so. (Paragraph 325)

Mergers and closures

64. We believe that mergers can often be considered a measure of success and maturity, and a reflection of a charity keeping a proper focus on its beneficiaries. Staff, trustees and volunteers should reflect upon the possibilities for mergers and consult with their beneficiaries where opportunities may exist. Mergers should not be seen as a sign of failure. (Paragraph 342)

65. We note that it would be easier to avoid overlapping work in the charity sector by discouraging charities with similar purposes from being established where existing charities in the same field are working well and delivering for their beneficiaries. However, we would not want to discourage people from establishing new charities, which could be the effect of such a system. We also note that only the Charity Commission could realistically undertake such a task, but that the Commission currently has neither the structure nor the financial capacity to carry out this work. (Paragraph 343)

66. We welcome the Law Commission's work to address some of the legal and technical barriers to charities looking to merge. **We recommend that the Government brings forward the Bill at the earliest opportunity. (Recommendation 30)** (Paragraph 344)

67. **We recommend that the Charity Commission, as part of its emphasis on enabling regulation, considers what support and guidance it can offer to charities seeking to merge, and provides signposts to help that may exist elsewhere. The Commission should take a positive approach to assisting charities that choose to merge and assist in removing any barriers that may exist, notably with regard to liabilities such as pension arrangements. (Recommendation 31)** (Paragraph 345)

68. Time-limited structures are a good option for ensuring that small charities such as memorial foundations are able to dissolve when they have delivered on their charitable objectives. A merged or closed charity does not necessarily mean a failed charity. (Paragraph 351)

69. **We recommend that the Charity Commission include options for time-limited structures in the model governing documents that they produce for charities, as such clauses would prompt new charities to consider their lifespan from their inception. (Recommendation 32)** (Paragraph 352)

Charities and digital technology

70. The capacity of the charity sector to embrace digital technology varies considerably, and while some are at the cutting edge of the use of technology, others risk organisational stagnation and decay by not embracing it successfully. This is a risk to the charity sector. (Paragraph 380)

71. Charities should actively consider including a digital trustee role on their boards. We note the potential benefits to board diversity that would be likely to result from adopting such an approach. (Paragraph 381)

72. **We recommend that infrastructure bodies share knowledge and best practice on innovation and digitisation across the sector and co-ordinate training opportunities, at minimal cost, for charities with limited digital experience. We recommend that the Big Lottery Fund provides support to enable this. (Recommendation 33)** (Paragraph 382)

73. The technology sector should work to ensure that charities can develop the skills and capacity to fully engage with the digital realm. This may include the more widespread promotion of training and development opportunities, particularly to smaller charities with limited experience of digital engagement. (Paragraph 383)

Alternative forms of charity finance

74. We welcome the Government's efforts, through the Access Foundation, to broaden the accessibility of social investment to small- and medium-sized charities. (Paragraph 403)

75. The social investment market is unlikely to reach its potential unless further resources are put into the investment readiness of smaller charities. We welcome the endowment granted to the Access Foundation for this purpose. The Government must continue to monitor this issue and provide additional resources to support charities to ensure that they are not left behind as the market expands. (Paragraph 410)

76. We welcome the measures being taken in the sector to seek to reduce the transaction costs for social investment and to promote the market to a wider range of investors who would be willing to accept lower rates of return. Government and sector leaders should do more to address the reasons for high transaction costs and work to bring them down. Investors should also be encouraged to have more realistic expectations of the potential for returns from social investment. (Paragraph 418)

77. Social Impact Bonds can be a useful tool for both charities and the public sector in reducing the cost risk of particular interventions. However, they are only relevant where they produce a saving that can be transferred to a private investor, and that limits their potential contribution to the mix of alternative finance options for charities. (Paragraph 425)

78. The expectations placed upon Social Impact Bonds have yet to materialise and we believe the Government's focus on them has been disproportionate to their potential impact. While the Government should redouble its efforts to make them work better, future public funding should be reoriented towards financial products with application to a wider range of charities and beneficiaries. (Paragraph 426)

Regulation and the role of government

Devolution

79. Regional devolution in England is a significant opportunity for charities to develop stronger and closer relationships with decision-makers and commissioners and to become more closely involved in the design and delivery of services. (Paragraph 461)

80. While the Government has been willing to devolve powers and budgets in certain areas, we believe it has been insufficiently committed to engagement with charities and other external bodies to help devolution work in practice. (Paragraph 462)

81. Central Government needs to understand better, and take account of, the implications of devolution for charities and civil society. There needs to be a proper dialogue between charities and new regional administrations at every stage of the devolution process, and voluntary sector representatives should be involved in leadership structures and decision-making where appropriate. We recommend that the Office for Civil Society works closely with the Department for Communities and Local Government and infrastructure bodies to ensure that this happens. (Recommendation 34) (Paragraph 463)

82. In addition, the Government must improve the way it consults with devolved administrations and infrastructure organisations when developing legislation on reserved matters which may impact charities in Scotland and Northern Ireland. (Paragraph 464)

Compacts and engagement with the sector

83. Compacts are a valuable statement of principle about the relationships between government, both local and national, and the voluntary sector. We recommend that, where compacts do not currently exist, they are re-established in consultation with the sector. (Recommendation 35) (Paragraph 474)

84. We also recommend that, where they have not done so recently, national and local government should review their compacts in collaboration with the voluntary sector to ensure that they continue to be fit for purpose, reflecting the changing role of charities. They should restate their intent to apply the principles of the compact and include a mechanism for review to ensure that they are observed. (Recommendation 36) (Paragraph 475)

85. We note that charities rarely feel fully consulted about proposed new laws and regulations, and that this increases the risk of unintended consequences. This particularly applies to smaller charities, which do not have the resources to devote to additional legal and regulatory compliance. (Paragraph 482)

The role of charity advocacy

86. We believe that Lord Hodgson of Astley Abbotts' proposals for a review of the rules set out in the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 are eminently sensible and will provide reassurance to charities that they will not face censure for carrying out ordinary campaigning activity during election periods. We recommend that the Government implement Lord Hodgson's recommendations in full. (Recommendation 37) (Paragraph 488)

87. We welcome the Government's decision not to proceed with a restrictive anti-advocacy clause in public sector grant agreements. (Paragraph 492)

88. Charities are the eyes, ears and conscience of any society; advocacy is a central part of their work and a sign of a healthy democracy. Whilst charities are quite properly regulated in their campaigning activities, particularly at election times, any new regulation or guidance should clearly recognise that advocacy is an important and legitimate part of their role and be set out in clear and unambiguous language. (Paragraph 495)

89. Just as charities must be judicious in their activities, in order to remain politically impartial, the Charity Commission must take care in its public communications to ensure that it retains the confidence of the public and the charity sector. (Paragraph 496)

90. Poor consultation and ill-thought-through policy proposals have caused serious unease and disruption to the work of charities. We recommend that the Government reviews its approach to engagement with the charity sector before policy announcements are made, with a view to ensuring that charities feel better informed about legal changes which may affect them and have a greater opportunity to provide input on new policies. (Recommendation 38) (Paragraph 497)

Impact on charities of the UK's departure for the European Union

91. As part of its ongoing engagement with the charity sector in relation to the UK's withdrawal from the EU, the Office for Civil Society should undertake an audit of the potential impact of Brexit on charities. This should include the impact of loss of funding as well as on research collaboration. We recommend that the OCS publish its assessment by the end of 2017. (Recommendation 39) (Paragraph 504)

Regulation of the charity sector

92. We commend the Charity Commission's efforts to improve the effectiveness of its regulatory functions, particularly in the context of reduced resources. There is much still to do until it can be considered to be fully effective, however. (Paragraph 510)

93. Charity staff and trustees who have concerns with regard to their charities should be encouraged to report them to the Charity Commission where appropriate. We recommend that the Commission makes clear that those charities which are proactive in reporting issues to them will be supported to help put things right. (Recommendation 40) (Paragraph 511)

94. In light of the Charity Commission's reduced budget, and its necessary focus on regulatory work, it should seek to be clearer to charities about what support it can and cannot offer. It should also be more proactive in helping charities to find the most appropriate sources of external support and advice. (Paragraph 520)

95. We recognise the resource pressures and the wider economic climate that have led the Charity Commission to consider charging charities an annual fee to be on the register. Any charging model must ensure that the burden does not fall upon small charities which will not be able to afford it. This should be established not just at the outset of any charging regime, but by continual monitoring and testing of the impact of charging, with changes made to lift the burden on charities where necessary. (Paragraph 530)

96. A mandatory charge for registered charities would mark a fundamental change in the sector's relationship with its regulator. No longer merely an independent overseer, it would become a body in which charities themselves have a financial stake, and to which they are required to divert funds which might otherwise be spent on their beneficiaries. Charities might, not unreasonably, seek to be represented on the board of the Charity Commission to ensure they have a say in how the money is spent. It might also prompt calls for the regulator to become fully independent of government. (Paragraph 531)

97. It is not yet clear that the Charity Commission has taken full account of the potential impact of charging for regulation. A charge would by definition have an immediate financial impact on charities and their beneficiaries. It may also have an impact on the confidence of the public, who may question why their donations are being used to subsidise an arm of Government. Nor is it clear that the Commission yet understands how charities' expectations of it as a regulator may change if they are required to pay for its upkeep. If charging is mishandled, there are significant risks for the strength of the charity sector, its relationship with the regulator, and overall public confidence and trust in charities. (Paragraph 532)

98. Because of these issues, we have grave concerns about the Commission proceeding with any proposal to charge charities. We recommend that the Charity Commission makes clear how a charge would benefit charities and strengthen the sector overall. To achieve such clarity, the Commission must be transparent from the outset as to how additional revenue from charities would be spent, and what services would be delivered or enhanced in return. The Commission must set out how it envisages its supporting and enabling role developing or expanding if a charge for registration was introduced. (Recommendation 41) (Paragraph 533)

99. We welcome the assurance given to the Charity Commission by the Treasury that any funding from the sector would be in addition to, and not a replacement for, funding from the Government. This is essential. The purpose of any charge must be to enhance the ability of the Commission to operate effectively, not to take money from charities to help Government meet its fiscal targets. (Paragraph 534)

100. We recommend that the Treasury maintains adequate direct funding of the Charity Commission, irrespective of any proposal to charge charities. (Recommendation 42) (Paragraph 535)

APPENDIX 1: LIST OF MEMBERS AND DECLARATIONS OF INTEREST

Members

Baroness Barker
Lord Bichard
Lord Chadlington
Lord Foulkes of Cumnock
Baroness Gale
Lord Harries of Pentregarth
Baroness Jenkin of Kennington
Lord Lupton
Baroness Pitkeathley (Chairman)
Lord Rooker
Baroness Scott of Needham Market
Baroness Stedman-Scott

Declarations of interest

Baroness Barker

Owner/Director, Consultancy—Third Sector Business

Co-Director, Barker and Woodard Consulting Limited

Ambassador and Patron of charities including: Albert Kennedy Trust, Spare Tyre Theatre Company, VSO (Voluntary Service Overseas)

Ongoing non-pecuniary involvement with many UK-based charities

Lord Bichard

Chair, National Audit Office

Chair, Social Care Institute for Excellence

Chair, Shakespeare's Globe

Trustee, River and Rowing Museum

Wife is Chief Executive, Citizens Advice

Lord Chadlington

Executive Committee, LAPADA Party for ARNI

Patron, Dean and Chadlington Music Festival

Patron, Ley Community Yarnton

Trustee, Atlantic Partnership

Trustee, The Chadlington Village Green

Trustee, The Ditchley Foundation

Trustee, Soberistas

Wife is Trustee of Spring Lunch, Board of Dean Trust, and Dean and Chadlington Music Festival

Daughter is Trustee of Dean Trust

Lord Foulkes of Cumnock

Chair, Age Scotland

Baroness Gale

President, National Association of Old Age Pensioners in Wales

President, Treherbert and District Branch, Royal British Legion

Honorary Vice-President, James Whale Fund for kidney cancer

Patron, Kidney Wales Foundation

Patron, Bees for Development

Member, Parkinsons UK

Co-Chair, All-Party Parliamentary Group on Parkinsons

Lord Harries of Pentregarth

Chair, Commission on Civil Society and Democratic Engagement

Trustee, Woolf Institute, Cambridge

Baroness Jenkin of Kennington

Chancellor, Writtle University College

Patron, Restless Development

Trustee, Cool Earth

Trustee, Feeding Britain

Trustee, UNICEF UK

Trustee, WRAP (The Waste Resources Action Programme)

Husband, Mr Bernard Jenkin MP, Chairman of Public Administration and Constitutional Affairs Select Committee, House of Commons

Lord Lupton

Trustee, British Museum

Chairman and Trustee, The Lovington Foundation

Member of Advisory Board of Grange Park Opera

As the result of a loan made by the Member in 2014, the Member is owed a debt by Kids Company.

Baroness Pitkeathley (Chairman)

President, All-Party Parliamentary Channel Islands Group

Co-Chair, All-Party Parliamentary Group on Carers

Co-Chair, All-Party Parliamentary Group on Charities and Volunteering

Chair and Trustee, Big Society Trust

Vice-President, Carers UK

Trustee, Cumberland Lodge

Patron, Herefordshire Carers Support

Ambassador, National Voices (2010–2016)

Member, Advisory Council, National Council of Voluntary Organisations

Non-Executive Director, Third Sector PR

Husband is the chair of Action with Communities in Rural England (ACRE) and was the chief executive of the Association of Charitable Foundations (until December 2016)

Lord Rooker

Chair and Trustee, British Motor Sports Training Trust

Member of the following charities:

RNLI, RSPB, WWT, Friends of Kew, Friends of Lake District, English Heritage

Governor and Trustee, James Bindley School, Birmingham (until July 2016)

Wife is the CEO (unpaid) of Ludlow and District Community Association (Registered charity) which operates Ludlow Assembly rooms Arts and Community Centre

Baroness Scott of Needham Market

Patron, Ace Anglia

Member, Advisory Council, National Council for Voluntary Organisations

Trustee, Industry and Parliament Trust

Baroness Stedman-Scott

Ex-CEO, Tomorrow's People—remains connected to the company on a consultancy basis

Chair, East Anglia Youth Pledge

Governor, Bexhill Academy
Patron, Rye Studio School (until March 2017)
Patron, Gloucester House, The Salvation Army (until March 2017)
Trustee, New Philanthropy Capital (until March 2017)
Trustee, The Stefanou Foundation

A full list of Members' interests can be found in the Register of Lords Interests: http://www.parliament.uk/mps-lords-and-offices/standards-and-interests/register-of-lords-interests/

Rosie Chapman (Specialist Adviser)

Consultancies

Director and 100% shareholder of Rosie Chapman Ltd (Registered number: 09397619)

Unpaid roles

Trustee, London Marathon Charitable Trust

Trustee, Charity Finance Group

Member of Wikimedia UK Governance Committee

Independent Chair, Voluntary and Community Sector Governance Code Steering Group

Member, Advisory Council, National Council of Voluntary Organisations

Other matters

Former employee of the Charity Commission for England and Wales (May 2001 to May 2011)

APPENDIX 2: LIST OF WITNESSES

Evidence is published online at www.parliament.uk/charities-adhoc and available for inspection at the Parliamentary Archives (020 7219 3074).

Evidence received by the Committee is listed below in chronological order of oral evidence session and in alphabetical order. Those witnesses marked with ** gave both oral evidence and written evidence. Those marked with * gave oral evidence and did not submit any written evidence. All other witnesses submitted written evidence only.

Oral evidence in chronological order

**	Charity Commission for England and Wales	QQ 1–14
*	Association of Chief Executives of Voluntary Organisations	QQ 15–29
**	National Council for Voluntary Organisations	
**	Small Charities Coalition	
**	Charity Finance Group	QQ 30–40
**	Association of Charitable Foundations	
*	Royal Society of Arts (RSA)	QQ 41–50
*	The Baring Foundation	
**	Lloyds Bank Foundation for England and Wales	QQ 51–59
*	Power to Change	
**	New Philanthropy Capital	
*	Penny Appeal	QQ 60–70
*	Church Urban Fund	
*	Investing for Good	QQ 71–80
**	Social Enterprise UK	
*	City Healthcare Partnership	
**	Social Investment Business	QQ 81–88
*	Social Finance Ltd	
**	Esmée Fairbairn Foundation	
**	Lord Hodgson of Astley Abbotts CBE	QQ 89–96
**	Professor John Mohan	
**	Clore Social Leadership	QQ 97–104
*	Y Bont	
*	Brook	
*	Charity Commission for Northern Ireland	QQ 105–114
**	Office of the Scottish Charity Regulator	
*	Northern Ireland Council for Voluntary Action	QQ 115–123

**	Scottish Council for Voluntary Organisations	
**	Dr Beth Breeze, Centre for Philanthropy, University of Kent	QQ 124–132
*	Garfield Weston Foundation	
*	The Linbury Trust	
*	Tinder Foundation	QQ 133–139
**	Charity Checkout	
*	Welsh Local Government Association	QQ 140–149
*	Local Government Association	
*	Essex County Council	QQ 150–159
*	Newcastle City Council	
*	Twitter	QQ 160–166
*	Google	
**	Big Lottery Fund	QQ 167–178
*	Allia	QQ 179–187
**	Big Society Capital	
**	Royal Mencap Society	QQ 188–198
**	Citizens Advice	
*	Nacro	
**	Charity Commission for England and Wales	QQ 199–208
**	Office for Civil Society, Department for Culture, Media and Sport	QQ 209–218

Alphabetical list of all witnesses

	The Abbeyfield Society	CHA0062
	Access: The Foundation for Social Investment	CHA0095
	Action Against Hunger	CHA0078
	Action in Rural Sussex	CHA0001
	Action with Communities in Rural England	CHA0085
	Age UK Runnymede & Spelthorne	CHA0028
*	Allia (QQ 179–187)	
	The Almshouse Association	CHA0056
	Alzheimer's Research UK	CHA0074
	Association of Chairs	CHA0156
**	Association of Charitable Foundations (QQ 30–40)	CHA0082 CHA0178
*	Association of Chief Executives of Voluntary Organisations (QQ 15–29)	

	Association of Medical Research Charities	CHA0151
	Association of Volunteer Managers	CHA0065
*	The Baring Foundation (QQ 41–50)	
	Barnardo's	CHA0172
	Barrow Cadbury Trust	CHA0088
	Battersea Dogs & Cats Home	CHA0143
	Belgrade Theatre	CHA0024
**	Big Lottery Fund (QQ 167–178)	CHA0147
**	Big Society Capital (QQ 179–187)	CHA0087
	Bolton Community and Voluntary Services (CVS)	CHA0064
	Bond	CHA0129
	Dr Peter Bradley	CHA0052
	Ekaterina Braginskaia	CHA0116
	The Brain Tumour Charity	CHA0145
**	Dr Beth Breeze, Centre for Philanthropy, University of Kent (QQ 124–132)	CHA0072 CHA0112
	Britain Yearly Meeting of the Religious Society of Friends (Quakers)	CHA0047
	British Heart Foundation	CHA0152
	British Red Cross	CHA0162
*	Brook (QQ 97–104)	
	Mr Tim Burley	CHA0025
	Business in the Community	CHA0155
	Caistor Arts and Heritage Centre	CHA0033
	Lucy Caldicott	CHA0170
	Calouste Gulbenkian Foundation	CHA0163
	Camelot UK Lotteries Ltd	CHA0115
	Cancer Research UK	CHA0035
	Charities Aid Foundation	CHA0089
**	Charity Checkout (QQ 133–139)	CHA0051
**	Charity Commission for England and Wales (QQ 1–14) (QQ 199–208)	CHA0010 CHA0114 CHA0189 CHA0190 CHA0192
*	Charity Commission for Northern Ireland (QQ 105–114)	
	Charity Evaluation Working Group	CHA0067

**	Charity Finance Group (QQ 30–40)	CHA0092
	Charity Futures	CHA0183
	Charity Law and Policy Unit, School of Law and Social Justice, University of Liverpool	CHA0104
	Charity Leaders	CHA0139
	Charity Tax Group	CHA0122
	The Chartered Institute of Public Finance and Accountancy (CIPFA)	CHA0079
	Children England	CHA0173
	Chilterns MS Therapy Centre Ltd	CHA0066
	Church Army	CHA0003
	Church Mission Society	CHA0014
*	Church Urban Fund (QQ 60–70)	
	Churches' Legislation Advisory Service	CHA0098
**	Citizens Advice (QQ 188–198)	CHA0177
	Citizens Advice Newcastle	CHA0108
*	City Healthcare Partnership (QQ 71–80)	
	Civil Exchange	CHA0141
	Mr Ian Clark	CHA0161
	Dr David Clifford	CHA0158
	Clinks	CHA0084
**	Clore Social Leadership (QQ 97–104)	CHA0132
	Comic Relief	CHA0126
	Common Vision	CHA0136
	Community Links Bromley	CHA0100
	Community Sector Coalition	CHA0171
	Community Southwark	CHA0075
	Carolyn Cordery	CHA0159
	The Cranfield Trust	CHA0103
	Mr John Dale	CHA0005
	Devon Air Ambulance Trust	CHA0083
	Directory of Social Change	CHA0128
	Do-it.org	CHA0046
	Mr Colin England	CHA0036
**	Esmée Fairbairn Foundation (QQ 81–88)	CHA0044
*	Essex County Council (QQ 150–159)	
	Ethical Property Foundation	CHA0042

	FaithAction	CHA0015
	Family Action	CHA0135
	Finchingfield Guildhall Charitable Incorporated Organisation	CHA0063
	Foundation for Social Improvement	CHA0057
	The Foyer Foundation	CHA0180
*	Garfield Weston Foundation (QQ 124–132)	
	Giving Evidence	CHA0027
	Gloucestershire Rural Community Council	CHA0069
	Elizabeth Green	CHA0052
	Good2Give	CHA0182
*	Google (QQ 160–166)	
	Guide Dogs	CHA0109
	Hallé Concerts Society	CHA0045
	Mr Wally Harbert	CHA0019
	Mr Elliot Harris	CHA0185
	Health Poverty Action	CHA0037
**	Lord Hodgson of Astley Abbotts CBE (QQ 89–96)	CHA0026
	Dr Eddy Hogg	CHA0134
	Homeless Link	CHA0012
	Home-Start Slough	CHA0068
	Hospice UK	CHA0130
	ICSA: The Governance Institute	CHA0093
	Impetus–The Private Equity Foundation	CHA0131
	Institute for Voluntary Action Research	CHA0091
	The Institute of Chartered Accountants in England and Wales	CHA0168
	Institute of Fundraising	CHA0119
	Institute of Risk Management	CHA0039
*	Investing for Good (QQ 71–80)	
	Mr Len Jones	CHA0004
*	The Linbury Trust (QQ 124–132)	
	Dr Rose Lindsey	CHA0158
**	Lloyds Bank Foundation for England and Wales (QQ 51–59)	CHA0031
*	Local Government Association (QQ 140–149)	
	Localgiving	CHA0016

	Locality	CHA0133
	London Funders	CHA0090
	Lord Low of Dalston	CHA0142
	The Lotteries Council	CHA0166
	Mr Nick Mason	CHA0175
	Mr Diarmuid McDonnell	CHA0023
	Steve McKay	CHA0179
	MHA	CHA0124
	Lesley Michaelis	CHA0061
	Missing People	CHA0094
**	Professor John Mohan (QQ 89–96)	CHA0158 CHA0179 CHA0188
	MyBnk	CHA0186
*	Nacro (QQ 188–198)	
	National Association for Voluntary and Community Action	CHA0076
**	National Council for Voluntary Organisations (QQ 15–29)	CHA0148
	National Union of Students	CHA0111
	National Village and Community Halls Network	CHA0086
	New Heights—Warren Farm Community Project	CHA0009
**	New Philanthropy Capital (QQ 51–59)	CHA0055
*	Newcastle City Council (QQ 150–159)	
*	Northern Ireland Council for Voluntary Action (QQ 115–123)	
	Dr Therese O'Toole	CHA0116
**	Office for Civil Society, Department for Culture, Media and Sport (QQ 209–218)	CHA0160 CHA0165 CHA0191
**	Office of the Scottish Charity Regulator (QQ 105–114)	CHA0043
	Oxfam GB	CHA0113
	Dr Glenn Parry	CHA0052
	Paul Hamlyn Foundation	CHA0059
*	Penny Appeal (QQ 60–70)	
	People and Work Talwrn	CHA0034
	People's Postcode Lottery	CHA0099
	Pilotlight	CHA0073

	Mr Simon Prior-Palmer	CHA0187
	Plan International UK	CHA0102
*	Power to Change (QQ 51–59)	
	Public Concern at Work	CHA0157
	Public Relations and Communications Association	CHA0030
	Mr Andrew Purkis	CHA0146
	Reach Volunteering	CHA0058
	Rethink Mental Illness	CHA0176
	Dr Felix Ritchie	CHA0052
	The Robertson Trust	CHA0077
	Rogare: The Fundraising think tank	CHA0071
**	Royal Mencap Society (QQ 188–198)	CHA0154
	Royal National Lifeboat Institution (RNLI)	CHA0153
*	Royal Society of Arts (RSA) (QQ 41–50)	
	RSM UK	CHA0120
	RSPCA	CHA0070
	Rural Community Council of Essex	CHA0096
	Dr Alasdair Rutherford	CHA0023
	The Salvation Army	CHA0107
	Save the Children	CHA0149
**	Scottish Council for Voluntary Organisations (QQ 115–123)	CHA0181
	Sense, The National Deafblind Rubella Association	CHA0040
	Shared Lives Plus	CHA0008
	Sheila McKechnie Foundation	CHA0184
	Skillshare North East Ltd	CHA0106
**	Small Charities Coalition (QQ 15–29)	CHA0140
**	Social Enterprise UK (QQ 71–80)	CHA0117
*	Social Finance Ltd (QQ 81–88)	
**	Social Investment Business (QQ 81–88)	CHA0137
	Mrs Tara Somers	CHA0002
	Springboard for Children	CHA0121
	Springboard Project	CHA0011
	St Ann’s Hospice	CHA0167
	St Petrock’s (Exeter) Ltd	CHA0013
	Stella Smith	CHA0060
	Mr Paul Stallard	CHA0049

	SurvivorsUK	CHA0169
	The Swinfen Charitable Trust	CHA0007
	Mr Patrick Taylor	CHA0020
	Third Sector Research Centre	CHA0112
	The Tim Parry Johnathan Ball Foundation for Peace	CHA0038
*	Tinder Foundation (QQ 133–139)	
	Together for Short Lives	CHA0144
	Tree of Hope	CHA0041
	True and Fair Foundation	CHA0138
*	Twitter (QQ 160–166)	
	The UK Sustainable Investment and Finance Association	CHA0125
	Unite the Union	CHA0105
	United Kingdom Accreditation Service	CHA0032
	vInspired	CHA0118
	Visionary	CHA0174
	Voluntary Organisations Disability Group	CHA0050
	VONNE (Voluntary Organisations' Network North East)	CHA0123
	Wales Council for Voluntary Action	CHA0097
	Wellcome Trust	CHA0164
*	Welsh Local Government Association (QQ 140–149)	
	WhatWorksInclusion	CHA0081
	Wincanton Community Venture	CHA0022
	Mr Brian Winder	CHA0017
	The Woodland Trust	CHA0150
	World Horse Welfare	CHA0127
	World Vision UK	CHA0048
*	Y Bont (QQ 97–104)	
	Young Barnet Foundation	CHA0101

APPENDIX 3: CALL FOR EVIDENCE

The Select Committee on Charities was set up on 25 May 2016 to consider issues related to sustaining the charity sector and the challenges of charity governance. The Committee, chaired by Baroness Pitkeathley, has to report by 31 March 2017.

The following is a public call for written evidence to be summited to the Committee. The deadline is 5 September 2016.

The Committee invites interested individuals and organisations to submit evidence to this inquiry. The submissions we receive will guide the Committee's deliberations in oral evidence sessions later this year, and also inform the Committee's final conclusions and recommendations. Public hearings began in early July and will continue until early December.

The Committee's report will receive a response from the Government, and will be debated in the House of Lords.

The focus of the inquiry

The charitable sector in the United Kingdom has a long and proud history of contributing to British society. Recent years have seen an unprecedented period of change to the environment in which the sector is operating. Furthermore, within the sector there have been a number of high profile events in recent months which have called into question practice in the voluntary and charitable sector. We are looking to make sure that the attention on recent issues does not undermine the good work done by many charitable organisations.

We are looking to understand the pressures faced across the sector by charities. We will make recommendations to the UK Government, and to others, which we hope help ease these pressures, and to make sure that the charitable sector in England and Wales is sustainable for many years to come. We consider sustainability to be charities having the appropriate resources available to them to meet their charitable purposes. As the regulation of charities is a devolved matter in Northern Ireland and Scotland, we will be focusing our inquiry on the experiences of charities in England and Wales. We do however want to learn about the experience of charities in Northern Ireland and Scotland, as well as in other countries.

This inquiry is intended to be an opportunity to engage positively with charities and the voluntary sector. We are looking for examples of best practice, innovation and ideas to bring the sector together to make sure that it can thrive.

We recognise the diversity of charities in England and Wales, and we want to learn about the experiences of them all. The questions that follow are wide ranging, and it is not necessary to answer every one.

Questions

The purpose of charities

1. What is the role and purpose of charities in civic society in England and Wales?
    - How has this changed?
    - What makes them distinct from other organisations doing similar work?
    - What role can charities play in community cohesion and civic action?

- How does the sector benefit from volunteering?
- How has the status of volunteers changed?
- What challenges do charities face in trying to fulfil their role in civic society?
- How can these challenges be overcome?

Pressures and opportunities

2. What are the main pressures faced by charities currently, and what impact have these had?

    - What opportunities do charities have in the current environment?
    - Are there specific pressures affecting particular types of charity (for example, service delivery charities; charities reliant on fundraising income; charities with a rural focus; smaller or larger charities; or charities promoting a particular cause) that you can highlight?

Innovation

3. How do charities seek to innovate, particularly in the digital arena?

    - What more could be done to promote innovation, and by whom?
    - What barriers are there to being innovative?

Governance and leadership

4. What skills are required to lead and manage a charity?

    - How can these skills be gained?
    - What support exists to develop these skills within the charitable sector?

5. What role should trustees play in the performance and effectiveness of a charity?

    - How can trustees be best equipped, enabled and supported to fulfil their responsibilities?
    - What, if any, changes might this mean for current arrangements?

Accountability

6. How can charities ensure that they are properly accountable to their beneficiaries, their donors, and the general public?

    - What, if any, changes might this mean for current arrangements?
    - How should charities assess their long term viability and/or sustainability?

Resource management

7. What are the current challenges to financial sustainability, as well as efficient resource and risk management for the sector?

    - How can these challenges be overcome?

- How can best practice and information be shared across the sector?
- What lessons can be learnt from past mergers or dissolutions of charities?
- How can charities effectively deliver services and be assured that their work achieves successful outcomes?
- What are the benefits and challenges of funding for charities being derived from commercial contracts?

Social investment

8. What is the potential of social investment and social impact bonds?
    - What are barriers to fulfilling their potential?

The role of the Government

9. What should the role of Government be with the sector?
    - What should be the role of local Government?
    - What should be the role of the Charity Commission?
    - Have these relationships changed? If so, how?
    - How should Government (national or local) focus its resource to deliver its civil society agenda?
    - What is the likely impact of greater local devolution on the charitable sector, or particular types of charity?
    - What are the opportunities and challenges associated with local devolution?

Lessons from other sectors and countries

10. What can the charitable sector in England and Wales learn from other sectors and/or approaches taken in other countries, including from Northern Ireland and Scotland?

APPENDIX 4: NOTE OF COMMITTEE VISIT TO BODY & SOUL

As part of its inquiry, the Committee met with staff and a trustee of Body & Soul on 27 October 2016, a charity that supports people who have experienced childhood adversity, focusing on families affected by HIV, as well as children who have been adopted and young people who have attempted suicide.

The Committee heard from:

Emma Colyer (Director), Jed Marsh (Assistant Director) and other staff of Body & Soul.

The following Members took part in the visit:

Lord Bichard, Lord Foulkes of Cumnock and Baroness Pitkeathley.

They were accompanied by the following House of Lords staff: Matt Korris (Clerk) and Simon Keal (Policy Analyst).

Introduction

The Committee was given an introduction to Body & Soul, including its history and founding objectives. It was noted that at the time the charity was established there was little support available to younger people affected by HIV. It had since broadened its scope to focus on people encountering a range of long-term health issues, of which HIV may be a part, and associated childhood trauma. The staff noted that 20 years of developing treatments and shifting social pressures had led to changing needs for their services users, who they referred to as members.

The charity was based in London but supported people across the UK through a centres of excellence model. It had an annual turnover of approximately £1.2m and employed 18 staff plus five full-time equivalents.

The Committee was told that Body & Soul acknowledged that needs differed between individuals, and it therefore sought to provide comprehensive support for people's physical health, mental health and life needs (such as facilitation and advocacy services). The staff said that fragmented support was problematic and not good for helping people with trauma. They received referrals from health and mental health professionals, and from other charities, but also got a lot of self-referrals.

Funding

The Committee was told that it was difficult to secure long-term sustainable funding, that could support innovation and strategic thinking, as most grants only lasted for one to two years. The staff noted that their funding was affected by the fact that people with or affected by HIV remained a stigmatised community.

There was a discussion about the relationship between charities and local government. The Committee was told that funding from local authorities had diminished and was now harder to access. Body & Soul noted that their model, based on 'open access' for beneficiaries no matter where they lived, had caused problems for some local authorities who were not keen to support a service model that was accessible across borough boundaries.

The staff observed that it was challenging for smaller organisations to go through procurement processes, and that commissioners did not always have an accurate view of who could provide services.

The Committee was told that innovation could be limited if few small organisations were engaged in service delivery contracts. Staff suggested that local authorities' ideas of innovation often amounted to little more than making efficiencies, with little space to be creative.

The Committee also heard that there were increasingly prescriptive requirements to demonstrate impact for funders and that this could be a bureaucratic burden. Staff said that one local authority sent them a 12-tab spreadsheet to complete. There were also increasing expectations of delivering to short timescales, when in many cases it was difficult to turn around people's underlying and complex problems within the specified timeframe.

The Committee was told that the engagement that Body & Soul was able to have with statutory agencies varied; some were very supportive, while others seemed overstretched and unwilling to engage. Staff said that they would like to see public funders take a more comprehensive and holistic approach to the issues that marginalised communities faced, less based on silos and more focused on their interconnected needs.

Body & Soul's Director noted that increasing financial challenges might push charities to seek funding that risked moving them away from their core purposes, and they were conscious to avoid that path themselves.

The Committee was told that Body & Soul also undertook some commercial activity, including venue hire and training, to generate independent income. The Committee asked about this work and whether the charity had set up a social enterprise structure for it. Staff said that they had received conflicting legal advice about the need to formally set up a social enterprise structure for some of its funding streams and as yet had not chosen to do so.

Health and wellbeing

The Committee was introduced to staff from the charity's health and wellbeing service, who discussed their work with the charity's members. This included a wide range of physical and mental health therapies and other forms of support such as legal advice and employment coaching.

The staff said that many people arrived with multiple difficulties which may not be sufficiently addressed by statutory services or which might fall between the gaps in provision. In some cases the charity received people who might otherwise be in the criminal justice system. They said that Body & Soul represented a necessary adjunct to statutory services by offering a holistic approach to individuals, flexible to meet their needs. The staff suggested that local authorities should make more funding available to help charities performing such roles, given their experience of increased numbers of people presenting with far greater degrees of crisis than in the past.

Body & Soul staff said that they were better at helping 'hard to reach' people because of their approach, and that as a result they were seen as a trusted organisation by the community.

Volunteering

The Committee was told that the charity had around 250 volunteers including for ongoing and one-off projects, with a core of about 80 regular volunteers. The staff said that they advertised for volunteers through community centres, local colleges, volunteer fairs and free online advertising, as there was no budget for volunteer recruitment. They always sought references and Disclosure and Barring Service (DBS) checks for potential volunteers. As well as volunteers recruited externally, some of the charity's members also volunteered to 'give back' to the organisation that had helped them.

The Committee heard that Body & Soul also relied on expert volunteers to support the services they provided, such as health and mental health practitioners, lawyers, employment advisors and others.

Body & Soul staff noted that for a charity to operate with more than a handful of volunteers it needed to have a volunteer manager to co-ordinate the work, but that it was very difficult to find funding to support such posts.

Governance

The Committee heard about the governance of Body & Soul. The Director said that all trustees were given an induction when they joined and that this was individually tailored depending on their background. They had also conducted a skills audit of the trustee board. She noted that the trustees were mindful of their responsibilities as a result of the collapse of Kids Company. She said that the board had a focus on impact and outcomes for the charity's members and that having some members on the board helped to ensure that this would continue.

Innovation

The Committee heard from the charity's innovation team, who explained how they used new technologies to help their members. This included a project called 'Beyond Boundaries', which provided remote support to their members via a range of contact methods. Staff said that they hoped to scale up the investment in innovation while retaining quality and consistency, but that there were resource pressures in doing so. They had had an external evaluation of the work which had shown a positive impact.

Perceptions of charities

The staff observed that the public felt less trusting of charities in general as a result of recent scandals. They expressed concern that smaller charities, who had not been a part of the scandals, might still be affected by the problems and suggested that small charities did not have the profile to help them overcome wider public mistrust.

The staff also noted that the charity sector did not always see itself as 'professional' and that this was a problem for its relationships with other organisations. They stressed that they were professional and should be treated as equal partners.

APPENDIX 5: NOTE OF COMMITTEE VISIT TO THE CHARITY COMMISSION

As part of its inquiry, the Committee visited the London offices of the Charity Commission for England and Wales on 1 November 2016.

The Committee heard from:

Sarah Atkinson (Director of Policy and Communications), Nigel Davies (Head of Accountancy Services), Kenneth Dibble (Director of Legal Services), David Holdsworth (Chief Operating Officer & Registrar of Charities), Carl Mehta (Head of Investigations and Enforcement), Michelle Russell (Director of Investigations, Monitoring and Enforcement), William Shawcross (Chairman) and Paula Sussex (Chief Executive).

The following Members took part in the visit:

Lord Bichard, Lord Chadlington, Lord Foulkes of Cumnock, Baroness Gale, Baroness Jenkin of Kennington, Baroness Pitkeathley, Lord Rooker, Baroness Scott of Needham Market and Baroness Stedman-Scott.

They were accompanied by the following House of Lords staff: Matt Korris (Clerk), Simon Keal (Policy Analyst) and Gabrielle Longdin (Committee Assistant). Also attending was Rosie Chapman (Specialist Adviser).

Introduction

The Chairman of the Charity Commission, William Shawcross and the Chief Executive, Paula Sussex, welcomed Members of the Committee and introduced some of the subjects for discussion: operations and enablement, compliance, risk and proactive regulation. Mr Shawcross said that the Commission had sought to become more proactive and that it saw its role as protecting charities' beneficiaries and assets where they may be at risk.

Operations

The Committee was told that the Commission saw its priority as being seen to be an effective regulator. The Commission said that there had been an increase in the number of applications to register a charity, from 5,949 in 2012/13 to 7,192 in 2014/15. They said that their application process had improved with the introduction of a new, user-centred, online registration system, which had reduced the processing time for registration, and that, while there had been a backlog of applications previously, this had been cleared.

The Commission said that applications were now separated into low, medium and high risk, to allow for better assessments to be made. They said that the system was designed to ask specific questions for different types of charities doing different activities, which helped to proportionately test the applications. The Committee asked if this would allow the Commission to identify during the application process whether an existing charity was doing similar work or operating in the local area. The Commission said that while this was not currently possible, it was a long-term goal.

There was a discussion about how the Commission measured the impact of its work. The Committee heard that the Commission used surveys and website hits to measure impact, as well as other measurements such as the number of whistle-blowers and reports of serious incidents that they received.

The Committee raised the issue of diversity and noted with concern the lack of diversity within the Charity Commission, with no black or minority ethnic directors on the Board.

Compliance

The Committee heard about the Commission's compliance work. The Commission said that poor governance was the root cause of many issues in charities and they had identified that financial distress and fundraising were major issues in 2016. They said they undertook proactive analysis of charities where finances suggested there was a risk of financial distress and that they were moving to a more risk-led approach to casework, based on improved use of data. The Commission said that 1,804 cases were opened in 2016 to assess concerns about charities, and that 2,117 serious incidents had been reported to the Commission by charities in the same year. There were 1,248 incidents in which the Commission used its legal powers. Whenever the Commission used its intervention power, detailed justifications were required and senior officers would need to approve the decision. The Commission said they welcomed early approaches from charities on compliance issues.

There was a discussion about data sharing. The Commission said they worked closely with prosecuting authorities and collaborated with other organisations and agencies to facilitate data sharing.

Trustees and enablement

There was discussion about guidance available for charities and trustees. The Commission presented research undertaken by nfpSynergy that showed that when trustees sought advice on improving governance, 62% said that they would go to the Charity Commission. The same research found that 91% of respondents were aware of Charity Commission guidance on law and best practice, and 84% found the guidance "quite valuable" or "very valuable".

The Commission said that they were working on a new advice portal to improve the guidance available to charities and that they were reviewing their enablement work and their processes, advice and guidance. The Committee was told that the Commission did not have the resources to provide one-to-one advice.

The Committee heard that the Commission did not assess the skills or experience of potential trustees, but did check whether they were legally able to serve as a trustee. There was a discussion about whether there could be qualifications for trustees of large charities.

Funding

The Commission explained that funding cuts had resulted in a reduction in staff levels, but said that their work to improve their processes would allow them to be an effective regulator nonetheless. The Commission noted that charities were not charged to register with them, but that they were exploring the possibility of introducing a charge. They suggested that if they had additional resources to provide advice it could reduce the dependence of charities on paid sources of advice elsewhere.

Legal framework

The Committee was told that the legal framework in which charities operated was complex, with different legal requirements for different types of charities, and this could cause trustees to feel constrained in how they could respond to challenging circumstances. The Commission said that the effectiveness of charities was impeded by an inability to adopt modern governance provisions and a lack of power to reform and merge. They said that they were working with the Law Commission to help modernise charity law to alleviate some of these constraints.

APPENDIX 6: NOTE OF COMMITTEE VISIT TO MANCHESTER

As part of its inquiry, the Committee visited Manchester on 16 November 2016 to meet with representatives from the Greater Manchester Combined Authority (GMCA) and the Greater Manchester Centre for Voluntary Organisation (GMCVO), and to hold a roundtable with small charities.

The following Members took part in the visit:

Baroness Gale, Baroness Pitkeathley and Lord Rooker.

They were accompanied by the following House of Lords staff: Matt Korris (Clerk) and Simon Keal (Policy Analyst).

Greater Manchester Combined Authority

The Committee met with:

- Cllr Jane Black, GMCA deputy portfolio holder for Fairness, Equalities and Cohesion
- Rachel Dyson, Troubled Families Project Manager, Association for Greater Manchester Authorities
- Wendy Meredith, Director of Population Health, Greater Manchester Health and Social Care Partnership
- Cllr Peter Smith (Lord Smith of Leigh), GMCA Portfolio lead for Health and Social Care
- Cllr Angeliki Stogia, GMCA deputy portfolio holder for Fairness, Equal and Cohesion
- Cllr Jean Stretton, GMCA Portfolio lead for Fairness, Equal and Cohesion
- Carolyn Wilkins, GMCA Chief Executive Lead for Fairness, Equal and Cohesion
- Gareth Williams, Graduate trainee, GMCA

Introduction

The GMCA noted the very diverse nature of the voluntary and community sector, increased further with the growth of Community Interest Companies (CICs) and social enterprises, and how different their needs were.

The GMCA noted the tensions in local government relations with the charity sector around funding cuts. They said that there were growing expectations on the charity sector at the same time as declining resources, and that local authorities were not able to support the sector as much as they had done in the past.

Relationship with and support for charities

The GMCA representatives said that sustainability was a key issue for the charity sector. They noted the pressure the sector was under and the fact that Citizens Advice Bureaux had been forced to merge across local authority areas.

The Committee was told that there was a changing relationship between the citizen, state and society. While the traditional relationship between charities and local authorities had been a paternalistic one, there was now more of a partnership role and local authorities looked to the voluntary and community sector for creativity and innovation. The GMCA representatives said that they had a partnership group to ensure that the voice of the third sector was heard. They also said that a memorandum of understanding was being drawn up for how GMCA would work with the voluntary sector, on a similar model to a compact.

The GMCA noted that small- and medium-sized charities were nimble, quick to adapt and had an ability to reach communities and engage and motivate people that was really important. The GMCA representatives said that there were lessons for councils in the way that the charity sector worked with people.

The Committee heard about a leadership development programme organised by the GMCA that supported representatives from the charity sector. The GMCA noted that leadership development was usually delivered through and within particular sectors and professions. Their programme sought to deliver it through 'place', to join up people working in different sectors in the Greater Manchester area. The programme was funded through the Greater Manchester reform budget and other sources and made all its programme materials open source on the internet. The Committee asked whether charity trustees could apply to be on the programme, and was told that they did not rule out such participation.

The GMCA spoke about their support for volunteers and said that they were looking to encourage the private sector to develop links with the voluntary sector, and share their skills and experience. The Committee heard that some local authorities in the Greater Manchester region, such as Oldham Council, had supported volunteering by allowing employees to take up to three days a year off work to volunteer.

Funding and commissioning

The GMCA said that as public funding had moved from grants to commissioning, it was important to maintain respect for the distinctiveness and voluntary essence of voluntary organisations. They said that this could be achieved through good, transparent commissioning and purchasing and by encouraging charities to come together to win a contract. The Committee was told that Wigan Council was investing more money in their voluntary sector through commissioning processes.

The representatives from the GMCA noted that commissioning could involve jumping through a lot of hoops and that small charities needed support to ensure that they could participate. They suggested that charities might need help with pitching skills and with demonstrating outcomes and impact. The Committee heard about the Society Works scheme in Oldham that worked to support collaboration between charities with, amongst other things, funding, commissioning and procurement opportunities.

The GMCA said that it was important to recognise social value in commissioning and that, while they had a social value policy, they felt that they could still do more. They noted that they had a lot of flexibility in their decision-making through the use of social value considerations in commissioning if they chose to use it.

The GMCA noted that commissioning did not always work for small organisations and that the contract climate mitigated against infrastructure development for the sector. They said that there was still a very important role for grant funding and they had established a £5m community investment fund that they hoped would pay for itself over time.

The Committee heard that some councils, such as Oldham Council, had been able to free up dormant funds to allocate to charitable projects in their areas. Community asset transfers had also taken place in the Greater Manchester area, which had been tricky to navigate but were seen to be worthwhile.

Devolution

The GMCA emphasised that devolution in Manchester was not just about central and local government but also about the community and the voluntary sector. They noted that it was a significant challenge to make it work, with a lot of territoriality among voluntary sector organisations and individual district councils still responsible for their own budgets and arrangements.

The Committee heard that the local authorities in Greater Manchester were looking to go beyond compact arrangements, and were undertaking more focused work to assist hard to reach groups.

Charity registrations and legal structures

The GMCA said that they had noted increasing difficulty for organisations seeking charitable status and delays in registrations. They noted that it was hard to stop new charities forming that duplicated the work of existing ones, but that it was for charities, not the GMCA, to identify need in the area. The GMCA said they might be able to help existing charities fade away gracefully in some circumstances.

The GMCA explained that on their formation they had inherited a charity—the Greater Manchester Disaster Fund—but had found that the legal rules regarding its structure were very restrictive which had made it difficult to spend the money.

Greater Manchester Centre for Voluntary Organisation

The Committee met with:

- Atiha Chaudry, Trustee
- Kathryn Cheetham, Trustee
- Richard Dyson, Vice Chair
- John Hannen, Programme Manager
- Patsy Hodson, Chair
- Ian Taylor, Director of Development
- Alex Whinnom, Chief Executive

Introduction

The Committee heard that there were around 15,000 charities and voluntary sector organisations in Greater Manchester. The GMCVO said that the sector worked differently in Greater Manchester to other parts of the country, and that there were stronger and more equal relationships with local government and universities in the area, although there continued to be major problems with funding.

The GMCVO said that the voluntary ecosystem across the Greater Manchester region had been affected in different ways by funding reductions in recent years. The areas with a long history and tradition of charitable operation, such as Manchester and Salford, had proved more resilient, while those without such deep roots had not fared as well. The GMCVO noted that small, local charities that had been the "well-kept secrets" of the charity sector were now a bit less secret, as a result of a growing trend towards having an online presence.

Service delivery and commissioning

The Committee was told that voluntary organisations were often not aware of the dangers of getting involved in public service delivery, where funding was more readily available. The GMCVO said that charities risked losing their strategic expertise and roots in the community by being diverted into public service provision. They said that in cases where charities had been over-exposed to service delivery, and the funding had subsequently been withdrawn, the community connection was often lost and was difficult to rebuild. The GMCVO said that charities should ask themselves the question as to whether they are funding-led or needs-led.

The GMCVO questioned the extent to which commissioners understood community need. They noted that voluntary organisations in Greater Manchester serving black, Asian and minority ethnic (BAME) communities received limited funds, despite the region having a significant BAME population as well as a large proportion of refugees and asylum seekers.

The Committee asked about the extent to which funders required charities to demonstrate their outcomes and impact. The GMCVO said that enthusiastic funders would be happy with whatever they received in terms of demonstrating impact, while sceptical funders would look critically at what they were sent, no matter how detailed it was.

The GMCVO noted that high interest rates deterred charities from engaging with social investment, and that in some cases charitable organisations had taken on unsustainable levels of debt.

Local government and devolution

The GMCVO noted that, despite having a better relationship with local authorities than elsewhere in the country, the culture of local government was not well adapted to engaging with and partnering the voluntary sector. They said that commissioners rarely consulted properly with communities and tendered for large contracts that did not take sufficient account of the different needs of different areas and were therefore unsuitable for voluntary sector involvement. They noted that the amalgamation of local authorities to form the GMCA had meant that some of the power had been drawn up and away from the more local level of individual authorities and that this could risk weakening relationships between local authorities and the voluntary sector. The GMCVO welcomed the leadership programme run by the GMCA and were keen to see an increase in the number of places offered to voluntary sector representatives.

The Committee heard that devolution in Greater Manchester was still at an early stage. The GMCVO said that they were hopeful that it might bring more funding into the area, and give the region a chance to pursue distinctive policies. They said that the voluntary sector was keen to contribute to a place-based approach.

The Committee asked the GMCVO representatives what they would recommend to help sustain the charity sector on a national level. GMCVO Chief Executive Alex Whinnom responded in writing after the meeting:

> "We've had a discussion and agree what we want most is for government and politicians to encourage all government departments, local authorities and other public bodies to promote and support small grants and grant programmes for small charities.
>
> "This is a huge issue because so often a grant is the most efficient and effective way to commission an outcome, or to invest in the long term work of a small organisation. Investing in small organisations is in turn often the best and best value way to achieve the outcome and can bring immense added value as well. Yet there is a seemingly unstoppable fashion for intricate tendering and contracting exercises, at larger and larger scales with little consideration given to other commissioning options. This trend is leading to more resources being concentrated in the hands of fewer whilst small charities are still bearing the brunt of increasing need in communities.
>
> "If we had a second bite at the cherry it would be for government and politicians to encourage the public to donate more to the small charities on your doorstep … a shift of only a few percent in public giving in favour of small charities would have an enormous positive impact. It isn't enough to promote online schemes like Just Giving and so on—smaller organisations can struggle to use them. We need awareness raising that small charities are good deserving causes which can easily be found through local infrastructure organisations and can make a little money go a very long way."

Roundtable discussion in Manchester

The Committee met with:

- Julie Asumu (Chrysalis Family Centre), Andrew Beeput (Bond Board), Vivien Carter (Rochdale Connections Trust), Ed Cox (Levenshulme Inspire), Lynn Kelly (Partners of Prisoners), Amelia Lee (The Proud Trust), Lisa Mok (Wai Yin Society), Sinead O'Connor (Manchester Mind), Mohammed Sarwar (Multicultural Arts and Media Centre), Andrew Smyth (Oasis Hub), Christie Spurling (N-Gage), and Nick Taylor (Tim Barry Jonathan Ball Foundation for Peace).

The discussion took place in a roundtable format, with charity representatives divided into small groups to discuss key issues. Three topics were discussed among the groups: innovation, the advice and support available to charities, and funding challenges.

Innovation

Participants said that charities see innovation as part of their core values, but that there needed to be a stronger national infrastructure to help them innovate.

The Committee heard that charities felt under pressure to demonstrate innovation to potential funders in order to secure funding, and to show that they were different from statutory services, rather than in response to the needs of their beneficiaries. The participants suggested that innovation was usually interpreted by funders as managing with fewer resources, rather than improving services. They also said that there were risks associated with innovating to provide services free at the point of delivery, as replacing paid services could result in a loss of funding.

Participants said that innovation should involve service users and that it should be treated as a journey, with services developed over time in partnership with users.

The Committee also heard that BAME charities in Manchester were particularly focused on innovation. An example was given of one charity's work on dementia needs in south-Asian communities, undertaken in partnership with the Alzheimer's Society.

Advice and support

The Committee was told that much of the advice and support available was government-funded through large providers, and that this was not necessarily helpful, as national advice and support schemes did not always work for small charities. The participants suggested that it would be better if such schemes were delivered through GMCVO and their equivalents elsewhere. They said that not all small charities had the capacity to engage with national-level services and that neighbourhood-based training, which was of greater value, was often under-resourced.

The Committee heard that charities were keen to develop expertise, but limited resources meant that it was hard for them to access training. Some participants said that banks had assisted local charities with funding for structured management training.

The participants said that they were unlikely to go to the Charity Commission for advice. They said that the Commission had some good policy documents and other supporting material on its website, but that support from its helpline was limited.

Funding

The Committee was told that there had been disproportionate public sector cuts to cities like Greater Manchester, and Payment by Results contracts were having a big impact on some third sector organisations. The participants suggested that the sector would have been hit even harder, were it not for the contribution of the Big Lottery Fund, which offered longer-term funding and supported training and development for charities. They noted that one-year funding was the norm elsewhere, often with very short notice as to whether funding would be renewed or not, which made it hard for charities to plan and give staff certainty about their employment.

The Committee heard that there were unrealistic expectations from funders about the work that charities could do for free and that commissioners were often unwilling to cover charities' core costs. Participants also said that there was a tendency among commissioners to use the highly-detailed EU tendering and procurement rules even for small amounts of money, which was a significant burden for charities.

Participants said that charities were used as "bid candy" by larger contractors that sought charities' knowledge of issues, and incorporated them into their bids to help win contracts, but then did not use the charities to actually deliver the services that they won. Alternatively, small charities would be offered subcontracted work on unsustainable terms and would therefore be unable to participate.

A number of participants said they had sought and secured funding from EU sources as UK public funding had decreased. They said that the likely removal of EU funding as a result of Brexit meant that a safety net was disappearing.

The Committee was told that it would be good to have more funders for unpopular causes. Participants said that there were significant areas of unmet need and wider social problems that the charity sector could seek to address if funding was available.

Participants said that social investment was not an option for many charities, as it often required unrealistically high rates of return.

APPENDIX 7: NOTE OF ROUNDTABLE DISCUSSION IN WESTMINSTER

As part of its inquiry, the Committee held a roundtable event on 23 November 2016 in the Palace of Westminster with representatives of a range of small charities.

The following Members took part in the roundtable:

Baroness Barker, Lord Bichard, Lord Foulkes of Cumnock, Lord Harries of Pentregarth, Lord Lupton, Baroness Pitkeathley, Lord Rooker and Baroness Scott of Needham Market.

They were accompanied by the following House of Lords staff: Matt Korris (Clerk), Simon Keal (Policy Analyst), and Gabrielle Longdin (Committee Assistant). Also attending were Rosie Chapman (Specialist Adviser) and Natasha Hallet and Tara Jane Kerpens Lee from the Houses of Parliament Outreach and Engagement team.

The Committee met with:

- Filsan Ali (Midaye Somali Development Network), Keith Appleyard (Fiveways Playcentre), Nathalie Bristow (Koestler Trust) Rob Burton (Disablement Association Hillingdon), Erica Davies (Ragged School Museum), Barbara Drozdowicz (East European Resource Centre), Katy Emck (Fine Cell Work), Declan Flynn (Bench Outreach), Paul Garayo (Stitches in Time), Ruth LeSirge (Association of Chairs), Lesley Michaelis (Home-Start Slough), Stacy Smith (Her Centre), Denise Parnell (Feltham Community Chaplaincy Trust), Steven Platts (Glass Door), Alison Radevsky (Wiltshire Community Foundation), Liz Ranger (Home-Start Lambeth), David Ray (The Racehorse Sanctuary), Nic Smith (Cassandra Learning Centre), Flora Taylor (Family Friends), Robert Wilkinson (Hope 4 Havering). A representative of the Small Charities Coalition was also present (Kathryn Dingle).

Introduction

The Chairman introduced the roundtable event, explaining to participants the purpose of the inquiry and the format for the session.

The participants were split into three random groups and were joined by two or three Members of the Committee. Each group was asked to discuss questions covering three themes and then to feed back to the rest of the participants. The three key themes for discussion were funding and accountability, support and training, and governance and trustees. The following reflects the points made by participants in the discussions.

Funding and accountability

There was discussion among participants about the wide variety of funding sources that charities rely upon. The Committee heard from small charities whose funding sources included personal donations, endowments, short-term grants, and commissioned work. One participant had set up a Community Interest Company (CIC) with other charities, with support from the Clinical Commissioning Group (CCG). It was noted that fundraising could sometimes be a risky activity in the context of limited resources because it was not always clear which activities would pay off.

The Committee was told that commissioning was at times too restrictive and often based on rolling annual funding, which made it hard for charities to plan ahead and be sustainable. Decisions on commissioning were also often awarded to the lowest bidder, with no assessment of quality. Commissioning decisions often meant that local experience and input was lost when local organisations were outbid by larger external organisations. Where this happened, local 'organic' networks may disappear in the lifetime of the contract. Commissioning had become 'commoditised' and the level of reporting required could be excessive. Payment by Results contracts were about securing 'quick wins' rather than the interests of individuals.

A participant highlighted that, in many cases, individual donations amounted to a small percentage of a charity's funding and suggested that tax changes could encourage further donations.

The Committee heard about changes in funders' requirements, with the need to measure the impact of charities' work being more prominent. This was largely seen as a good thing, however the Committee was told that it was often difficult for charities to demonstrate impact and outcomes for a number of reasons. In particular, it could be challenging for some charities to demonstrate impact and outcomes in the short term, when success might need to be measured over a longer period of time, for example five or ten years.

The Committee was told that charities with limited resources were disadvantaged when it came to funding, particularly when applying for commissioned work. Small charities with less unrestricted funding found it harder to apply and there was risk involved in investing time, effort and money into applications. Small charities also found it difficult to compete on costs with larger charities when bidding. The Committee heard that more recognition was needed for core costs funding. Small charities needed a secure base of funding and money translated into security. Participants agreed that there was sometimes reliance on in-kind support. With the increasing involvement of charities in service delivery and income generation, a different set of skills were required.

Innovation was another key topic discussed. The Committee heard that small charities were often forced to innovate due to cost pressures and one participant suggested that an innovation fund was needed to support this. The Committee was told that funders would ask for innovation and, as a result, charities were incorporating this into their bids to increase their chances of success, even though innovation was not always necessary. It was emphasised that smaller charities had the capacity to innovate and were often at the forefront of innovation, and that it should not be seen as a separate activity from the core functions of a charity.

Support and training

The Committee heard that support from the Charity Commission was limited and that they were considered a regulator, not an enabler. Whilst it was recognised that some of the guidance provided by the Charity Commission was helpful, in relation to compliance issues and information for trustees, the website was difficult to navigate, they often took a 'one size fits all' approach, and there was nervousness about contacting the Commission for support in case this impacted negatively on the charity. It was commented that Charity Commission advice was often more helpful for trustees than for staff.

Participants explained that limited resources amongst small charities meant that it was difficult to set aside money for training, which was both time-consuming and costly. The Committee was told that small charities struggled to receive specialist, professional, expert advice because of their limited budget, yet small charities were often being unfairly held to the same standards as large charities and businesses. A participant also explained that relying on support from Councils for Voluntary Service (CVSs) and membership organisations such as the National Council for Voluntary Organisations (NCVO) was challenging, because they themselves were dealing with similar issues that the small charities seeking advice were struggling with. It was argued that while the likes of NCVO and Association of Chief Executives of Voluntary Organisations (ACEVO) were useful, there could be a more systematic support structure, particularly given the reliance of government on charities to provide services. A 'trade organisation' was needed rather than an umbrella group.

It was noted that while London had a relatively good support network, this was not the case elsewhere in the country. CVS support was also patchy. There was agreement that specific advice was extremely costly, for example support for human resources-related issues.

The Committee heard that even when resources were available for training, there were very few options to choose from, with many training schemes no longer being provided. Participants highlighted that the London network of Home-Starts had been useful, but Home-Start UK no longer provided the training offered previously and CVS support was limited to start-ups only.

The Committee was told that finance, legal, marketing and digital were all important areas where support and training were needed and that financial support for boards and chairs was equally absent. High quality finance and IT support was necessary but not always available at short notice. A number of *pro bono* organisations were acknowledged as providing support, including Pilotlight and Lloyds Bank Foundation. Lloyds in particular was generous with mentoring opportunities such as matching with bank managers. A participant suggested that an umbrella body for training and support should be set up to tackle the issue.

Governance and trustees

The Committee heard that trustees often remained in post for long periods of time, which could lead to complacency and a lack of new ideas. There was agreement amongst some participants that having a limit on the time trustees could serve would be beneficial. One participant suggested that there should be fixed terms of two or three years and that trustees should serve for a maximum of two terms, unless under exceptional circumstances where re-appointment was acceptable. One participant explained the innovative approach they had taken to their board of trustees, with the role of Chairman on rotation.

The Committee heard that it was sometimes difficult to find suitable trustees and that interest in becoming a trustee was often lacking. The average age of trustees was relatively high. Many participants agreed that the DBS checks were time-consuming and demanding, with over 20 pages to complete, which put people off considering the role. There was also agreement that it was difficult to encourage younger people to consider taking on a trustee role, not least because they lacked the time to do so. Interest could be improved by demonstrating the value and benefit of taking on such a role, in terms of future career prospects. One participant felt that the risk of having younger trustees was that they did not tend to have built up the skills, experience and contacts needed for the role.

The Committee heard that training and development of trustees needed to be improved. In many cases, trustees did not get an induction and there was reluctance to invest in trustee and chair development because it was not considered 'frontline' spending for the charity. In some cases, trustees were unaware of what their responsibilities were, and were more interested in their cause than in governance, which imposed limits on what they were willing to do. A participant noted that smaller charities were dependent on their trustees being very involved, but that often when a charity developed and grew, longstanding trustees struggled to adapt to the changes. The Committee heard that skills audits might be beneficial to identify areas for improvement.

APPENDIX 8: NOTE OF ROUNDTABLE DISCUSSION IN CARDIFF

As part of its inquiry, the Committee held a roundtable event on 30 November 2016 in Cardiff with representatives of a range of small charities.

The following Members took part in the visit:

Baroness Gale, Lord Harries of Pentregarth, Baroness Pitkeathley and Lord Rooker.

They were accompanied by the following House of Lords staff: Matt Korris (Clerk) and Simon Keal (Policy Analyst)

The Committee met with:

- Sam Austin (Llamau), Joel Beswick (Cathays Community Centre), Martin Blakebrough (Kaleidoscope Project), Kelvin Davies (People in Pain), Sian Donovan (Cardiff Pedal Power), Ria Eccleshare (People in Pain), Gerry Hill (Hire a Hero), Ashley Lister (Grangetown Community Action), Rebecca Pearce (Headway Cardiff), Reynette Roberts (Oasis Cardiff), Sarah Thomas (Children in Wales), and Sybil Williams MBE (Cardiff Pedal Power).

Introduction

The Chairman introduced the roundtable event, explaining to participants the purpose of the inquiry and the format for the session.

The participants were asked to discuss questions covering three themes: funding and accountability, volunteers and support, and governance and trustees.

Funding

There was discussion among the participants about the funding challenges many of them experienced. The Committee was told that the increasing role of charities in service delivery meant that they often found themselves in competition with each other, particularly when bidding for grants or contracts. Participants observed that the demand for the work of charities was going up, while money was going down—for example, some charity contracts did not cover the National Living Wage, core costs or pension costs.

Participants noted that short contracts for service delivery work made longer-term planning difficult for charities and that tendering for larger contracts limited the opportunity of charities to bid. They also said that public sector contracts were often accompanied by fixed delivery targets—in some cases with a duration of as little as 12 weeks—which were unrealistic for measuring meaningful outcomes when helping people in difficult circumstances.

The Committee heard that the requirements of commissioned work meant that charities were required to act in a more business-like manner. Participants said that some commissioners put pressure on charities to 'toe the line' in relation to advocacy and to avoid making controversial statements.

Attendees also discussed other sources of funding, such as corporate fundraising and the European Social Fund (ESF), and expressed concerns about the future of ESF funding after the UK left the European Union.

The Committee was told that the Welsh government had a compact with charities and that the relationship between government and charities was stronger in Wales than elsewhere as it was easier to get access to decision-makers. Participants said that the quality of consultation varied across local authorities, with some better at listening than others.

Volunteering, training and support

The Committee heard that volunteering was not cost-free, as volunteers had to be organised and co-ordinated. Participants said that in some cases, owing to funding restrictions, volunteers were being deployed where previously they would have used paid staff and in situations where beneficiaries would benefit from professional support. They noted that getting involved helped people gain work experience, but that charities needed to be careful about receiving 'unwilling' volunteers being sent to them by job centres.

Participants said that the Charity Commission was perceived to be overstretched and struggling to oversee, let alone support, charities. Some took the view that Wales would benefit from a separate Charity Commission as devolved services were seen to be more effective.

The Committee heard that participants had received support and training opportunities, as well as finance, from the Big Lottery Fund, Lloyds Bank Foundation and Cardiff Third Sector Council.

Trusteeship

The Committee heard that charities found it difficult to recruit a diverse group of trustees. Participants said that there was scope for charities to be more proactive in recruiting trustees from a variety of backgrounds and with different skills. Concerns were expressed about the independence of charity boards in cases where the chief executive officer had effectively recruited most or all the trustees.

Participants said that there could be a complex relationship between trustees and staff members, especially in small charities. In some cases, staff could end up managing the board, raising questions of independence. It was suggested that negative coverage had 'frightened' some trustees, and that they had become risk averse, although others said that trustees could also intervene too frequently in day-to-day management.

Attendees suggested that one way to recruit new trustees might be to set a time limit for their service at the outset, so they knew they would not be expected to make an ongoing commitment. This would also reduce the likelihood of multiple trustees leaving simultaneously. Some participants suggested that paying some trustees might reduce charities' dependence on retired people to fill the roles.

Group discussion

Following the discussion on the above themes, the Chairman invited attendees to divide into two groups to discuss their ideas for key recommendations that the Committee might make in relation to its inquiry.

The groups noted that:

- contracts were often unsuitable for small charities, because they required hours of work and resources they did not have, and often required the charity to provide services across Wales rather than in specific localities;
- the 'tailoring' of services, with specified and detailed delivery requirements, narrowed opportunities for charities to become involved in service delivery,

and that charities were often required to 'massage the aims of their organisation' in order to win bids for contracts.

The participants recommended that:

- rolling one-year funding arrangements should be abolished;
- there should be greater recognition of and provision for covering 'backroom' costs, such as services and overheads in funding agreements;
- local government should focus on maintaining existing services rather than providing new ones.

APPENDIX 9: ACRONYMS

ACEVO	Association of Chief Executives of Voluntary Organisations
BAME	Black, Asian, and minority ethnic
CCNI	Charity Commission for Northern Ireland
CIF	Community Initiatives Fund
CIO	Charitable Incorporated Organisation
CVSs	Council for Voluntary Service / Council for the Voluntary Sector / Centre for the Voluntary Sector / Community Voluntary Services
DCLG	Department for Communities and Local Government
DCMS	Department for Culture, Media and Sport
DWP	Department for Work and Pensions
ESF	European Social Fund
ESIF	European Structural and Investment Funds
FRSB	Fundraising Standards Board
GMCA	Greater Manchester Combined Authority
GMCVO	Greater Manchester Centre for Voluntary Organisation
HMRC	Her Majesty's Revenue & Customs
IoF	Institute of Fundraising
IVAR	Institute for Voluntary Action Research
MHA	Methodist charity and housing association
NAO	National Audit Office
NAVCA	National Association for Voluntary and Community Action
NCVO	National Council for Voluntary Organisations
NICVA	Northern Ireland Council for Voluntary Action
NLW	National Living Wage
NSPCC	National Society for the Prevention of Cruelty to Children
OCS	Office for Civil Society
OSCR	Office of the Scottish Charity Regulator
PACAC	House of Commons Public Administration and Constitutional Affairs Select Committee
PbR	Payment by Results
PFRA	Public Fundraising Association
RSA	Royal Society of Arts
RSCPA	Royal Society for the Prevention of Cruelty to Animals
SCVO	Scottish Council for Voluntary Organisations
SIBs	Social Impact Bonds

SORP	Statements of Recommended Practice
VAT	Value Added Tax
VONNE	Voluntary Organisations' Network North East
WCVA	Wales Council for Voluntary Action