

# DIRECTORY OF SOCIAL CHANGE

INFORMATION AND TRAINING FOR THE VOLUNTARY SECTOR

DSC response to Charity Commission Strategic Review 2010 – 2015  
survey and stakeholder consultation

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## About the Directory of Social Change

The Directory of Social Change has a vision of a better society through independent voluntary action. We believe that the activities of charities and other voluntary organisations are crucial to the health of our society.

Through our publications, courses and conferences, we come in contact with thousands of organisations each year. The majority are small to medium-sized, rely on volunteers and are constantly struggling to maintain and improve the services they provide.

We are not a membership body. Our public commentary and the policy positions we take are based on clear principles, and are informed by the contact we have with these organisations. We also undertake campaigns on issues that affect them or which evolve out of our research.

We view our role as that of a 'concerned citizen', acting as a champion on behalf of the voluntary sector in its widest sense. We ask critical questions, challenge the prevailing view, and try to promote debate on issues we consider to be important.

## Introduction

The Government's Comprehensive Spending Review confirmed that the Charity Commission's budget would be cut by around one-third over the next four years. The Commission has already effectively had its budget frozen at around £30m since 2005, with no increases to account for inflation. By 2014, its budget is scheduled to reduce to £21.3m.

It will simply not be possible for the Commission to operate in the same way in the future with these reductions to its budget. Following the CSR, the Commission embarked on a consultation process, with a view to developing a new strategic framework to guide its work during the period 2010-2015. The first stage of the review process involved an online consultation, which closed on 14 January, as well as a series of meetings and discussions with key stakeholders.

As the review progresses, outline proposals and further questions for consultation will be published, with the intention of completing the review and implementing the necessary changes from May 2011.

## Response to questions on the Charity Commission's online survey

Below we repeat the questions from the Commission's online survey, and offer DSC's thoughts in response. Many of the questions, particularly the subheadings in Question 5, are not given to straightforward yes or no answers, and we have added further comments and questions accordingly.

### Key questions

- 1. What do you think are the key risks to the impact and effectiveness of the charitable sector over the next 5 years? Indicate all of those which are applicable.**
  - Potential for less help and advice being available from the Commission about complying with legal obligations, especially felt by smaller charities which may lack in-house expertise and may not be able to pay for advice from elsewhere

- Continuing lack of understanding of the true extent and characteristics of the charitable sector in public policy, with negative consequences for policymaking and public understanding
- Increasing confusion about what is charitable activity or what are charitable organisations, as the boundary between what is 'the state' and what is 'civil society' shifts and gets more blurred; potential impact on donor confidence and ability of fundraising charities to set themselves apart
- Crisis situations for charities which are dependent on public sector contracts which are cancelled or put under severe pressure; crises in governance for individual organisations; increasing likelihood of subsidising state provision with charitable funds
- Increasing risk of media scandals, where negative coverage of individual cases is extrapolated in the public mind to all charities or the charity 'brand'

**2. Please rank the risks you have identified in order of a) likelihood and b) impact**

**a) Likelihood:**

- 1) Crisis situations for charities which are dependent on public sector contracts which are cancelled or put under severe pressure; crises in governance for individual organisations with significant exposure; increasing likelihood of subsidising state provision with charitable funds
- 2) Increasing risk of media scandals, where negative coverage of individual cases is extrapolated in the public mind to all charities or the charity 'brand'
- 3) Potential for less help and advice being available from the Commission about complying with legal obligations, especially felt by smaller charities which may lack in-house expertise and may not be able to pay for advice from elsewhere
- 4) Continuing lack of understanding of the true extent and characteristics of the charitable sector in public policy, with negative consequences for government policymaking and public understanding
- 5) Increasing confusion about what is charitable activity or what are charitable organisations, as the boundary between what is 'the state' and what is 'civil society' shifts and gets more blurred; potential impact on donor confidence and ability of fundraising charities to set themselves apart

**b) Impact:**

- 1) Potential for less help and advice being available from the Commission about complying with legal obligations, especially felt by smaller charities which may lack in-house expertise and may not be able to pay for advice from elsewhere
- 2) Continuing lack of understanding of the true extent and characteristics of the charitable sector in public policy, with negative consequences for government policymaking and public understanding

- 3) Increasing confusion about what is charitable activity or what are charitable organisations, as the boundary between what is 'the state' and what is 'civil society' shifts and gets more blurred; potential impact on donor confidence and ability of fundraising charities to set themselves apart
- 4) Crisis situations for charities which are dependent on public sector contracts which are cancelled or put under severe pressure; crises in governance for individual organisations with significant exposure; increasing likelihood of subsidising state provision with charitable funds
- 5) Increasing risk of media scandals, where negative coverage of individual cases is extrapolated in the public mind to all charities or the charity 'brand'

**3. In the light of the key risks you have identified, what are the key expectations you have of the Commission?**

- 1) Retaining and enhancing the public register, using transparency to promote self-regulation and public accountability – continuing to research / gather data to inform the general public, and public policy about charities
- 2) Prioritising support for trusteeship and governance in the Commission's public information and the help and advice it offers, ensuring this remains accessible for small trustee-led charities
- 3) Not charging for advice, information or registration – particularly for small charities which cannot afford to pay, as this would be:
  - a. A disincentive to the civic activism charities represent, which the Government and many others want to encourage
  - b. Subsidising public spending cuts with charitable funds
  - c. Creating a different set of 'consumer expectations' of the Commission, or a different kind of transactional relationship (what kind of service am I getting for my fee?)
- 4) Not putting in place barriers to registration which have the main purpose of reducing the register or the number of charities, in order to reduce costs
- 5) Where possible, work with Government to identify areas of regulation that could be simplified or removed (for example, is there a case for reviewing again the thresholds for submission of information, and what is required at each level?)

**4. Of the expectations you have identified, please rank them in order of priority.**

Ranked as above.

**5. For each of the following pairs of statements, which are you most inclined to agree with?**

(below DSC has highlighted its choice of statement in red, but most of these options are not simple yes or no answers)

**a) *The Commission should protect the reputation of the charitable sector by being rigorous and questioning before accepting registrations***

- this approach only gives assurance at the beginning of a charity's life; would it not ignore that the greater real risk is more likely to lie with the greater number of already established organisations?

- this could also be a disincentive to charitable activity depending on how it was carried out

- rigorous and questioning about what? Purposes? Aims? Whether they have checked to see if others are already doing similar work?

OR

**✓ *The Commission should encourage charitable activity through a light touch registration process***

**b) ✓ *The Commission should rely principally on transparency to meet its regulatory remit (?)***

- promoting transparency to the public such as through the online register is vital; it also draws in direct public involvement / knowledge about a charity's activities; it is crucial however that the information is maintained and comprehensive; i.e. there must not be a long delay between submission of accounts etc and publication online

OR

*The Commission should play a pro-active regulatory role as a deterrent to abuse of charitable status*

- Really this is a false choice? Doesn't the Commission need to do both? Or is the second option even a realistic option, given the spending settlement?

**c) *The Commission should investigate individual organisations only rarely and in cases where large amounts of charitable funds are at risk***

OR – another false choice? What is 'rarely'? The risk of funds based solely on size cannot be the sole determinant. Doesn't it really depend on the severity of the case, and whether it is a proportionate response from the Commission? A small children's charity with no money which employs a known paedophile can still pose a huge risk to the children, the charity, and the general reputation of charity in the public mind.

**✓ *The Commission has a responsibility to investigate any case where there is prima facie evidence of a registered charity breaking charity law***

d) *Charity trustees should be left to make their own decisions on issues such as trustee payments or selling land*

- This is a poor question – we are totally against paying trustees, but the fact is that it's partly a question about the particular charity's own governing document, which must allow it to happen in the first place

OR

**✓** *Proposals by charities, such as selling land or making payments to trustees, should be carefully considered by the Commission and be subject to its approval*

e) **✓** *The Commission should be a key 'enabler' through the regulatory advice it provides to individual charities*

- It's absolutely vital, particularly for tens of thousands of small charities, that the Commission continues to play an enabling role, even if the way it does this has to change.
- However, online guidance is a very important part of this

OR

*The Commission should put its guidance on the website and not give any advice on a one-to-one basis to individual charities*

f) **✓** *The Commission should focus primarily on helping charities to understand the legal requirements and to run themselves effectively*

- Under current financial constraints, there really is no way that the Commission will be able to supervise and enforce compliance across all charities. It must enable them to comply in the first place.

OR

*The Commission should focus primarily on dealing firmly with non-compliance with charity law*

g) **✓** *The Commission should focus on the public information it gives about the charity sector*

- This role is vital not just for charities, but to the public at large, and also for informed public policy. The commission still needs to play a role in educating the public about charities.
- Information provided by others will not necessarily be verifiable, objective, or accountable to the same extent – but that does not mean that further cooperation should be ruled out.

OR

*The Commission should encourage others to do more to provide information to the public*

- To some extent this is still a false choice? Doesn't it need to be both?
- It can work more closely with others, but if this function is 'outsourced', this raises questions about the objectivity, expertise, longevity, accountability of the organisation providing the information

**h)** *The Commission should get involved in investigating only issues or organisations of national significance*

OR

**✓ Issues of significance for local communities should be addressed by the Commission just as actively as issues of national significance**

**6. Is there any other body or bodies that could or should take on functions currently carried out by the Charity Commission?**

- It would depend on which functions
- Surely there is scope for the Commission to work more closely with other organisations, but there is an important distinction between greater collaboration and joint working, and transferring functions to other organisations entirely

## **Further issues discussed at stakeholder meeting between DSC and the Charity Commission**

- **Independence of the voluntary sector and individual charities** - the Commission's role in ensuring it; the future of charities' role in commissioning of public services; public understanding and expectations of what is charitable and what is a taxpayer-funded public service.
- **Role of evidence** – the tendency often is to require more and more, not because it necessarily proves the need for something, but because it insures someone (funders)

against risk, or provides a justification for having made a decision. Increasing requirements to demonstrate evidence of effectiveness or impact have potential to become another bureaucratic drain on core activity.

- **Localism Bill** – especially the proposed right to challenge, right to transparent information
  - There are a number of risks to the proposed ‘right to challenge, namely it could amplify local conflicts between organisations, especially where funding is involved; also it could lead to still more ‘evidence’ or ‘proof’ being required of charities by local authorities simply to have in order to defend their decisions against challenge
  - However, we have broadly supported moves to make information about funding more transparent, as we believe it is important for donors, funders and policymakers to know which causes and organisations get money from which sources.
- **Charging charities** fees for services (or to be registered?)
  - DSC stated that it is adamantly opposed to this, for reasons outlined in 3 above; our survey of nearly 800 newsletter readers showed that 90% of them are opposed to the Commission charging fees to charities
  - DSC also discussed whether there are other ways the Commission could make money, perhaps by making use of the information and resources it has at its disposal in a different way
- **Possibility of a ‘two-tier’ register** for charities, one with a light touch registration, and one with a much higher standard
  - DSC pointed out that charitable registration is a kind of ‘gold standard’ which charities value as an achievement in itself, and as a signifier of integrity or competence to funders, donors etc. It should not be ‘watered down’.
  - There could be potential to look at this in terms of the Commission’s internal processes, or applying a proportional approach to the registration process. For example, more rigorous registration checks and more Commission resources devoted to an application to set up a Foundation with a £1m endowment, versus a small local group with no money.
- **Possibility of requiring more information from charities** in reports and accounts; promoting transparency of this information as a mechanism for better self-regulation, and to increase public involvement in / knowledge about charity behaviour
  - There is potential here but any new information required needs to be proportionate and relevant. The quality of charity reports can and should be improved, but this should focus first and foremost on getting the basics right as a first step.

- It needs to focus on the quality and relevance of information, and avoid building in new bureaucratic systems which are not widely understood and may be expensive to incorporate – for example a requirement to ‘demonstrate impact’ or ‘value for money’ involving complex methodologies or calculations
- Information needs to balance what is useful and informative to the public, with what is feasible, reasonable, and cost-effective for a charity to produce

## Conclusion

As ever, DSC welcomes feedback on the views expressed in this paper and elsewhere from charities and other interested parties. We will continue to seek engagement with the Charity Commission as they develop their new strategy.