DIRECTORY OF SOCIAL CHANGE

INFORMATION AND TRAINING FOR THE VOLUNTARY SECTOR

DSC Response to Trusted and Independent: Giving charity back to charities – Review of the Charities Act 2006

September 2012

Jay Kennedy
Head of Policy
Directory of Social Change
24 Stephenson Way
London
NW1 2DP
www.dsc.org.uk

About the Directory of Social Change

The Directory of Social Change has a vision of an independent voluntary sector at the heart of social change. 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.

DSC's continuing concerns with the policymaking process around the review of the Charities Act

DSC agreed that conducting a review of the Charities Act 2006 after five years was a good idea. We had no objection to Lord Hodgson being appointed to lead the review, as we felt he did an admirable job with the *Unshackling Good Neighbours* report on charity red tape. However, the process of consultation for this review has left much to be desired in a number of ways.

In our original response to the Review in April 2012, and even previously during the evidence-gathering stage, we pointed out the lack of a coherent plan from Government for dealing with the outcomes of this report. There is no evident strategy or road map for assessing and accepting/rejecting these recommendations, and then moving on to some other stage – for example legislation or some kind of implementation plan. Now that the report has been published, there appear to be no deadlines to inform what happens next. Nobody has much idea whether any of this is going anywhere at all – and hence no way to prioritise this report against other equally pressing activities. Without a clearer steer charitable resources are being wasted.

There are also practical problems with most of the 113-odd recommendations in the report itself. In our view many of them are impossible to respond to cogently because the meaning, purpose or justification for them is unclear. Some recommendations aren't really recommendations at all; they are statements of principle or descriptions of activity which already happens.

Still other recommendations are extremely technical and hence difficult to respond to in a shorthand fashion or without detailed context or knowledge. There is a case for taking for example, questions around the legal framework for Social Investment or the Charity Tribunal into a completely separate and informed discussion, resulting in a more focused policy paper.

Finally, since the publication of the report there has been controversy about some of the proposals which are interlocking, or intended to be implemented together. There is no guarantee of that happening – especially given the lack of a clear process moving forward – and a number of recommendations could be damaging if implemented separately. This risk of this happening is greater, again, given the lack of any clear procedure moving forward.

As a matter of urgency, the Government and the Office for Civil Society, need to:

- Set clear deadlines for feedback on the recommendations in this report;
- Clarify that they will accept and welcome feedback from any interested charities and individuals, rather than simply limiting or prioritising feedback from infrastructure organisations or OCS strategic partners;
- Evaluate the legislative programme/schedule for space to implement any recommendations requiring legislation, including potential involvement of the Law Commission
- Develop and publish an implementation plan with realistic timeframes and deadlines, and clear review points.

DSC's response to the recommendations in Trusted and Independent

In his initial response to the publication of Lord Hodgson's report, Minister for Civil Society Nick Hurd suggested that people should organise their feedback on the various recommendations according to a 'traffic light' approach. Broadly, we take this to mean: Red=don't do it, Green=do it, Yellow=caution / requires more work / doesn't make sense, etc.

Below we offer our reaction to all the recommendations, organised under the red / yellow / green traffic light 'system' – which is itself imperfect and open to interpretation. So many of the recommendations are confusing or difficult to agree with in their entirety – which is why we have classed most of them as 'yellow'.

Lord Hodgson Says	DSC says
Charities who fall into the 'large' category set out in Chapter 6 [of +£1m annual income] should have the power to pay their trustees, subject to clear disclosure requirements on the quantum and terms of any remuneration in the individual charity's annual report and accounts.	We completely oppose this recommendation and feel it absolutely should not be taken forward. We believe the overwhelming weight of opinion in the charitable sector supports our position. Trustees should not be paid for performing their role as trustees, because: • There is no evidence that paying trustees improves their performance, recruitment or retention. • There is little support for this proposal in the charitable sector. • Charities need trustees who are there because they care about the cause, not because of personal financial self-interest • It could create a two-tier system of charities, exacerbating existing inequalities between large, well-resourced charities and smaller ones. • Larger charities are already well-placed to recruit the trustees they need. • Paying trustees is likely to complicate, rather than simplify, problems with charity governance. • It might lead to an expectation of payment which would simply add more costs to charitable activity.
The general threshold for compulsory registration should be raised to £25,000 (to match the accounting threshold), with compulsory registration also applicable to all (non-exempt) charities that claim tax relief.	Despite clarifications made since publication of the report, we do not believe this should be introduced: • The text of the report does not clearly specify that voluntary registration below the raised threshold of £25,000 *must* happen in conjunction with proposals to register excepted charities and CIOs • The Commission is unlikely to prioritise voluntary registration if proposals below were implemented simultaneously • The charity number is crucial to fundraising especially from

	grant making trusts • Over time this will result in significant numbers of charities not being required to provide information to the regulator, and hence, in practice to the wider public • This proposal seems to go against the grain of others in the report which promote a more comprehensive register of charities (i.e. below) T
Government should work with the Charity Commission to develop a fair and proportionate system of charging for filing annual returns with the Commission and for the registration of new charities. Any such charges should be set at a level to reflect the activities that they cover. Any funds raised must be accepted by HM Treasury as being an incremental increase in resources available to enable the Commission to carry out its functions more effectively not merely reason to reduce its budget by the same amount.	Charging for registration would raise costs for charities at a time of financial difficulty. It would be a disincentive to voluntary action, and yet another added cost for cash-strapped small organisations and start-ups. Government working with the Commission is unlikely to produce a 'fair and proportionate system' as the reason we are having this policy debate is because of Government budget cuts. The idea that Government / HMT would not look to further reduce the Commission's budget especially if significant revenues were generated is completely fanciful.
Sanctions for late filing of accounts and Annual Returns should include the withdrawal of Gift Aid. Government and the Charity Commission should also give thought to the costs, benefits and logistics of introducing late filing fines.	We do not believe that Lord Hodgson's proposal to remove Gift Aid for late filing of accounts is a good solution or workable, partly because not all organisations will claim Gift Aid, so it is not a universal sanction. Better to look at developing the current system of 'naming and shaming' on the Charity Commission website.
The Charity Commission should continue its work to develop more partnerships with sub-sector umbrella bodies, enabling them to take on a greater role in promoting compliance, developing best practice (including model governing documents) and helping their membership with queries. The Commission should underscore these agreements with Memoranda of Understanding that are published on its website.	Further partnership working in terms of information provision may generally be a good idea but transferral of 'compliance' functions is passing the buck, and risks misadvice and subsequent regulatory pitfalls. It must be clear to charities, the public and Government that the Charity Commission has ultimate authority over, and together with charity trustees, takes responsibility for charity regulation. That authority cannot be fragmented.

	Transferring significant function to membership bodies will incur far greater costs than those saved by the Commission. Those costs would need to be recouped from member charities, and ultimately their donors through higher membership fees. If membership bodies played a compliance or regulatory role, there would be a conflict of interest between the need to bring in membership revenue and any enforcement action against member charities.
The Commission should keep such partnership arrangements under review, and include a section in its annual report about the effectiveness of its partnership working.	See our comments above.
The Charity Commission should be given the power to delegate some or all of its functions to other bodies, where it considers this to be in the interests of good regulation and the overall standard of regulation will be equivalent. In all cases the Commission must both retain its powers to investigate any individual charity and be able to withdraw a co-regulation authorisation at any time.	See our comments above.
The term "principal regulator" should be changed to "coregulator."	This name change would not convey the primary responsibility and authority of the Charity Commission.
All registered charities with an annual income of less than £25,000 should be identified on the Commission's register as "small" alongside their registration number. The intention of this is to improve the public perception that these charities are subject to little proactive regulatory oversight – and alert potential donors to this fact.	This is likely to simply decrease public trust and confidence in 'small' charities with little justification. Again, it would increase costs – e.g. for rebranding. Could lead to a two-tier system of charities. Do larger charities really get better scrutiny from the Commission – and why? Perhaps they actually need it?
Disposals of and mortgages and other charges over charity land should be deregulated and rely on the charity trustees acting under their duty of care following Charity Commission guidance.	This is not in the public interest. Especially while publicly owned assets are being transferred to new charities like leisure trusts created by central and local government to get assets out of the public sector.
The Charity Commission should consider providing a single piece of guidance setting out how it defines each of the charitable purposes and the factors it will consider when applying those	Is more guidance really needed? Is it even possible or desirable to provide precise definitions and interpretations of charitable purposes in a single document? Doesn't that need to be done

definitions to a decide whether an organisation qualifies as charitable. It should also give thought to producing more model objects to supplement this guidance and assist new charities to comply with the law.	partly on a case-by-case basis, in the context of a charity's proposed aims and objectives, and previous case law?
The attention of the Tribunal should be drawn to the important role it has to play in ensuring case law precedents reflect emerging social mores.	We don't see the purpose of this recommendation.
In order to address future public concerns about 'what constitutes a charity,' in practical as opposed to historical-legal terms, the Government should stimulate a widespread sector and public debate on the question.	People already broadly seem to know what a charity is; it is the Government and policymakers who appear most confused – a debate led by them might make matters worse. Leaders in the charitable sector should probably take the lead in driving the debate.
The Charity Commission, as part of its information strategy review, should identify and implement ways of drawing public attention to the public benefit reports of individual charities.	The public benefit reports are kind of meaningless really, and the wrong focus for public attention. It's far more important that donors, volunteers, beneficiaries and other interested parties look at the work of the charity in practice – are they any good? Are they doing what you donated money for them to do?
Charities should recognise the importance of public benefit reporting both to public confidence and their own ability to attract supporters, and take responsibility for complying with reporting requirements, stressing the 'impact' rather than the 'process' of their activities.	What is the problem this is trying to address? Public benefit reporting is a red herring. The fact is most of 'the public' is not interested in reading charity reports and accounts – in fact the majority of people may not even know that they exist and that charities have to supply them to the regulator. Reporting should be improved to be more informative to anyone who is interested, but we doubt it is a key factor in charities 'ability to attract supporters'.
The Charity Commission should instigate a set of key indicators to help identify charities which might be at higher risk of failing to meet their legal obligations and should then take steps to improve organisations' performance or take the necessary action against them.	The intention of the recommendation isn't clear. The Commission already identifies at-risk charities using a number of indicators and then intervenes accordingly. Is this about publishing that process externally somehow? That could turn into an absolute nightmare – both for the individual charities concerned, the Charity Commission, and even the Government.
The Government, through the Civil Society Red Tape Challenge, should consider the totality of the regulation facing charity trustees	Reducing regulation is not an end in itself; regulation should be evaluated to see whether it is needed and whether it works.

with a view to reducing it where possible.	Regulation that affects charities should be reformed, replaced or repealed if it is not appropriate, proportionate or enabling to charitable activity.
The Government, working with business, should produce best practice guidance for employers on what trusteeship is, the benefits for employees, and how to effectively support employees who are trustees to meet the commitments of their role.	If left to Government and business this is unlikely to produce anything of value to charities. Generally speaking, neither has a good understanding of what charities need in terms of volunteers. To be successful it would require input from knowledgeable organisations in the voluntary sector.
The Government should lead the way in demonstrating good practice by encouraging staff to consider trusteeship and enabling them to use volunteering days in this way.	A worthwhile objective, but too vague. How do you implement 'encouraging'? What is the practical effect or outcome that this would seek to achieve? How would you measure that it had been achieved?
Businesses should explore the potential for loaning or seconding staff to charities.	Again, too vague. What businesses? All of them? How? Who tells them to start exploring?
Trusteeship should normally be limited in a charity's constitution to three terms of no more than three years' service each, and the Charity Commission and umbrella bodies should amend their model constitution documents to reflect this. Any charity which does not include this measure in its constitution should be required to explain the reasons for this in its annual report.	What is the precise problem this recommendation is trying to address? So called 'founder syndrome'? Any further changes would require better evidence of the problem and further debate – there are some incredible charities where forcing out long-term trustees based on arbitrary time frames could be damaging. Also, it's unlikely that any benefit would be worth the administrative cost and hassle of amending the governing documents of hundreds of thousands of charities – including potentially sign-off on those changes by the Charity Commission.
Umbrella bodies should, working with the Charity Commission and Government, investigate ways to draw together and promote a centralised portal for trustee vacancies.	Why? A number of portals already exist – adding another would likely be a massive waste of money. Really you don't necessarily want a centralised portal anyway – you want one which gives you opportunities in your local area for causes you're interested in.
The Government should introduce a 'right to know' for all charitable trustees i.e. a right to access any information, within the confines of data protection law, held by the charity that they reasonably judge necessary to discharge their duties effectively.	We doubt that this is necessary, especially to the extent to justify primary legislation. Is there evidence that significant numbers of trustees are unable to access information they need? Would it be used by unreasonable trustees to demand information from charity management that cannot be reasonably obtained? It seems like a license for trustees to get involved in operational details, potentially taking them away from their core role of providing strategic

	oversight.
The Government should consider if and how to widen the types of criminal offences disqualifying individuals from trusteeship, taking into account the need to support rehabilitation of former offenders.	We don't see the purpose of this recommendation. Are trustee boards really being infiltrated by those who have committed criminal offences, and if so, is this not adequately dealt with by current regulations?
The Charity Commission should prioritise its core functions.	We don't see the purpose of this recommendation. The Commission has, and is, prioritising its core functions. It has little choice but to do that because Government has decimated its budget.
The Commission's statutory objectives are sound, but it should focus more tightly on regulation of the sector; not just reactive but proactive regulation, including checking random and riskweighted samples of charity accounts. The Commission should be more proactive in deterring, identifying, disrupting and tackling abuse of charitable status.	Again, we don't see the purpose of this recommendation. This is mostly describing the current situation – but how are they supposed to be 'more proactive' when they have no money?
The Charity Commission's competence is in charity law. It should not be producing guidance on issues that are not concerned with that, unless it provides clarity on an issue that directly impacts on charity law and is published jointly with another organisation that can provide authoritative advice.	It is important not to underestimate the authority that the Charity Commission has in the charitable sector. Clear and authoritative guidance which supports good practice and legal compliance is likely to be more cost effective than dealing with the problems once they have occurred.
The Commission needs to be adequately funded to properly regulate the sector. Some analysis of financial efficiency and requirements needs to be undertaken as reductions in the Charity Commission's budget take place.	The Commission needs adequate resources to carry out its duties, but this should not come from charging charities. Efficiency is the wrong focus, because it simply implies cutting costs. Effectiveness is the thing that should be being looked at, which might mean increasing costs. Current debates are being driven by how to manage cost reductions first, not by what is 'adequate funding to properly regulate the sector', still less 'what is appropriate regulation of the sector'

Consideration should be given to whether the name 'Charity Commission' is sufficiently well-matched to the Commission's role going forward to support public and sector understanding of its role. A change to "Charity Authority" is suggested.	This would be a waste of time and money. The brand already exists and is well recognised in the charitable sector if not by the public. Charity Authority is not an improvement.
The Charity Commission exercises a number of functions and grants a number of permissions that could be moved elsewhere, or removed altogether, to streamline regulation. A list of the functions that could be altered or removed is set out in Appendix A. Where this de-regulation enables charities themselves to make more decisions, there should be a "comply or explain" approach.	We are not able to offer a view at this time, but reserve the right to do so in the future.
The process of lowering the registration threshold for excepted charities should continue, first to £50,000 and then to £25,000, over a period of three years. This three year period should commence once all existing organisations wishing to convert to a Charitable Incorporated Organisation have had two years to do so, to manage the impact on the Charity Commission.	Excepted charities should be registered, but this depends on the Charity Commission being adequately resourced
Voluntary registration should be introduced by bringing s30(3) of the Charities Act 2011 Act into force, once the process of registering excepted charities with an income over £25,000 has been completed and when all existing organisations wishing to convert to a Charitable Incorporated Organisation have had two years to do so. Applications for voluntary registration should only be available online.	We should have had voluntary registration already – the fact that we don't illustrates many of the problems with these recommendations. If the threshold raising proposal is introduced this MUST be included simultaneously, and voluntary registrations MUST have equal priority with CIOs and excepted charities.
All charities which are unregistered should be required to disclose this fact on their correspondence, fundraising materials and cheques.	Even if this were a good idea, it is hard to see how it could even be implemented. How would you a) contact those organisations b) communicate their new responsibilities c) enforce compliance d) pay for it all?
The Office for Civil Society and the Charity Commission should begin discussions with the Homes and Communities Agency about the feasibility of it becoming the principal regulator of charitable social housing providers in England.	If this is going to happen, perhaps we need to consider whether charitable Housing Associations actually require a different legal model altogether.

The requirement to submit accounts and reporting information should be aligned with the registration threshold.	The threshold for submitting accounts and reports should remain unchanged.
All compulsorily registered charities should be required to submit their accounts and Annual Return and they should be publicly available on the Commission website.	Isn't this mostly the case already? With the exception of charities between £5000 and £10,000 not having to submit accounts?
Voluntarily registered charities must submit accounts, for publication on the Commission's website, but must do so electronically. Submissions by charities that are compulsorily registered but have an income below £25,000 per year must also be electronic.	This needs to be done in a way which is still accessible for all charities. Thousands of charities are operated by people who may not have advanced IT skills.
The Summary Information Return should be abolished, subject to the requirement that all the information it provides is available elsewhere in charities accounts and Annual Returns.	The whole point of the SIR was to make information in reports and accounts easier to access. Is it not serving this function? If SIR is abolished we might need something else. Also there may be technical issues for the Commission – does the SIR populate information on the online register? Is it really that much of a burden on charities anyway?
The Charity Commission should continue with its plans to simplify and improve the Charities SORP.	In theory yes, but our understanding is that simplifying and improving the SORP is limited by international accounting regulations over which the Charity Commission has no control
The income level at which charities are required to have their accounts audited should increase from £500,000 to £1 million. The audit threshold for charities with assets valued at £3,260,000 should be removed completely.	The reasoning behind this proposal needs to be much clearer.
The Charity Commission should explore technology-based ways of validating data from the information provided to it in both charities accounts and Annual Return.	Probably, but what does this mean? Are they not doing this already?
All information required to be submitted by charities should be combined into a single document for simplicity. The first page of this should be a list of key risk indicators to help the Commission	The intention of these recommendations isn't clear, nor the precise problem they are meant to solve. The Commission already identifies at-risk charities using a number of indicators and then

identify a sample of charities for further investigation. The completed list should also be published on the charity's register entry to aid public understanding and exercise of judgment.	intervenes accordingly. Is this about publishing that process externally somehow? Designing and implementing such a system in a sensitive way could be practically difficult but also highly problematic for the individual charities concerned, the Charity Commission, and even the Government – and we doubt it would be of much benefit to the public. One could argue that charities SHOULD take risks – but would it really be in the best interests of such charities and their beneficiaries if the first thing in their public record is the category of risk they fall into – judged by a series of universal indicators? There is an important distinction between operating in areas of high-risk (perhaps, for example with offenders), and the soundness of the organisation's systems and processes which are in place to manage or mitigate those risks. If not implemented in a sensitive fashion, this could needlessly label thousands of charities as "risky" for no good reason and cause them major problems fundraising, recruiting trustees etc.
The Commission should be able to continue to offer bespoke legal advice such as the development of specialised schemes, on a cost recovery basis, if it wishes.	We were under the impression that the Charity Commission are precluded from generating any income at all from their activities - is that not the case, or does this recommendation reflect a change in policy?
Schedule 6 to the Charities Act 2011 should be removed and the jurisdiction of the Tribunal reformulated on the face of the legislation as: **a) A right of appeal against any legal decision of the Commission** **b) A right of review of any other decision of the Commission**	We are not able to offer a view at this time, but reserve the right to do so in the future
Those who should have standing before the Tribunal to appeal or seek a review should be **(i) the charity (if it is a body corporate);** **(ii) the charity trustees; (iii) any other person affected by the decision, order, direction, determination or decision not to act, as the case may be.**	We are not able to offer a view at this time, but reserve the right to do so in the future

The Charity Commission and Tribunal should work together to produce and agree guidance as to the scope of the Tribunal's jurisdiction and when a claim can be brought (including interventions by interested parties in reference cases).	We are not able to offer a view at this time, but reserve the right to do so in the future
The time limit for bringing a Tribunal case should be extended to four months.	We are not able to offer a view at this time, but reserve the right to do so in the future
Responsibility for making decisions on appropriate use of funds in specific litigation should be transferred to the Tribunal.	We are not able to offer a view at this time, but reserve the right to do so in the future
The Charity Commission should be given the power to make references to the Tribunal without the need for the Attorney General's permission, provided they notify the Attorney of any references they make and the Attorney retains the right to become a party to the case.	We are not able to offer a view at this time, but reserve the right to do so in the future
The Tribunal should consider whether there are any further ways in which it could use its caseload management powers to simplify proceedings, make them less adversarial and dispose of cases rapidly. Parties should be encouraged to deal with cases without an oral hearing where appropriate.	We are not able to offer a view at this time, but reserve the right to do so in the future
The Tribunal should consider the value of including in each of its judgments a plain English summary of the key points and decisions, to aid understanding of the law.	We are not able to offer a view at this time, but reserve the right to do so in the future
The Government should consider ways in which the Tribunal could be empowered to take account of changing social and economic circumstances as well as case law precedents.	We are not able to offer a view at this time, but reserve the right to do so in the future

The FRSB and sector umbrella bodies, assisted by the Cabinet Office and Charity Commission, need to address the confused self-regulatory landscape, and agree a division of responsibilities which provides clarity and simplicity to the public, and removes duplication. This is a key challenge for the sector, which within six months of the acceptance of this recommendation should work up and agree firm proposals to deliver the next stage of a sector-funded, public-facing, central self-regulatory body covering all aspects of fundraising.	We are not able to offer a view at this time, but reserve the right to do so in the future
The Charity Commission should do more to support self regulation - for example including the FRSB tick logo on member charities' public register pages, asking at registration whether organisations are members of the FRSB, promoting the FRSB in communications to charities, and publicising for the public the FRSB as the complaints handler in relation to fundraising.	We are not able to offer a view at this time, but reserve the right to do so in the future
The FRSB tick logo and branding should be retained. Members of the self-regulatory scheme must use the 'tick' logo on fundraising materials – there should be a "comply or explain" approach to this. Sector umbrella bodies also need to do much more to support and promote the FRSB and self-regulation among their membership.	We are not able to offer a view at this time, but reserve the right to do so in the future
Government, the regulator, umbrella bodies and the FRSB should work together on levers that would promote membership of the FRSB.	We are not able to offer a view at this time, but reserve the right to do so in the future
More should be done to promote the rulings of the FRSB in relation to both members and non-members. Where members persistently fail to meet the standards they should be ejected from the scheme. Where non-members persistently follow poor or illegal practices, the FRSB should develop formal referral mechanisms to the relevant statutory regulators or enforcement agencies including a commitment to take action on such referrals.	We are not able to offer a view at this time, but reserve the right to do so in the future
As it grows, the FRSB should audit its members' compliance,	What is the likelihood that significant numbers of small charities will

moving away from a system that relies on self-certification. New members should be given a transitional or probationary period during which they can develop their compliance with the Codes, but could have complaints judged solely against the Fundraising Promise. Likewise the FRSB should consider how to regulate fundraising by small (<£25,000) member charities, who may struggle to meet all aspects of the IOF's Codes. Instead, small charities should have their complaints assessed only against the Fundraising Promise.	join the FRSB? A greater enforcement / compliance role for the FRSB is a guaranteed way to reduce its membership. So the FRSB should consider how to '*regulate'* small charities? (as opposed to leading a self-regulation scheme? Small changes in language could lead to big consequences…
There should be an initial 'expectation' that all fundraising charities with an income over £1 million ('large' charities) should be members of the FRSB. Over time this expectation should expand to capture more charities. Government should review the progress of the FRSB in another five years' time to determine whether it has made the step change required in terms of coverage, and public awareness. The reserve power for Government to regulate or require membership of the self-regulatory scheme should remain a serious option if self-regulation stalls or fails to make sufficient progress.	Who is doing the expecting? What power would the Government have that it doesn't already have?
Government should work with the Institute of Fundraising, FRSB and other specialists to produce simple guidance on solicitation statements for professional fundraisers and commercial participators.	We are not able to offer a view at this time, but reserve the right to do so in the future
The following key changes need to be made to the rules for licensing public charitable collections, either under existing legislation or new legislation: **a) National guidelines or model regulations should be developed covering (a) eligibility criteria for organisations wishing to apply for a licence, (b) accountability and transparency of collections, (c) the balance between different types and scale of collection, (d) frequency of collections, and (e) conduct of collections;**	We are not able to offer a view at this time, but reserve the right to do so in the future

b) Within this national framework, local authorities should have a significant degree of freedom in determining the frequency and extent of different types of collections, but should not be able to ban a particular fundraising method that is accepted nationally. **c) Local licensing authorities should be able to opt to delegate the management of different types of collections (taking licensing back in-house if problems arose), or continue to manage licensing directly themselves.** **d) Face to face collections should be brought into the licensing regime. However, local licensing authorities should be encouraged to rely on self-regulation of these types of collection by the PFRA.** **e) Collections on private property should remain, as at present, at the discretion of the owner/occupier.** **f) The Government should explore the appetite and options for licensing all types of house to house textile collections to equalise the position between commercial and charitable collections.** **g) National Exemption Orders should be abolished, though provision must be made to allow for collections on recognised 'flag days' and urgent (e.g. disaster) appeals, and thought given on how to minimise the regulatory burden for existing exemption order holders before implementation.** **h) There should be a right of appeal against the refusal of any type of licence to the Charity Tribunal.** **i) In London, consideration should be given to transferring licensing responsibility from the Metropolitan Police to local licensing authorities if there is demand for such a change. A standing committee should be formed to drive forward these changes and monitor progress. Initially this should be chaired by the Cabinet Office and its core membership should include the Charity**	

Commission, FRSB, and Institute of Fundraising. Wider membership should be brought in for public charitable collections.	
A standing committee should be formed to drive forward these changes and monitor progress. Initially this should be chaired by the Cabinet Office and its core membership should include the Charity Commission, FRSB, and Institute of Fundraising. Wider membership should be brought in for public charitable collections.	We are not able to offer a view at this time, but reserve the right to do so in the future
The rules governing investment by charities should be amended to the following effect: **a) As the primary duty on charity trustees is to further the purposes of their charity, trustees are entitled to consider the totality of benefit that an investment is expected to provide, in terms of both financial and social benefit, when making investment decisions;** **b) The term 'investment,' for these purposes, includes any outlay of money where the charity expects some form of financial return, whether or not that is the primary motive for making the outlay;** **c) The other existing principles governing investment in the Trustee Act 2000 should continue to apply.**	It is bizarre that something like 10% of the recommendations in this report relate to Social Investment, an issue which has absolutely no relevance whatsoever to the Charities Act 2006. We doubt whether these proposed changes are necessary, and would question whether they are in the broader public interest or the interest of the vast majority of charities. Any revision of existing legislation around trustees' duties should be approached with care, and must be based on further consultation and a wide spectrum of involvement, not a narrow set of lobbying interests.
The Government should also consider an amendment to the Trustee Act 2000 to draw attention to the distinct responsibilities imposed on the trustees of charitable trusts as opposed to private trusts (i.e. the need to further charitable purposes rather than simply preserve capital).	It is impossible to comment intelligently without knowing what this amendment would be or what it would be trying to achieve.
The Government should introduce a legal power for nonfunctional permanent endowment to be invested in mixed purpose investments, with the requirement that capital levels must be restored within a reasonable period.	We would question whether this is in the broader public interest or the interest of the vast majority of charities.
The Government should work to develop a standard social	We do not see the purpose of this recommendation.

investment vehicle to allow funding from different sources to be invested, and maintained separately, in the same product.	
The private benefit requirement in relation to investment should be reworded to "necessary and proportionate", although the Charity Commission should produce clear guidance on this change to ensure it does not undermine the wider public benefit principle.	Regulations should not be changed in such a way as to allow investors to invest in and own a charity, or for people connected with a charity to benefit financially from any such investments.
The charities SORP should be revised to facilitate the appropriate reporting of social investments. As part of this, the professional accountancy bodies should identify a standard system for valuing social investments; one possibility might be that trustees' valuation is used until a reasonable period of operation has elapsed to allow investments time to demonstrate their merits. The approaches followed in the early years of the private equity industry, which faced similar challenges, might usefully be considered.	We do not see the purpose of this recommendation.
The Government should consider amendment to the Financial Services Bill to provide a statutory and regulatory underpinning to social investment	We do not see the purpose of this recommendation.
Charities should be able to apply to HMRC for a prior clearance on tax treatment ahead of the making of an investment; in time, as the market matures, HMRC should provide clear guidance on the tax treatment of different types of social investment. HMRC should also consider establishing a specialist unit for handling social investment issues.	We do not see the purpose of this recommendation.
The Government should consider ways of revising financial promotion rules to allow social investment advice to be given. Proportionate approaches to promotions requirements for low value deals should also be investigated in order to free up the lower end of the investment market without undermining important consumer protections.	We do not see the purpose of this recommendation.
The FSA should consider establishing a specialist unit to deal with	We do not see the purpose of this recommendation.

the challenges of social investment – for both the investor and the investee.	
The name of the term 'mixed motive investment' should be replaced with 'mixed purpose investment' to provide the general public with a clearer understanding.	The suggested change provides no clearer explanation for the public.
Modify the merger provisions to provide that all bequests shall be treated as a gift to the new, merged or incorporated charity where a Will may otherwise cause a gift to fail if the original charity has ceased to exist. This should include safeguards around the relevance of the new charity's objects to ensure that the intentions of the testator are respectfully considered.	We are not able to offer a view at this time, but reserve the right to do so in the future
Professional advisers should work to identify a standard form of wording for a charitable bequest that can be used easily by Will drafters and members of the public.	We are not able to offer a view at this time, but reserve the right to do so in the future
The Charity Commission and HMRC should revise registration practices to allow newly-incorporated organisations to continue to be registered under their original charity number where there has not been a material change to the organisation's objects.	We are not able to offer a view at this time, but reserve the right to do so in the future
The banking industry should allow charitable organisations that have incorporated or merged to maintain and rename their existing accounts in the name of the new body.	We are not able to offer a view at this time, but reserve the right to do so in the future
The Charity Commission should work with relevant professional bodies to develop this guidance and include specific types of common transaction – including acquisitions as well as disposals.	We are not able to offer a view at this time, but reserve the right to do so in the future
Charitable IPS should be required to either register with the Charity Commission or resign their charitable status.	We are not able to offer a view at this time, but reserve the right to do so in the future
The application of IFRS to charitable organisations should be proportionate and should add no additional burdens to these	We are not able to offer a view at this time, but reserve the right to do so in the future

organisations; the Financial Reporting Council should work with the Charity Commission before and during implementation to ensure this.	
Regulations to allow charitable companies, IPS and Community Interest Companies to covert to CIOs should be expanded to include enabling CIOs to convert into charitable companies.	We are not able to offer a view at this time, but reserve the right to do so in the future
The Charity Commission should work with umbrella bodies and other groups in the sector (e.g. infrastructure organisations) to promote their best practice guidance on trustee recruitment.	Sounds sensible – is this not happening already?
The impact of CIOs should be assessed three years after implementation.	Surely the number of CIOs need to be looked at as well as the 'impact'? If they even exist in three years' time? We have had six years of no CIOs since the Act was passed…
The processes for registering an organisation with the Charity Commission and for tax relief with HMRC should be joined up into a single process. The Charity Commission and HMRC will need to work together to design and implement such a process.	Sounds great – but how is it supposed to happen? And how much will it cost?
Work by Companies House and the Charity Commission to create a single reporting system for charitable companies should continue as a matter of urgency. The potential for joint accounting requirements should also be investigated.	Yes but what does this lead to?
Trustees of all charities should consider reimbursing trustees' expenses, especially if they consider this would result in a wider range of individuals taking on the role.	There is an important distinction to be drawn between paying trustees as a professional role and reimbursement of legitimate expenses, which is good practice. In fact trustees 'should' reimburse expenses rather than 'should consider'. Trustees always have the option of donating any expenses back to the charity.
The Charity Commission, in its drafting of new guidance on public benefit and more widely, should take on board the comments made by the sector regarding the need for a clear distinction between legal requirements and best practice in the text.	Sounds sensible, is the consensus amongst the charitable sector and legal experts that they have they not done this?

Work by Companies House and the Charity Commission to create a single reporting system for charitable companies, as recommended in *Unshackling Good Neighbours*, should continue as a matter of urgency. The potential for joint accounting requirements should also be investigated.	This is a sensible objective but likely to be very difficult to develop and implement.
Individual charities should adopt and publish internal procedures for disputes and complaints. Umbrella bodies are ideally placed to support charities with this by the development of pro-forma procedures and support in their implementation, perhaps even taking on the role of adjudicator for their members.	This is best practice.
The Charity Commission should continue to ensure that the information available about the charities on its register meets public needs and demand and is regularly reviewed to ensure it continues to meet these requirements.	Greater public awareness of the register is needed, and the Commission needs to ensure that the most up-to-date information is provided (e.g. that information from reports and accounts is uploaded quickly) But broadly this already happens – why is it a recommendation?