

DIRECTORY OF SOCIAL CHANGE

INFORMATION AND TRAINING FOR THE VOLUNTARY SECTOR

DSC Response to Labour Party Policy Review Consultation:
'Renewing our Bond with the Third Sector'

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About the Directory of Social Change

The Directory of Social Change (DSC) 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.

About this consultation

The Labour Party has carried out this consultation "to review and strengthen the relationship between Labour and charities, and to hear and understand what their priorities are for after 2015. The consultation asks the third sector's views on seven key issues: volunteering; people in the voluntary sector; supporting charities to grow; charities and procurement; the Big Lottery Fund; charity campaigns; and the Charity Commission."

Below we repeat the consultation questions for reference in italics, followed by some views and recommendations of DSC on the topic.

1. Volunteering

Questions to consider:

- *What are the main barriers to volunteering?*
- *What could a Labour Government do to encourage and support more people to volunteer?*
- *How do we encourage volunteering in areas of deprivation?*
- *How effective is the National Citizen Service? What more could be done to increase its impact and deliver value for money?*
- *What role should schools play in encouraging and supporting young people to volunteer? What role should businesses and the public sector play in encouraging and supporting their staff to volunteer?*
- *What support and protection is needed to ensure volunteers are well supported and do not face unfair treatment or exploitation?*

DSC isn't convinced there is much evidence that central Government campaigns or national volunteering initiatives generally have much effect on increasing volunteering. However, a future Labour Government and governments in general can and should support volunteering. We would recommend:

- **Fund and support (particularly local) volunteering networks or organisations** such as Volunteer Bureaux, which understand how to signpost, advise and recruit volunteers – such funding has been slashed in recent years
- **Ensure far more robust scrutiny of legislation, policy and regulation that increases the bureaucratic burden on voluntary charity trustees** (arguably the single most important type or category of volunteering for the charitable sector (trustees are estimated at around 580,000.¹)
- **Ensure that volunteering and exploration of charity work is part of the National Curriculum**, such as in citizenship, politics or social studies
- **Properly resource the Charity Commission**, so that it can play its essential role in providing accessible advice to charity trustees
- **Continue the ambition to transform the Civil Service into a ‘civic service’** – this idea has merit and could be developed further, both within Whitehall and locally
- **Encourage business to better enable employees to volunteer**, examining how changes to the legal and regulatory context could facilitate that
- **Scrap mandatory work placement schemes which are marketed by Government as volunteering – they aren’t**

2. People

Questions to consider:

- *While development programmes like the Clore Leadership programme exist, what more could government, funders and charities do to develop and grow talent in the sector?*
- *What more can be done to protect and support frontline charity workers?*
- *How can we ensure that the sector is more representative of the population and its beneficiaries?*
- *How do we ensure that more young people from a diverse range of backgrounds can get some work experience in the sector, without having to take on an unpaid internship?*

Being by definition ‘voluntary’ the sector is not likely to be universally representative of society, nor will the concentration of activities, wealth, skills and capacity be equally distributed. This is one reason why the sector does not and should not exist to take over or replace statutory service provision, which traditionally has aimed to provide consistency or ‘universality’ across geographical and demographic differences.

Of course it is important to treat staff fairly and charities have a duty of care to them. However, charitable endeavour isn’t about staff or necessarily even about volunteers – it is about serving beneficiaries. Charities pay staff if they can afford to, but quite often they cannot. Further, even offering unpaid internships or volunteering comes with costs – management, induction, etc.

¹ <http://data.ncvo.org.uk/a/almanac12/how-many-trustees-of-voluntary-organisations-are-there-in-the-uk/>

Ultimately voluntary organisations will always need volunteers. Young people and career changers will also identify charity experience as important in furthering their own careers. One interesting initiative which has potential to improve the picture is the CharityWorks graduate scheme – see www.charity-works.co.uk. However, this service is not free to the charity, so it is likely that only larger and more well-resourced groups will be able to benefit.

3. Supporting Charities to Grow and Thrive

Questions to consider:

- *What more could Government do to support the sector to grow and thrive? Are existing funds aimed at ensuring charities survive in tough times well targeted?*
- *How can Government support small and medium sized charities better?*
- *With the move from Regional Development Agencies to Local Enterprise Partnerships and the loss of council grant officers, what support is needed that is not being provided?*
- *How important are local and regional strategies for the sector? Who should lead them?*
- *How do we avoid the experience of the Big Society, which has left charities in many deprived areas struggling?*
- *Labour is exploring how we might encourage greater lending to deprived areas under provisions modelled on the Community Reinvestment Act in the USA. How might this benefit the voluntary sector?*

3.1 Commissioning

The Labour party needs to begin an urgent programme of work to reverse the damaging, wasteful and ineffective move to bring charities and other voluntary organisations into the public services procurement bureaucracy. This began in earnest under its last period in office and has become even more dysfunctional under the Coalition. Despite years of attempts at reform, the current system remains incompatible with the needs of most charities and voluntary organisations and their beneficiaries – especially small groups.

The ideal of ‘intelligent commissioning’ has been long dreamed of but remains utterly unrealised. Centralised public procurement by remote Whitehall departments has been dysfunctional and wasteful – the Work Programme being a prime example. The message from the centre that ‘contracts = good, grants = bad’, repeated and enforced over more than a decade, have also engrained terrible practice at the local level. There is much work to be done to reverse this trend.

In the near-term, DSC recommends:

- **A cross departmental audit of commissioning by the National Audit Office**, to provide the first account of the full cost of Government procurement bureaucracy – in particular with respect to those services / policy areas where charities have close interests – to establish the scale of waste and the potential savings to be realised by a different policy approach.
- **Ending the practice of increasingly long and unaccountable sub-contracting chains**, by radically devolving budgets to local areas, whether through local authorities or other local funders with expertise in supporting charitable interventions.

- **Routinely publishing all contracts for ‘public services’**, whether with charitable, social enterprise, or private sector providers – unless there are compelling reasons of data protection for beneficiaries / clients. The public has a right to know how its tax revenue is being spent – on whom and for what. ‘Commercial confidentiality’ is not a legitimate reason to preclude transparency carte blanche.
- **Scrapping all ‘payment by results’** contracts for charitable or not-for-profit providers.
- **Capitalising non-statutory local funders and capacity-building organisations**, who are well placed to understand local need, local capacity, and to lever in other sources of financial support (e.g. Community Foundations)
- **Developing and agreeing a ‘Fair Deal on Grants’** for funding charities and voluntary groups – a set of principles, processes and commitments that would guide statutory grant funding to support charitable services (see addendum which contains more detail)

3.2 Charity Commission

The drastic cuts to the Commission’s budget make a mockery of the current Government’s commitment to ‘grow the number of charities’, but the cutbacks began well before 2010. Additional resources to support the Commission’s vital work must be found – without imposing a financial burden on charities themselves (for example fees for registration etc). The next Labour Government should work constructively with the Commission to ensure the provision of:

- **Accessible help and advice for charity trustees, provided directly from the Commission** (not civil society intermediaries) – the Commission should bring back the helpline for charity trustees
- **Clear and accessible guidance on charity law and regulation – in particular access to the helpline which has been removed**
- **Continued investment in and greater promotion and use of the online register of charities**
- **Continued legal reform to rationalise and modernise areas of charity law.**

3.3 Social Finance

The Coalition Government’s fascination with ‘market-esque’ approaches to social policy has resulted in a ridiculous over-supply of social finance, most of it poorly targeted at the very market it is supposed to be serving.

We remain sceptical about social finance generally, and believe that income models based on debt and complex financial tools are simply not suitable to the vast majority of small charities and local groups, which are run by volunteers and without the aim of making a financial return. For them, grant funding is a far more manageable and relevant option. If social finance is to have a broad based and useful role, it needs to be structured and developed much differently – around local needs and more diverse models and products – and be far less influenced by the gravity of Government policy and priorities.

We recommend that the next Labour Government:

- **Transfer funding from social finance budgets and programmes to support grant programmes**, by endowing local or specialist grantmakers in key areas
- **Redirect research and policy effort into alternative social finance models** that may have some relevance to local action, such as community shares (instead of the exaggerated focus on Social Impact Bonds)
- **Review the structure, objectives and efficacy of Big Society Capital**, and consider abolishing it entirely

5. The Big Lottery Fund

Questions to consider:

- *What should the Big Lottery Fund prioritise?*
- *Could more be done to make the BLF accessible to a greater range of charities?*
- *Why is the success rate for applications that ‘mostly benefit’ people from BME communities lower than average, and what should be done to address problems here?*
- *What role could Big Lottery Funding play in empowering communities to make more decisions themselves?*

5.1 Big Lottery Refund

The next Labour Government should:

- **Immediately refund £675m million to the Lottery distributors, including £425m to the Big Lottery Fund**
- **Renegotiate the ‘London Settlement’ to make the Treasury the ‘creditor’ for repayment of the same sum, realised from asset sales on the Olympic Park**
- **Enhance the independence of the Big Lottery Fund**

The last Labour Government repeatedly interfered with the National Lottery – most egregiously in 2007 when it diverted an additional £675m of revenues to support the London Olympics. The next Labour Government should rectify this decision by refunding this money, in full and with interest, to the Big Lottery Fund and other distributors immediately.

The ‘London Settlement’ is a contract between the Government and the Mayor of London which provides that £675m will be repaid to the Lottery distributors from asset sales on the Olympic Park, currently scheduled to take up to 2030. This is designed to reimburse the Lottery’s contribution made in 2007. In effect a kind of lien exists on the assets, in that any revenue generated by their sale must go to the Lottery distributors and the London Legacy Development Corporation.

The new Government should refund the Lottery directly and renegotiate the deal with London so that the Treasury effectively becomes the ‘creditor’ to the London Legacy Development Corporation, as opposed to the Lottery distributors. The Government has repeatedly stated that the current contract will yield the returns over time, so it should have

confidence that the LLDC will repay the amount. Making £675m available to address social need now would be hugely beneficial, and the net effect to the Government balance sheet would merely be transferring cash expenditure to a direct stake in the asset yields.

5.2 Lottery Independence

A new Labour Government should further enhance the Big Lottery Fund's independence by:

- **Making a legally binding commitment not to divert Lottery revenues again in the future**, and to respect the principle of additionality
- **Ending the Coalition's arbitrary 5% cap on administration costs**, which needlessly constrains Big from providing more proactive support to applicants
- **Consider making Big accountable to Parliament, not a Government Department – explore the option of constituting it as a charitable trust, completely independent from government**
- **Enact legislation to remove the Government's power to dictate Big's funding priorities**

6. A Strong Independent Voice

Questions to consider:

- ***Apart from the register of professional lobbyists, what regulations and standards should apply to third party campaigning? Who should enforce them?***
- ***'Gagging clauses' have caused real concern in the sector. How can ensure confidentiality in public service delivery without compromising charities' ability to speak out? Do we need greater protection for whistleblowers?***
- ***How effective is the Compact in upholding charities' right to campaign?***
- ***What additional safeguards would ensure that charities can continue to speak out for their beneficiaries?***

DSC believes the next Labour Government should:

- **Honour its commitment to repeal the Lobbying Act** (Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014)
- **Use that legislation to also exempt charities from the PPERA 2000** (Political Parties, Elections and Referendums Act 2000), which is the real problem behind the Lobbying Act
- **In particular repeal the new definition of 'controlled expenditure' in S.85 PPERA 2000 as amended by S.26(2)(b) of the Lobbying Act as it is much too restrictive**
- **Properly resource the Charity Commission to monitor and enforce existing charity law**, which prohibits charities from partisan political activity, thereby dispensing with wasteful and duplicated regulation by both Electoral and Charity Commissions

- **Ban ‘gagging clauses’ in public service delivery contracts**, unless there are compelling reasons of data protection for individual beneficiaries / clients
- **Routinely publish all contracts for public services** (which would open any such clauses to public scrutiny)
- **Scrap and forbid contractual and grant clauses which seek to prohibit the contractor / grantee from campaigning**, speaking out or advocating on behalf of charity’s beneficiaries

7. The Charity Commission

- *Given the limited resources of the Charity Commission, where should it prioritise its efforts?*
- *The current definition of a charity seeks to reflect the diversity of the sector while providing clarity and reassurance for the public. Does it strike the right balance?*

The Charity Commission is arguably the single most important state institution for the largest number of formally constituted civil society organisations - charities. Despite this, it has seen its budget slashed by almost half in recent years and has spent much of the past few years in turmoil, as internal reorganisations demanded by the cuts has come up against a perfect storm of pressure from politicians and the media.

The current mood in Westminster, the media and some in the charity sector suggests that the Commission needs to abandon its ‘friendly’ role as a supportive and enabling regulator and focus on the hard regulation: investigations, compliance and penalties.

DSC profoundly disagrees with this approach and believes it will prove to be a false economy – and that the Commission’s role in issuing guidance, giving advice, maintaining a publicly accessible register and collecting information are just as important as rooting out the relatively few examples of fraudulent or criminal behaviour.

There is no way to effectively regulate over 160,000 registered charities across vast and complex areas of law without relying on informed self-regulation by trustees and open and accessible public scrutiny. The Commission needs to help well-intentioned trustees to get it right in the first place, rather than waiting until matters become more serious (and expensive) to intervene.

- **Reverse the damaging cuts endangering the Commission’s ability to perform its vital functions** – a new Labour Government needs to work constructively with the Commission to establish what resources it needs to perform its functions effectively
- **Make space in the Parliamentary schedule for another Charities Act**, to potentially include:
 - Outcomes from the charity law review to be undertaken by the Law Commission in 2015
 - Enhancements to the Charity Commission’s powers (as per the 2014 consultation on the Commission’s powers to tackle abuse in charities)