Consultation response: ‘Register of charities: A review of information collected from charities’

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EXECUTIVE SUMMARY

We welcome the Charity Commission's timely review of its information strategy. Our response reflects the views of our membership, with whom we have widely consulted, and is grounded in the need for good regulatory practice, quality data on the sector and an enabling environment for charities free from burdensome or unnecessary requirements.

We recommend that the Commission should:

- Ensure that the register of charities is a simple, easy to use source of data on the sector;
- Explore developments, such as iXBRL through discussion with the sector as well as Companies House and HMRC. Computer –readable data formats have the potential to streamline the reporting and regulatory processes, as well as to open up better quality information and basic analyses to a wider audience;
- Abolish the requirement for charities with an income of over £1 million to submit a Summary Information Return (SIR). The SIR duplicates information reported elsewhere and is not used to the extent that it justifies the requirement;
- Ensure that any additional reporting requirements are absolutely necessary and of benefit to users of the register;
- Include on the register some historic information that gives wider context around individual charities and the sector as a whole. For example, whether an organisation exists as a result of merger or conversion from another legal structure;
- Link to a charity's governing documents as well as its website from its entry on the register;
- Not proceed with proposals to suspend Gift Aid when charities file late;
- Further research the reasons for late filing and fully consult on the proposals for related fines;
- Work with HMRC to develop systems of joint registration and filing. In all cases, charities registered with HMRC should be required to register and file accounts with the Charity Commission;
- Retain thresholds relating to requirements for registration and submission of accounts, Annual Returns and audit but allow easier access to voluntary registration for organisations with an income of below £5000 that wish to register with the Charity Commission;
- Ensure the information it collects continues to be reviewed regularly.

1. About Charity Finance Group

Charity Finance Group is the charity that seeks to raise the standards of financial management in the voluntary sector by championing best practice, campaigning for a better operating environment for charities, providing high quality training and events and challenging regulation which hampers effective use of charitable funds. CFG has more than 2000 members, all senior finance professionals working in the sector and collectively our members are responsible for the management of over £19bn in charitable funds.

2. About our response and input to the review

Charity Finance group (CFG) welcomes this review from the Charity Commission on the information they collect and display from charities. CFG's core aim is to create a better operating environment for charities. This means ensuring a legal, regulatory and fiscal framework which enables charities to manage their operations efficiently, innovatively and with maximum impact.

The Charity Commission as the charity regulator and in its role maintaining the charity register has a hugely significant role to play in increasing the effectiveness of the UK charity sector. We want to ensure that the role charities play in civil society is recognised, supported and respected by Government and the public. Effective regulation and a sector which is deemed transparent and accountable is part of this aim. The quality of the information transfer between the sector and the Commission, and between the Commission and the public is fundamental to maintaining trust in the sector and ensuring this accountability.

It is important that the Commission pro-actively review their information strategy with regularity in order to keep the regulatory process up to date and efficient.

This review also coincides with a review of the Charities Act 2006 by Lord Hodgson of Astley Abbots. A report published in July 2012 outlines his recommendations[1]. We understand that there are some overlaps between the two reviews in terms of those information transfers that are determined or guided by the legal framework. Therefore, some of the points made in this consultation response will repeat those made in our submission to the Charities Act 2006 review. It is important that the Commission works with Government to take account of both reviews if steps are taken that require change in law.

As part of the Charities Act 2006 review and the Charity Commission review of information collected from charities, CFG has participated in a number of discussions with our members, advisors and other charity bodies. This has included:

[1] *'Trusted and Independent: Giving charity back to charities – Review of the Charities Act 2006'* Lord Hodgson, Published by the Cabinet Office 2012

- Roundtable discussions with CFG members and other charity umbrella bodies;
- A series of online surveys with our membership on specific elements of the Charities Act 2006 review. Some of the findings from these surveys are highly relevant to this consultation response;
- A brief consultation with CFG members on specific questions outlined in this review.

3. The purpose of the register

The Charity Commission is responsible for maintaining an up to date register of charities. This provides a reference point for the general public and other stakeholders and confirms whether a charity is fulfilling its legal obligations. The register of charities also provides an essential source of data on the sector and is the most comprehensive view of the range of entities the sector comprises.

Accessibility

Maintaining the register and keeping information up to date is fundamental in demonstrating accountability of the sector, underpinning public trust. However, the existence of the register is only part of this; the public also need to be reassured as to how data is used and interpreted by the Commission. In order that fair assessment can be made of this, it is essential that this information on the register is accessible, easy to understand and to analyse by all. Although the register is relatively clear and accessible, we feel that more could be done to make the data available on charities easier to extract and analyse.

Research

Access to high quality data can have a significant impact on the depth and comprehensiveness of research on the sector and how this evidence base then contributes to strategic decisions made by charities and infrastructure bodies. It therefore supports charities overall to make more of an impact.

Sector-wide data has use for donors and investors as well as providing invaluable benchmarking information for use by charity professionals. More can be done to raise awareness and profile of the register and the type of information that can be found on it.

4. Getting the level of information right

It is important that the level and quality of information provided on the register is balanced with the level that has to be collected and the resulting burden on charities. The Charity Commission currently collects varied information depending upon the size of the entity. This works well to reduce the burden on the smallest organisations while also giving them the benefits which come

from charity registration.

In our submission to the 2012 review of the Charities Act 2006, CFG expressed the general view of our members that the current level of regulation from the Charity Commission is about right. Therefore, we do not wish to advocate a situation where the reporting burden on charities appears to increase without good reason. However, technology offers potential opportunity to collect more high quality data from charities in more efficient ways. This will be discussed in more detail lower down.

5. Dual regulation

The Charities Act 2006 recognised the concept of a 'principle regulator'. There are a number of exempt charities that are able to avoid onerous reporting to the Commission when regulated elsewhere. However, there is a concern that some exemptions and exceptions from registering with the Commission distort information on the sector, and that by missing out some constituencies it is difficult to get a clear representation of the sector by extracting the whole dataset. It is also essential that these organisations are subject to a similar degree of accountability as those registered with the Commission; this should be reviewed regularly.

Improved communication and data sharing between regulators and other relevant bodies such as HMRC could be one way of improving the quality of the full data set, giving a broader picture of the sector.

For many charities registered with the Charity Commission there is a degree of 'dual regulation', or duplication of information reporting. The main example of this comes from those charities registered as a charity with HMRC, and those registered as a company and therefore filing accounts with Companies House. This issue was also highlighted by Lord Hodgson in his 2011 report to the Red Tape Taskforce 'Unshackling Good Neighbours'[2] and again in the Charities Act 2006 review. We would support his view that significant steps should be taken to achieve a single point of registration with HMRC and the Charity Commission, as well as a single point of filing for the Charity Commission and Companies House.

We understand that the Charitable Incorporated Organisation (CIO) is intended to be one way of reducing the frequency of the issue of dual filing. However, there has been a considerable delay in implementing the CIO and it is not clear how easy it will be for charitable companies to transfer to the new structure.

[2] *'Unshackling Good Neighbours – Report on how to cut red tape for small charities, voluntary organisations and social enterprises',* Lord Hodgson, published by the Cabinet Office 2011

6. The future of information reporting by charities

There could be incremental changes made to the reporting requirements for charities registered with the Commission. The answers to the consultation questions set out below will demonstrate that from our perspective much of this should be a matter of streamlining the information already collected.

There is a case for more dramatic change if we consider the whole regulatory system and how technological advances can improve access to information, creating a more joined up approach between regulating bodies. The use of computer-readable data formats offers exciting opportunities not only to extract simple data and basic analyses more easily, but also to link different regulators to one another, removing some dual-reporting.

Charities that are registered for corporation tax purposes now have to submit iXBRL accounts with HMRC. This is a costly burden for these charities. CFG has asked HMRC to review the requirement for this reason. If a greater level of priority was given to reviewing how iXBRL could be used by the relevant reporting bodies, there could be an opportunity for this data to be shared and aggregated, making conversion to iXBRL far more cost-effective. NCVO has discussed this use of data and the potential to increase levels of 'open data' available through these mechanisms in their response to this review.

We recognise there are a number of challenges in utilising this technology and do not advocate rushing to use iXBRL for general filing in the short-term. However, we do recommend that the Commission starts discussion with the sector, and critically with Companies House and HMRC, in the near future so as to realistically explore the potential to use technology to reduce unnecessary burden. A single point of filing would be ideal for many charities as well as extractable data sets that are better linked up.

7. Consultation questions

CFG would like all the points made above to be taken into consideration by the Commission as part of this review. Below we respond to the specific questions set out by the Commission relating to this consultation.

Q1. Is there any other information that we should collect from charities at registration?

It is important that any additional requirements at the point of registration do not have the resulting effect of making it more difficult to set up and register a charity. However, we do feel that in some circumstances historical information would be useful. Please see our response to questions 2 and 3 below.

Q2. Are there additional details about charities that you think it would be helpful to display at the point of registration?

As stated above, where relevant, we feel that historic information about a charity could be useful when it has formed from other entities or has changed structure.

Q3. (a) Would it be helpful to show details of whether the charity was formed from two or more merged charities?

It would be helpful to provide some context around a charity for anyone accessing details on the register such as any mergers that are listed under the entity. We are aware that there is a register of mergers but that there are some legal issues to be resolved with regard to how funds are transferred between the merged entities. It would be useful if any merged charities had links to the records of the original entity or any shell charity so that complex relationships can be easily understood.

Q3. (b) Would it be helpful to show details of whether a new charity has been established because an unincorporated charity has adopted a company structure?

Again we feel that this would provide useful context to anyone accessing the information on the register and should be relatively simple information to portray.

Q4. Do you agree with the idea of providing a link to a charity's governing document on its register entry?

CFG members have been generally supportive of this proposal. We understand that providing this link could present practical complications for the Commission. However, we think this would be a worthwhile introduction as it is an efficient way to provide access to further relevant information on the charity. Knowledge that these documents will be easily accessible through the Commission's register may also encourage charities to regularly review and ensure high quality of their governing documents and to look at how these link with what is being stated in the Annual Report.

Q5. Do you have any comments about the current thresholds either for compulsory registration or the submission of Annual Updates, Annual Returns and Trustee Annual Reports and accounts? Should the thresholds be simplified and if so how?

In order to create an enabling operational environment, it is important that regulation is proportionate. The current thresholds represent a staggering of requirements for organisations of different sizes, which we feel is generally appropriate. This is a view that most CFG members also

take.

However, some smaller organisations in the sector may feel that there is a case for the threshold for full audited accounts to be raised to £1 million rather than £500,000. This point was also picked up by Lord Hodgson in the Charities Act 2006 review. We would recommend that great care is taken by the Commission if exploring this option so as to ensure that the scrutiny applied remains appropriate and that levels of accountability are not compromised. The Association of Charity Independent Examiners (ACIE) and infrastructure networks such as the Community Accountants Networks usually operating out of local CVS bodies will also be able to advise the Commission on this and should be included in any discussions.

CFG would recommend that organisations with an income below £5000 that wish to register with the Charity Commission are able to do so easily. Enabling voluntary registration is also something that Lord Hodgson has recommended; we do not however, support recommendations that this should go in hand with an increase of the compulsory registration threshold to £25,000. It is important not to compromise data on the sector and the number of charities familiar with regulatory obligations, and that we give more charities the opportunity to take the step toward registration.

Q6. Should all charities which claim tax reliefs and tax exemptions be required to register?

As it stands there are significant concerns raised by charities on dual reporting and regulation through the Charity Commission and HMRC. There are instances of fraud within the Gift Aid system and HMRC has set up a number of controls in order to mitigate this. Charities are therefore required to fulfil certain obligations in order to be registered with HMRC.

We are aware that there are difficulties in the transfer of information between the two bodies; this is in part due to the fact that they have very different roles and therefore distinct use for the information. The relationship between Commission and HMRC registration processes could be slightly improved if charities registering with HMRC were required to have a charity number as a minimum. This gives HMRC reassurance that the Commission are carrying out checks and that the charity is filing with the Commission. This also encourages more organisations to register with the Commission, which we feel is beneficial to getting a full picture of the sector and ensuring accountability.

Lord Hodgson has also made a similar recommendation in the Charities Act 2006 review along with an exploration of the possibility of a joint registration process between the Charity Commission and HMRC. This is something we would urge the two bodies work towards in the long term as it would be a positive move towards more streamlined regulation and would greatly simplify the process for small charities.

Q7. Do you think that charities should update these details online as soon as the changes happen, rather than wait to inform us of the changes through the Annual Return?

CFG members have indicated that it is useful to have the option to update information online. However, a requirement to do so could be onerous for some organisations, particularly smaller organisations. Therefore, we feel that this should be optional and that the Annual Return should remain the principle route through which to update information.

Q8. (a) Do you agree with the idea of providing the opportunity for charities to put additional information on their register entry?

Q8. (b) Do you think that the Annual return should include any questions which can be answered voluntarily?

The two questions above will be answered together.

It might be useful for some charities if there were space to add contextual detail. However, we are concerned that optional or voluntary information on the register entry could have negative consequences for the following reasons:

- Many organisations would not wish to use this space but would feel that they had to, seeing it as additional reporting.
- It might not be clear what type of information is to be recorded and so it is likely to highly inconsistent. The register should be clean and simple to understand and optional information risks unnecessary clutter.
- Some organisations will be less equipped to submit optional information as current requirements are already difficult to adhere to. Unfair judgements around transparency could be made by those using the register if optional information is on the record of some charities and not others.
- The information can be found elsewhere; it would be simpler to provide a link to the charity website.

Overall, it would not be recommended to make this opportunity available on the Commission's register. However, as we have alluded to already, links to charity websites and governing documents can provide useful additional context.

Q9. Do you agree with the suggestion that we should explore the option of informing HMRC of late filers so that they can suspend Gift Aid?

CFG strongly opposes the suggestion that late filers should be immediately suspended from accessing Gift Aid. This is a recommendation made by Lord Hodgson in the review of the Charities Act 2006; however, we feel that the surrounding issues are more complex. This would be a very strong punishment if put into effect automatically after one instance of late filing and would

disproportionately affect small organisations or those struggling for resources. We discuss more on sanctions for late filing in answer to questions 10.

There is a case for strengthening the relationship between the information that is held between the Charity Commission and that held by HMRC; requirement for those registering with HMRC to be registered with the Commission would be a good start in this and would strengthen the overall regulatory framework. However, the proposal that Gift Aid could be used to discourage late filing is unworkable given the complexity of the information transfer required to make it fair. It would be far more appropriate for the two bodies to agree to further strengthen existing communications relating to fraudulent activity.

Q10. Do you agree with the suggestion that we should fine charities that are late in filing their accounts?

In discussions with members, CFG has found that 'naming and shaming' does appear to be a significant incentive to file accounts in time. However, results from a survey of our members for the Charities Act 2006 review suggested that a significant number of charities would not object to fines being introduced as a means of compliance, but not as a revenue generating measure for the Commission.

CFG does have a number of concerns with this proposal, some of which are also applicable to question 9:

- There may be complex reasons as to why accounts are not submitted on time, especially when smaller charities are not able to access or pay for support.
- We would query whether the implementation of a system of fines would drive compliance higher or if there are more effective means of achieving a similar outcome (for example, joint communications via sector bodies, direct communications with known late filers).
- Who the fines are paid to and how the funds are used will need careful consideration. There may be conflict of interest considerations for the Commission money recouped was to go towards its own general income. This should be purely a compliance measure;
- There may be the potential for complex questions of trustee liability to be raised if unincorporated charities were fined for late filing.

While not against the idea in principle we feel that it would need greater consultation as to the mechanism before implementation. In any case it would be better if fines for late filing were not automatic, considered on a case by case basis and were more likely if there is a consistent problem.

Q11. Do you agree with the suggestion that we should have incentives for charities that file early?

Suggestions have been made that recognition of early filing through flagging on the register (like the 'naming and shaming' of late filers) could offer incentive. However, we do not see this recognition as fair. Some accounts will inevitably take longer to prepare for reasons outside of the

charity's control. Efforts should be made to improve compliance with existing deadlines.

Q12. Is there anything else that we could do to increase the number of charities that file on time?

There may be potential for the Commission to look beyond the current system of naming and shaming late filers. However, the filing rates are relatively high and are unlikely to be significantly increased despite the fact that implementing new mechanisms such as fines may be very resource intensive for the Commission.

CFG feel that improved communication with charities that are struggling to file on time would be the easiest way to reduce the numbers of late filers at the moment. Research from the Cabinet Office behavioural insights team would provide some useful input in to options which could be trialled by the Commission. They have made some interesting observations as to how the wording of documents and letters can influence compliance.

In the long-term, research into the factors influencing why accounts may be filed late should be prioritised before sanctions are put in place, along with an assessment of approaches already taken by the Commission to increase compliance. Suggestions have been made that pressure from other funders can mean that reporting to the Commission is simply not a priority. It may be that more can be done to demonstrate the importance of submitting their accounts on time for accountability purposes, and that funders have a role to play in this. A better understanding of the underlying issues would support such conclusions and lead to better solutions in the future. The Commission should maximise opportunities to communicate with charities through membership organisations to promote on-time filing.

Q13. Do you think that the current content of the SIR is helpful in informing the public about the work and performance of the larger charities?

The information on the Summary Information Return is useful and clear. However, this information can usually be found elsewhere in the Trustee Annual Report and we would question whether the public make use of this resource over access to the normal register and the charity website.

Q14. Which of the following options for the SIR would you prefer?

(a) Retain the SIR for charities with an income over £1 million
(b) Retain the SIR for charities with an income over £1 million and extend it to charities with an income of £500,000 and above
(c) Discontinue the SIR altogether
(d) Another option (please specify)
(e) Don't know

A large proportion of CFG members report finding the SIR an onerous requirement and that the SIR represents a clear example of unnecessary duplication of reporting. In our submission to the Charities Act 2006 review we stated that we felt the SIR should be discontinued.

As an alternative we believe that the Commission should encourage charities through guidance to set out information in their reports in a way which is clear, simple and easy to understand. Wherever possible we would also encourage charities to make their reports available online and to consider how they are communicating information to their stakeholders. Other guidance, such as the *Principles of Good Impact Reporting*, can lead in supporting charities with this. It would be beneficial for the Charity Commission to signpost to the Principles of Good Impact Reporting as well as other sector wide guidance documents where appropriate.

We would also like to raise the point made earlier in this consultation response around the future possibilities provided by open data. It might be that in the future we can explore technological innovations that present opportunities to be able to pull out a huge range of potentially relevant information and display it in an easy to access way. This would be more beneficial as it would be easier to benchmark and analyse such data and would support overall transparency.

Q15. Which of the following information about a charity do you think is most important?

-Whether the charity has a complaints policy.
-Whether the charity is a member of an umbrella body or national organisation. eg: the Fundraising Standards Board.
-Whether the charity is registered for Gift Aid.
-Whether the charity runs overseas projects, and in which countries.
-Whether the charity sends money overseas to support charitable projects, and in which countries.
-Whether the charity owns or leases any land or buildings.
-Whether any of the charity's land or buildings is required to be used for the charity's purposes.
-The main address of the charity to use for correspondence.

While we understand that there could be a potential benefit in having some of this information presented, there is a concern that much of the information listed above could be taken out of context and may be difficult for some charities to actually measure.

As a membership body we do not feel it appropriate that charities be asked to report on their membership in the way proposed above. There are a number of reasons why we take this position:

- Membership can be for individual professionals and for the organisation as a whole. In the case of CFG, our membership is an individual, where the offering is designed to develop the individual professionally and to benefit the charity more broadly. This is difficult information to portray on the register.
- Membership bodies and networks vary hugely in terms of how they are paid for and their

purpose. It will be difficult to identify whether some networks should be reported or not. It would also be difficult to make an accurate estimate for charities where different teams may are part of membership bodies relating to professional disciplines or service areas.

- Membership to an external organisation may where relevant be referred to in other reports or online.
- This information could be taken out of context without information as to the benefits of these networks to the overall organisation and its aims.
- It is more important that for individual membership bodies lists of members are made available. CFG publishes the names of all member charities and corporate members on our website. We would encourage all membership bodies to be transparent in this way. This would serve as the main reference point should a stakeholder wish to determine whether a charity is a CFG member.

We do think that there may be an argument for the register to list whether or not a charity is a member of the Fundraising Standards Board (FRSB) as this body has a regulatory function. Similarly other bodies with sub-regulatory roles could potentially be listed. It may also be useful for a potential donor to see whether a charity is registered for Gift Aid as this may inform their donation.

CFG feel that more would need to be done to assess the relevance of some of the other information suggested here. Information on whether the charity owns or leases land or buildings could be useful as it would give a much clearer view as to the level of assets held by the sector. However, this could be extremely onerous for some charities to assess especially those operating networks of buildings or community space of some kind or those operating in a number of locations. We are not sure the benefit outweighs this concern.

Whether or not a charity sends money overseas and where it works internationally could be a useful risk indicator and also useful information at a macro level for donors and funders. Lord Hodgson has suggested that the Commission could take some basic risk indicators in order to flag areas for increased scrutiny. Again the benefits to the quality of the data and the risk profile may not outweigh the burden this would place on charities that would need to collate this information.

Q16. Is there any additional information that you would like us to collect and make publicly available?

CFG does feel that links to governing documents and charity websites would provide useful context, as would historic information on the charity such as whether it has emerged from merged structures. We do not feel that the Commission should look to increase the amount of information reported on the register unless necessary. We are aware that Lord Hodgson has made recommendations that the Commission consider putting a small number of questions at the beginning of the return which cover some key risk indicators. We can see that this may be useful in order to identify areas of high risk. However, we would urge the Commission to consider this carefully and to consult with the sector on the content of these indicators in order to ensure that

they are appropriate and do not add additional burden.

Q17. Of the information we currently collect through the Annual Return, is there anything which you think we should stop collecting?

CFG members have not expressed any concern regarding the specific information required on the Annual Return. Some individual respondents and practitioners may have suggestions as to how the Annual Return can be improved.

The SIR is however seen as an unnecessary requirement as it repeats information already provided in the return. We would recommend that the Commission consider removing this requirement.

18. Is it helpful to display information about charities that have been removed from the register?

Information on charities that have been removed from the register is useful as it gives historic context for those organisations and ensures that they can be found following their removal from the register if necessary. Being able to access this also ensures that we have high quality data on how the sector is changing over time and on de-registration of charities generally. Removing this information gives an obscured view of the sector.

About Charity Finance Group

Charity Finance Group is the charity that champions best practice in finance management in the voluntary sector. CFG has more than 1,800 members, all senior finance professionals working in the charity sector and responsible for the management of over £19bn in charitable funds. We works with finance professionals to drive up standards and ensure that every pound given to charity works harder. We also campaign for a better operating environment for charities and challenge regulation which hampers effective use of charity funds.

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