William Shawcross, chair of the Charity Commission (CC)

- Charities have a long history of involvement in public debate, and their advocacy is crucial for democracy. The public know charity is vital to society. It is for trustees to show that charities are worthy of this privileged place in society.

- The CC have a statutory duty to increase public trust and confidence. This has been hit and the leadership of the sector and their regulator need to respond.

- The CC is now more proactive in its regulation. It is good that the Charities Act brought new powers to strengthen the CC’s hand in difficult cases. The CC understands that the sector has concerns about these powers, and will be addressing these in new guidance due soon.

- The CC mainly gets involved to protect beneficiaries or assets, and publish warnings the stop future issues. They don’t have the resources to scrutinise the accounts of every charity, so they have to trust that people will run charities well.

- It is incumbent on trustees to be aware of their charities’ actions and obligations. This needs to be balanced so as not to discourage people from becoming trustees, particularly young people.

- The CC had its budget halved six ago. The only way to ensure adequate and stable funding is to look at financial contributions from larger charities. Whilst charities don’t like this, the commission can’t protect public trust and confidence with their current slim resources.

Paula Sussex, CEO of the Charity Commission

- The CC has focused on protecting charities from abuse and mismanagement. They have improved their working and sped up the way they move on wrongdoing. CC now follow up intelligence and analysis more publically, where they think the sector can take action to avoid the same mistakes.

- It isn’t only about enforcement- the CC has turned attention to enabling effective governance, resources management and tackling financial distress. Streamlining operations is freeing up resources, allowing more resources to be focused on tricky cases.

- There is a need to work more closely with third parties and umbrella organisations like NCVO, to increase reach of guidance. CC currently also developing a new web portal for trustees.

- Previously the CC hasn’t focused much on its registrar function. They are now investing in the quality of the data on the register, to increase transparency and accessibility, as they hold the national source of intelligence on the sector.

- CC has used technology to increase the caseload per person from 50 to 90. Any freed capacity has been needed due to the tremendous strain caused by the growth of registration of CIOs. The CC would welcome a full and open discussion about long term funding.
David Robb, CEO of the Office of the Scottish Charity Regulator (OSCR)

- The CC may use different language, but there isn’t much difference in the substance of the work of the two regulators. OSCR is a registrar first and foremost, and they gain legitimacy and public confidence from the fact that in Scotland they have a totally comprehensive register of charities. OSCR has to be confident in how its decisions will bear on extremely small charities, changing their focus somewhat from the focus of the Charity Commission.

- In its regulatory function OSCR tries to act in a facilitative, preventative and supportive way, making use of the carrot not only the stick. Acceptability of submitted accounts is now up to 80%, allowing OSCR to redirect resources to other areas of risk.

- There is now almost an equilibrium in the number of charities registering and closing each year. Half of applications are now from SCIOs, which make up 10% of all Scottish charities.

- The charity sector has changed swiftly, reflecting changes in society and changes in technology. Society needs to catch up in the way they view and discuss charities. Most people who work with charities see as strange and anachronistic the idea that you can’t be a charity if you pay your staff, but the idea prevails.

- OSCR is somewhat envious of the modernised legislation of the Charity Commission. OSCR would like the Scottish parliament to look at modernising their 2005 Act. Currently OSCR are constrained by data protection legislation as they don’t have a legal duty to publish accounts or information about trustees, changes could be made to increase transparency.

Audience Q&A

Karl Wilding, NCVO asked how charities can be certain that Treasury won’t cut CC funding if they start contributing, and what the minimum income threshold would be.

- WS: Ideally the CC would be completely funded by the sector, which isn’t a bizarre and outlandish idea if you look at other sectors. In the short term CC is looking to raise £5m over two years, to add to Treasury funds, as funding is secure to 2020. If funding was cut again it would be very hard to continue to do an effective job. Changes will be consulted on, but they hope to exempt organisations with less than £25K annual income.

Patrick Murray, NPC asked whether trustees should have to report on impact in their annual report, to encourage maximum organisational impact.

- PS: The role of the regulator only goes so far. They currently highlight great examples of reporting when they see it. The CC suggested to the Lords Select Committee on Charities that they should be able to offer training and advice, perhaps through partners. Whether this is right is for parliament and society to decide.

Sir Peter Bottomley MP asked whether the Commission could promote the number of charities that merge each year, to encourage conversations amongst charities about whether they should merge.

- WS: The Commission encourages merging. If someone has a purpose the CC can’t deny them the right to set up as a charity, that would be wrong, but they can and do highlight relevant existing charities working in a similar field.

- DR: Merging is good, but small can be beautiful, and the public trusts small local charities.
Baroness Pitkeathley highlighted that mergers are not cost free, there are emotional costs and legal fees. Asked whether the CC’s new online portal will facilitate mergers?

- PS: The portal will use our data as intelligently as possible, to allow trustees to engage more intimately with the CC, to be able to see their charity’s data the way the CC sees it.

Baroness Barker asked whether charging will change the relationship between the regulator and the sector, who will expect more accountability. Might this restrict their ability to comment freely?

- WS: Other sectors have independent regulators they pay for. If charities pay wholly or partially for the regulator, it would still need to be independent.

Martin Docherty MP asked whether, as OSCR is modelled on CC, it will need to consider charging.

- DR: Charging isn’t being discussed in Scotland, but if OSCR’s budget was cut 50% it would be. Ireland’s regulator will charge, but they haven’t worked out the model. Charging changes the relationship- as seen with the relationship of large financial organisations and their regulator.

Becca Bunce, Small Charity Coalition asked how to ensure charging doesn’t create a two-tiered system, with less for those who don’t pay in. Small charities already feel like an afterthought.

- PS: CC’s services are being better designed for small charities, who often can’t pay for professional advice but have simpler, quicker queries.

Lord Shinkwin and Baroness Barker asked how whistleblower protections and powers can be enhanced, and whether there will continue to be a confidential phone service for trustees.

- PS: The CC encourages whistleblowing, and have been looking at how caseworkers handle it. If funding can be found there will be a confidential trustee advice line opened.
- Laura Anderson, OSCR: OSCR is only recently listed as a recognised body for whistleblowing. In terms of trustees concerns, OSCR have always been open to charities voicing a proposal.

Baroness Pitkeathley asked how approval of payment of trustees is granted.

- PS: The CC look for specialist skills, needs and timeframe as reasoning. They are agnostic on it, but charities often think it is impossible. For whole-board remuneration there is a high threshold, and requests are scrutinised by a CC sub-board of legal experts.
- DR: OSCR remind people that it is an unusual occurrence, that the number of paid trustees is small. Power to consent payments depends on whether it is allowed in governing documents.

Lord Hodgson suggested trustees should have to give reason if they serve more than three terms.

- WS: A good principle that couldn’t be applied to kitchen-table charities. Failures at major charities have, in part, been because trustees stayed too long

Susan Elan Jones MP asked whether there could be a mechanism created for compassionately winding down ‘in memorial’ charities, allowing them to be closed without admitting defeat.

Michael Scott, solicitor added that there are ways to merge and keep characteristics. Many small charities start for very good reason, and are specialist in some way, and that is of great value.

- PS: CC are supportive of charities that take steps to merge rather than fade out. Families of the Fallen recently did this very well, donating to Scotty’s Little Soldiers, rather than fading out.
Elizabeth Chamberlain, NCVO asked whether the CC envisages challenges when implementing their new powers, such as auto-disqualification of trustees

- WS: CC decisions are challenged at tribunal often. That is expected to continue. The CC don’t expect to use the powers in a great number of instances, but have used one power once already.
- PS: The CC and OCS are keenly aware that they need to get the waiver system for disqualified trustees as right as possible.
- DR: On fundraising regulation, OSCR thinks that it should start and end in the charity. The best way to deal with dissatisfaction is for charities to take complaints seriously and put them right.

About the All-Party Parliamentary Group on Charities and Volunteering

Chairs: Susan Elan Jones MP, Chris White MP, Lord Hodgson of Astley Abbotts, Baroness Pitkeathley
Vice-chairs: Martin Docherty-Hughes MP, Dr Paul Monaghan MP
Treasurer: Lord Shinkwin
NCVO Provide secretariat for the APPG on Charities and Volunteering.
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