

NCVO RESPONSE TO THE CHARITY COMMISSION'S CONSULTATION– ANNUAL RETURN FOR 2017 - INFORMATION COLLECTED FROM CHARITIES

8 March 2017

About NCVO

NCVO champions the voluntary sector and volunteering, to help voluntary organisations and volunteers make the biggest difference they can.

We are inspired and empowered by our 12,500 members, which range from small community groups entirely led by volunteers to large household name charities.

Our work aims to:

- Connect organisations with the people, partners and resources they need to make the biggest difference.
- Represent the voluntary sector and volunteering to government. Using the best research, we demonstrate their true value and help influence policy-makers.
- Support voluntary organisations by generating and identifying the best knowledge and expertise.

Background

We welcome the Charity Commission's (the Commission) consultation on the information collected from charities in the annual return. This presents an important opportunity for the Commission to improve the reliability of data gained from the information provided from the annual return.

We wholly support the Commission's aims to reduce regulatory burden and ensure the requirements related to the annual return are proportionate, as well as the aim to provide a more usable system for charities when updating the fundamental information on the annual return.

It has been a long-standing policy position of NCVO that regulation of charities should be simple and proportionate. We therefore believe that the annual return should be proportionate in terms of the burden placed on individual charities seeking to comply, and to the harm that the regulatory activity seeks to prevent. It is also key that the aims of being simple and proportionate are balanced against the need for greater transparency (both the regulator and charities themselves) and ensuring that the right information is provided and made publicly available.

The proposals in this consultation also present an opportunity for the Commission to improve its collection and use of data. NCVO believes that better collection and use of data makes it possible to:

- promote trust and confidence in the sector through transparency;
- provide an evidence base for areas of strengths and weaknesses in the sector, enabling continual improvement and sharing of good practice, (including innovation in a challenging environment);
- support better relationships and understanding between the Commission and the sector leading to more effective and enabling regulation; and
- to help make charities more accountable for their decisions where things aren't going as well as they could and could be easily avoided.

In developing our response to these proposals, we think that greater clarity would be welcome in relation to the following issues:

- what the Commission considers to be the kind of 'fundamental information' to be updated;
- how this information differs to that required to be reported as part of the serious incident reporting process (and generally how these two systems of informing the Commission of updates interrelate); and
- further practical detail about the questions and their categorisation.

Consultation questions response

Do you agree that the fundamental information about charities should be kept up to date by charities throughout the year so that the charity register is accurate?

In our view, reliable and up-to-date information on the register enables better data analysis which is beneficial for the sector. We therefore support any work of the Commission in communicating with the sector the analysis of the data provided on the annual return. This will facilitate greater understanding of the risks and issues present in the sector at any given time (as opposed to an annual snapshot of the data which can become quickly out of date) and ultimately can enable more effective administration of charities.

We agree in principle that information about charities should be kept up to date in the interests of transparency. However, we would question how frequently charities will be expected to update the fundamental information: the consultation document suggests that this should be done ‘as soon as they can’ but this does not provide clarity about the frequency of the updates. Our concern is that the additional burden on many charities’ already limited resources may not be proportionate to the Commission’s aim of keeping the Commission and the public informed with up-to-date information on the register. In particular, this could be disproportionately burdensome on smaller charities with fewer resources. We have heard that meeting existing requirements is already a challenge for some charities, especially the smallest that rely entirely on volunteers, so perhaps an expectation that information be updated in ‘live’ time is unrealistic.

The consultation document lacks a definition of what information the Commission considers to be ‘fundamental’. Will this be names and addresses (which arguably aren’t very beneficial to the general public) or will this be financial data (which frequently changes and could be onerous for some charities to keep up to date)? Trustees are already required to notify the Commission of serious incidents in a timely manner (including significant financial losses) through the serious incident reporting system. This mechanism already ensures that the Commission is alerted to relevant information to protect charities from abuse.

It is important that the information on the register is accurate so that it can be relied upon as a robust and reliable source. We have some reservations about the reliability of the data that will be provided if there are no mechanisms put in place to ensure that all charities are complying with the same standard. If these proposals are implemented, the Commission will need to introduce new checks/validation processes to ensure that the data provided by charities is up-to-date and accurate. This may require additional resources than those currently deployed by the Commission to audit annual reports by sample checks.

We would also welcome greater clarity in relation to the Commission’s intentions regarding what will happen if a charity fails to provide information ‘as soon as they can’ and whether the Commission has any plans to introduce enforcement methods to ensure compliance.

Do you agree that the questions in the annual return should be structured so that they match the Commission’s regulatory risk priorities?

We are supportive of a proactive risk-based and intelligence-led approach to regulation and recognise the use of matching the groups of questions to the risk framework is an opportunity for the Commission to do this.

We also recognise that better categorisation and up-to-date data from charities should ensure the Commission can better identify emerging risk, which in turn should enable prevention, rather than intervention after things have gone wrong.

However, whilst we are supportive of such an approach we have some queries around the details of the proposed groupings of questions. The consultation document lists the

following themes for focussing the questions in the annual return, intended to match the priority risks identified in the Commission's ['Risk Framework'](#) published in February 2016:

- financial data
- fraud and financial abuse
- public trust and confidence
- safeguarding
- terrorism and extremism

The frequency of review of the framework and the data upon which it is decided are currently unknown.

Financial data, fraud and financial abuse

We would welcome an explanation of how the questions on financial data relate to those that would be considered for assessing risk of fraud and financial abuse. For example, will a charity only be required to answer questions assigned to the fraud and financial abuse group/theme, if they answer in a particular way to the questions included in the financial data group/theme? It would be helpful to understand which charities will be asked, what questions in order to provide a properly informed response to this question.

Public trust and confidence

We believe that, in order for the grouping of questions to be beneficial to the Commission's risk management processes by providing meaningful evidence of actual risk, the categories need to be sufficiently particularised and not too general. On that basis, we are not convinced that it is helpful to have a separate generic category of questions related to 'public trust and confidence'. In our view, all of the information provided in the return provides the public with a clearer picture of the administration of a charity and therefore affects their trust and confidence. Further detail on the type of questions that the Commission intends to include in the public trust and confidence group/theme and whether all charities will be asked these questions would be helpful.

Do you agree that more detailed questions within any theme should be targeted only at charities for which the information is relevant?

The consultation document says that the proposed grouping of questions will enable the Commission to create sets of questions which will only be given to charities for which they are relevant. This would be in keeping with principles of 'right touch' regulation and proportionality.

In principle, we agree that it is sensible to target the annual return questions to the charities for which they are relevant. It is important however to ensure that this doesn't lead to certain groups of charities being disproportionately burdened because of the nature of the charitable activity they undertake. It might raise issues of fairness if particular groups of charities have considerably greater reporting requirements than others. Although we

recognise and agree that in certain instances additional regulatory checks and balances are necessary, for example to safeguard particularly vulnerable beneficiaries or because of the international nature or heightened financial risk of a charity's operations, this should be clearly explained to charities and shouldn't be so onerous that it prevents them from effectively carrying out their charitable activity.

We appreciate that the consultation makes it clear that the questions *will not* be changed at this stage, but that some charities will no longer have to answer questions that they previously did. We would encourage the Commission to carefully consider the implications and potential adverse consequences before changing any questions in future, the answers to which could be made publicly available/contained on the register. Some information can be easily misconstrued if interpreted without a prior in-depth understanding of a particular charity (for example, information relating to the area in which a charity operates).

Additional comments

If the proposals are introduced, we believe that the Commission should take a supportive role in encouraging and enabling a charity to change/improve through guidance and advice where emerging risk has been identified. It must not be seen by charities as an opportunity for the Commission to take punitive measures against them, otherwise it might act as a deterrent against charities being forthcoming with the updates.

The online form is more interactive and intuitive, which is a positive thing. However, we have a concern about how this might work in practice particularly for smaller charities, where the return is mostly completed by non-finance experts. Targeting questions and allowing to skip sections that aren't relevant are a sensible thing to do, but it can be daunting to start filling in a form without knowing what the next step will be.

We therefore recommend that sample forms are provided on the website so that charities know what to expect and can prepare to complete the form. This would allow them to have the relevant information readily available, and would make the process more user-friendly as well as ensuring mistakes are not made.

We would also like to see the Commission provide a list of all the questions that might be asked in advance of a submission to aid preparation. Additionally, charities might find it useful to have a downloadable version of the form made available to them once completed, for their own records.