RESPONSES TO NCVO'S CALL FOR EVIDENCE

We received 51 responses to our call for evidence on our draft Code of Ethics, from 44 organisations (86%) and seven individuals (14%). The call for evidence ran from 4 July to 26 September 2018, but we accepted responses after it formally closed. We also held two workshops – one on 21 September 2018, focusing on the integrity and openness principles, and one on 30 October 2018, focusing on the beneficiaries first principle and the right to be safe.

We received a wide range of comments and suggestions, and the key themes are summarised in this annex. We have separated general comments on the code from comments on individual principles for ease of reference.

Throughout this document, tables refer to the number of written responses rather than comments made in the workshops.

General comments

Role, application and enforcement of the Code

- Many respondents actively welcomed the creation of the code, including workshop participants.
  - *'I found the code both useful and simple and a good guide to support Charities, such as ours, in managing activities of the governing council, staff employed and volunteers in all roles.'*
  - *'We welcome this sector-led response to recent high profile safeguarding incidents, and its broader view of ethical issues and their potential implications. … Voluntary codes set by the sector should promote higher standards than regulators can expect or require.'* (Charity Commission)
- Many felt that there was a lot of overlap with the Charity Governance Code, often suggesting that the latter should be expanded to accommodate additional issues raised in the code of ethics. This was raised in the workshops.
  - *'… there is a huge overlap with the Charity Commission Governance Code, so you will need to be really clear about how this code of ethics adds value and to avoid it confusing matters.'*
  - *'Since it is essential, however, that the values and ethos of a charity are the ultimate responsibility of the Trustees, and a completely integral part of good governance, is there not a strong case for integrating the draft Code of Ethics into the next iteration of the Charity Governance Code?'* (Andrew Purkis)
- Many respondents wanted to know who charities were meant to explain a decision not to adopt the code to, and to whom they should report on its implementation.

- Clarity on the relationship with other guidance, and the nature of the requirements in the code, was a theme several organisations raised.
    - *'Is NCVO satisfied that it has been sufficiently tested in terms of ease of practical application by this broad range of charities? How will this Code be promoted, implemented and its adoption monitored?'* (Charity Commission)
- The role of the code was discussed by some, with a view that the name 'code' was unhelpful – usually because of concerns that the term 'code' implied enforceability. Workshop participants also raised this point.
- The issue of investments was raised by a couple of respondents – though views differed on whether or not they should be expressly covered in the code, and if so how prescriptively. This was also debated by workshop participants.
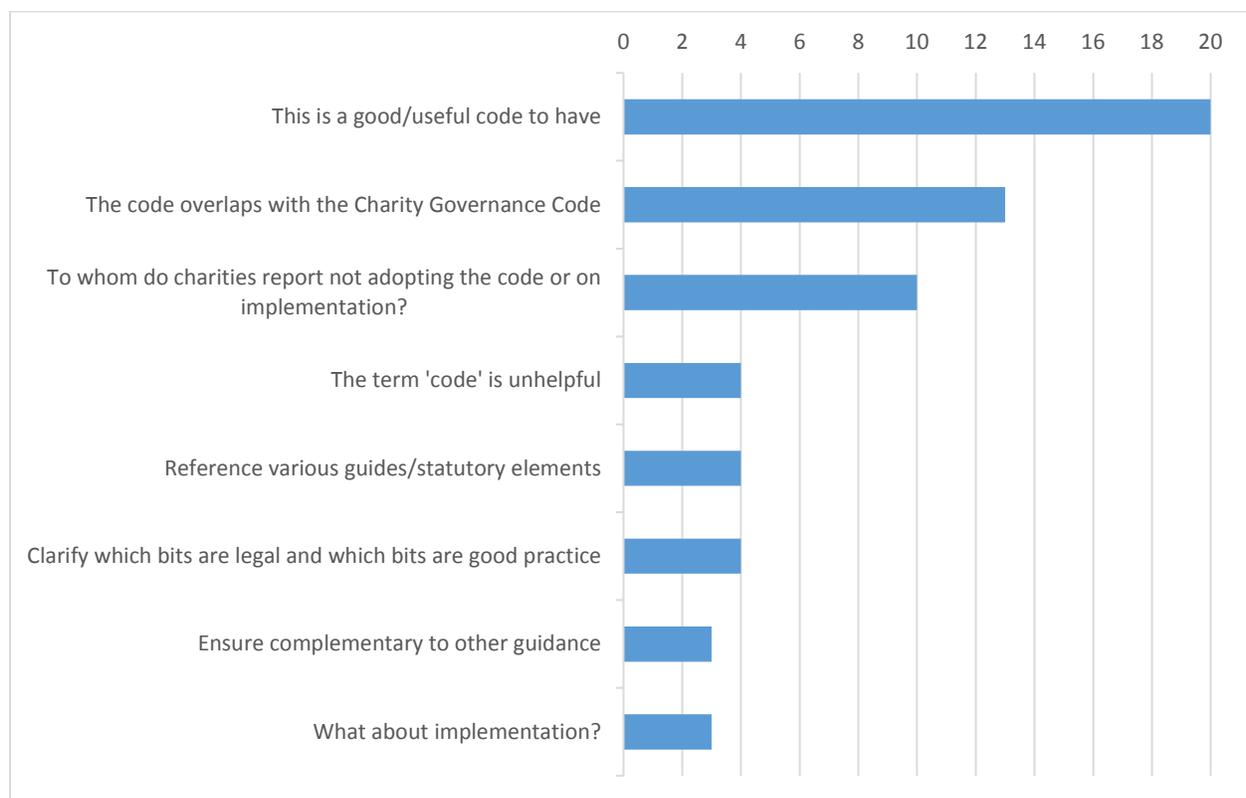
Who and what does the code cover?
- A number of respondents felt that the issue of charity partnerships needed to be addressed in the code – most commonly relating to suppliers and contractors, but also to partnership working more broadly. The question of supply chains was also raised by workshop participants.
    - *'We think partners should be added here as charities should show diligence when procuring services or working in partnership, particularly with reference to safeguarding and also financial arrangements.'*

- A number of respondents raised the question of the code's scope, including community interest societies, community benefit societies and other not-for-profit organisations, and the issue of how widely the code applied.
  - *'The scope and focus of this code may need to be more explicitly defined. The section on Integrity has a broad application and highlights different areas where ethics are a consideration. … The section on openness deals with accountability and transparency in its widest sense. But the sections on Beneficiaries first and Right to be safe, together with the bullet points in the introduction, position the code as being about relationships with people.'* (Charity Commission)
  - *'We suggest it is important to set out in broad terms the main stakeholder categories involved in the delivery of a charity's work, such as staff, volunteers, suppliers, subsidiaries, partners, grant recipients etc. There are several areas in which the approach could usefully extend beyond the charity itself, and some areas where it should not.'*

Structure and additional principles or values
- There were a number of suggestions relating to how to make the code easier to use, focusing on wording, structuring (eg numbering the principles for ease of reference) and including 'follow-on' questions after each principle to help charities consider how to implement them. This was raised by workshop participants too.
  - *'Furthermore, although the Code is full of good principles, there is not much guidance on how some of the aspects of the principles could or should be achieved, and perhaps some further clarity may be helpful.'*
- Some respondents suggested additional standalone principles, such as sustainable working practices, diversity and inclusion and respect.
- Some respondents said that additional values should be explicitly referenced within the code of ethics. The values suggested were: public benefit, charitable independence, moral leadership, labour rights and indigenous rights.
- It was suggested that the wording on conflicting interests might be made clearer.
- Workshop participants raised the point that the differing principles were interconnected and said it was important to consider how they related to each other in any final draft.

Comments on the beneficiaries first principle
- The key theme of the responses to this principle was the scope of its operation. Workshop participants were unsure about the word 'beneficiaries' – some felt it sounded too passive.
- The most common point made was that there was need to emphasise that sometimes other criteria have to override public benefit or the beneficiaries first principle – legal requirements, for instance. Workshop participants also raised this point.
  - *'… in our view this wording is insufficiently strong in emphasising that other legal requirements or interests may in some cases override delivering public benefit. In the context of fundraising, we have some concerns that a "beneficiaries first" approach may have unintended consequences in implying that the end always justifies the means.'* (Fundraising Regulator)

- The phrase 'conflicting interests' attracted some comment; some respondents felt that it was too adversarial and should be framed differently.
- The definition of beneficiaries was also raised: beneficiaries might be non-human, or a charity might be focused on a cause rather than a group of people. Workshop participants said a clear idea of who beneficiaries were was crucial before a charity developed any policy or practice.
- A number of responses suggested that consultation and engagement with both beneficiaries and other groups should form part of this principle. Going further, workshop participants suggested the issue of power – and ensuring power was held by the people charities serve rather than the charitie themselves – could be more clearly addressed.
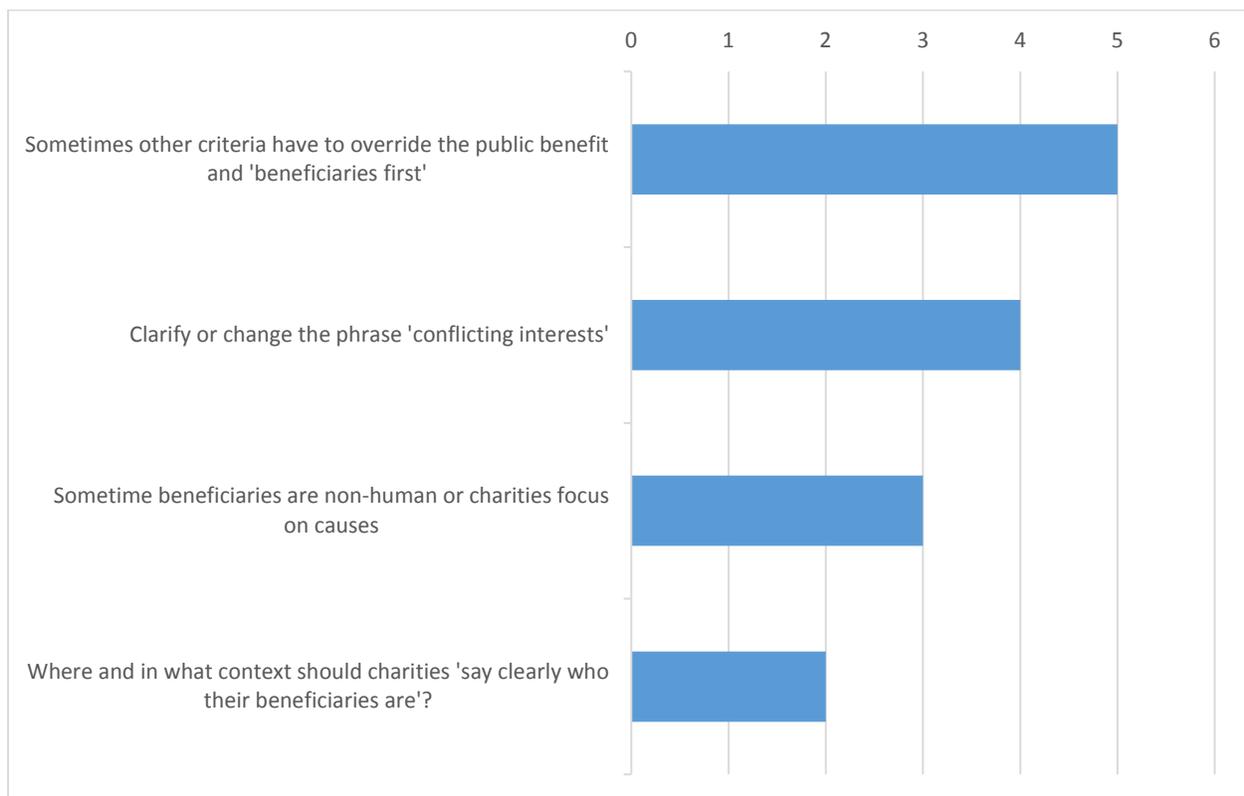
Comments on the integrity principle

- The environmental aspect of the integrity principle was the most commented-on area, mostly with a view to strengthening it within the code. However, some did have some concerns about balancing this with charitable objectives and practicality. These issues were also raised by workshop participants.
    - *'Environmental sustainability is only touched on very lightly in the draft code: we suggest that a separate principle covering 'sustainable working practices', including environmental sustainability would be helpful overall.'*
- Diversity and inclusion was the second most commonly cited point in this area, with most people wanting to strengthen it (including workshop participants, who also asked why equality was not cited within this principle).
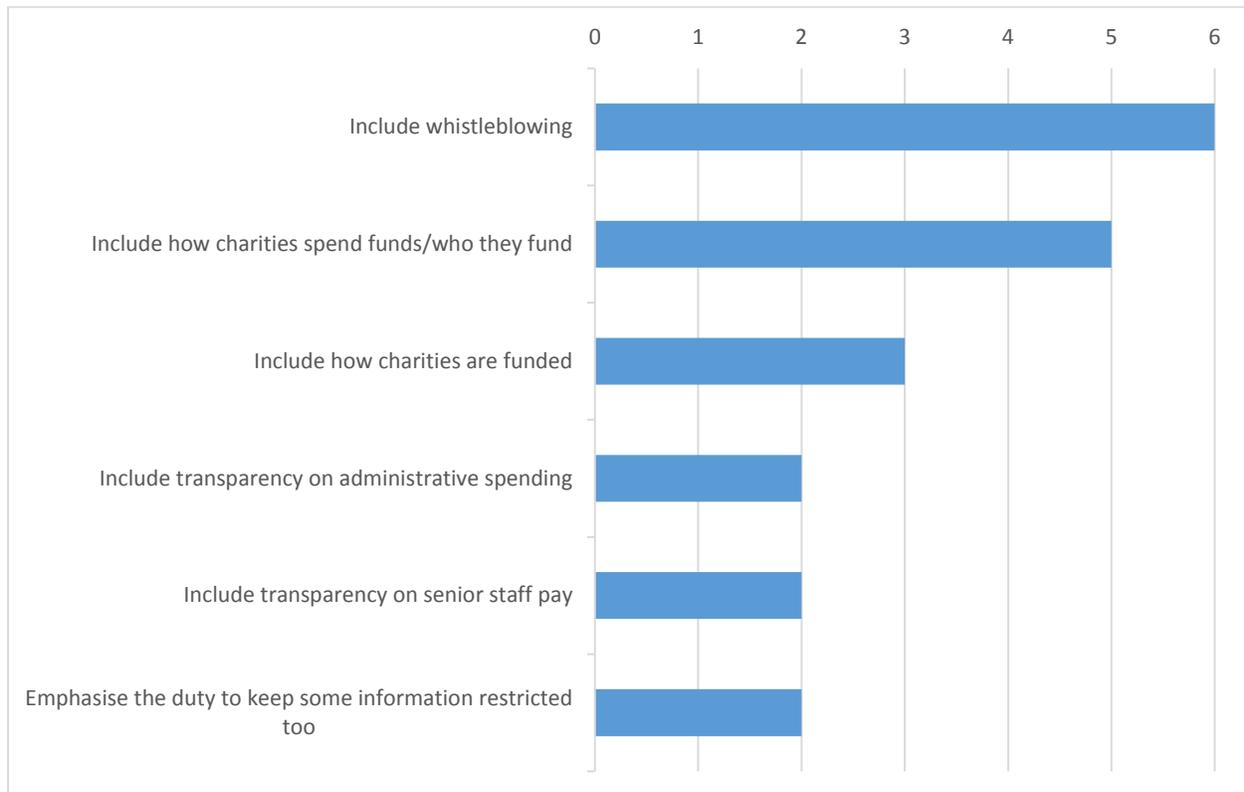
o *'We believe that the Code should make further reference to diversity and inclusion in its principles. … Where charities identify ethical challenges they will be required to identify the most appropriate decision from a wide range of possible solutions. Including people within that process who have diverse lived experience and opinions will undoubtedly assist in creating an environment where everyone feels they can speak up, and could play a significant part in mitigating against ethical failure.'*

- Effectiveness in a charity's pursuit of its charitable objectives was also a recurring theme, including the merits and demerits of merging a charity and reviewing impact.
- Workshop participants emphasised the importance of making sure organisations 'lived and breathed' their values – they had questions about how it would be put into practice.
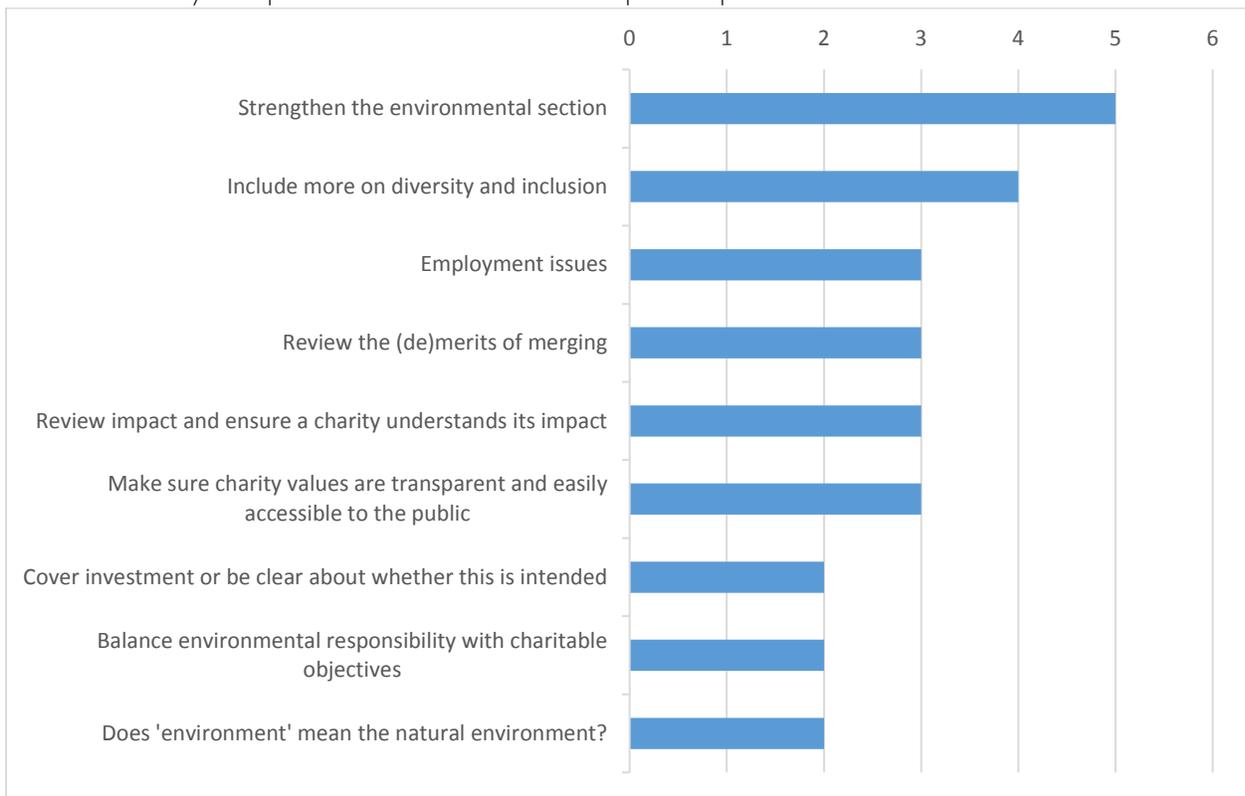
Openness

- Most of the feedback on this principle suggested increasing its scope, by adding further issues it should cover. Workshop participants also made this point, arguing that the draft principle was too complaints-focused and gave too little thought to openness more broadly.
- Workshop participants said that openness and transparency could become very blurred and were not sure that the draft code made the distinction clear enough – they were also keen to raise the issue of making information accessible.
- The most common suggestion was that the openness principle should include reference to whistleblowing policies.

o *'Make whistleblowing more explicit in the guidance and highlight the importance of having processes in place to manage whistleblowing allegations (including investigations and disciplinary action).'*
- The next most common point was that it should include how charities spend funds and/or who they fund.
- Workshop participants often felt the language of the principle was too weak and that it should be worded more proactively.

	0	1	2	3	4	5	6
Include whistleblowing							6
Include how charities spend funds/who they fund						5	
Include how charities are funded				3			
Include transparency on administrative spending			2				
Include transparency on senior staff pay			2				
Emphasise the duty to keep some information restricted too			2				

The right to be safe

- A small number of respondents raised general concerns about the practical challenge of applying the right to be safe to 'anyone coming into contact with the charity' due to its breadth, raising examples such as large-scale events, visitor attractions and online interactions. Workshop participants also raised this issue.
  - o *'While we wholeheartedly support this principle, … we are particularly concerned about how widely this extends: to every person who "comes into contact with a charity". Monitoring progress against this ambition would be impractical.'*
- Some workshop participants felt the title of the principle was too narrow and that it really focused on respect and dignity.
- In particular, some respondents saw a need greater clarity on *online* expectations relating to 'anyone coming into contact'.
- A number of respondents said the right to be safe should explicitly reference power dynamics (including from a gender perspective) on the basis that these were a key part of why many incidents occurred and

needed to be recognised in how charities approached the right to be safe. Workshop participants also felt the issue of holding power to account and tackling power structures was crucial.

- Workshop participants raised the challenge of putting the right to be set into practice – line management and whistle-blowing were not strong enough on their own, and they placed a strong emphasis on culture.
- Workshop participants emphasised the importance of the language of prevention and a focus on safety in the final draft.
- On training, workshop participants said both knowing and understanding expectations and knowing how to deal with inappropriate behavior needed to be covered.
- A number of additional points were raised about this principle, including:
  - o the need to be stronger in some areas – 'must' rather than 'should' (from workshop participants)
  - o concerns about potentially vague and subjective language
  - o the need for further clarity on what the expectations on staff, volunteers and beneficiaries would be
  - o the importance of recognising the risks inherent in the environments in which many charities operate.

	0	1	2	3	4	5	6
'Anyone coming into contact with the charity' is too broad a requirement						5	
The expectations about online contact as part of 'anyone coming into contact with the charity' need to be made clearer			2				
Include 'concerns' as well as 'complaints' or reword 'complaints' to 'speak up'			2				