Charity

The spectre of over-regulation and state dependency

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SUMMARY

- Britain's charitable sector may appear vibrant: there are 160,000 charities with a total income of £38 billion a year. Income has almost doubled since 1997 and both the number of charities and the number of volunteers are growing.
- There are however, reasons for apprehension:
  - the sector is dominated by a small number of large charities: 511 charities have income of over £10 million a year, representing 45% of all charitable income;
  - while donations from the general public grew by just 7% in cash terms between 2000/01 and 2003/04, income from the state has increased rapidly (by 38% over the same period);
  - for large charities, the state is now the most important paymaster;
  - between 2000/01 and 2003/04, large charities increased their fundraising and publicity expenditure by £474 million (or by 76%). Income for large charities from the general public over the same period increased by just £248 million (9%). This suggests that it is costing large charities nearly £2 to raise an extra £1;
  - public confidence in large charities appears to be waning: opinion polls show growing distrust and donations from the public appear to be sustained only through expensive marketing efforts;
  - large charities spend £1,072 on fundraising and publicity costs for each £10,000 income. The smallest charities spend only £306 on raising each £10,000 of income.

- Large charities appear to be developing an increasingly corporate style in recent years, with much effort now being spent on lobbying, rebranding and fundraising and other corporate activity. The average top salary at large charities is now £83,000.

- The Charity Commission confirms that it is impossible to determine accurately how much a charity actually spends on its beneficiaries (as opposed to its own costs). While there is public demand for the information, there are no simple definitions of what constitutes direct charitable expenditure.

- Some large charities are now facing significant pension deficits. NCH (formerly the National Children's Charity and now rebranded as "NCH, the children's charity"), the National Trust, the Children's Society and Barnardo's all had pension shortfalls of more than 25% of their income in 2005. In some cases, charities may have to reduce the money spent on beneficiaries in order to refinance their pension schemes.

- The role of the Charity Commission is confused, being both a regulator and an advisory body for the sector. There is evidence that smaller charities in particular are wary of approaching the Charity Commission for advice for fear that it will bring closer investigation of the charity's activities.

- It appears that the Charity Commission is far more active in investigating smaller rather than larger charities: larger charities take 45% of all charitable revenues but attract only 1% of inquiries by the Commission.

- The Charities Bill currently going through Parliament is a further cause for concern:
    - the accountability of the Charity Commission is not being properly addressed (note that in three of the last four occasions on which the Public Accounts Committee has

examined the Commission, it has found "severe shortcomings" in the Commission's work);

- equally, the confusion over whether the Commission will be an adviser or a regulator to the sector will remain;
- the reversal of public benefit will make establishing new charities more expensive and will impose a greater regulatory burden on the sector;
- the provision to allow remuneration of charity trustees may further undermine the voluntary nature of many charities' work.

▪ As the charitable sector becomess more dependent on the state, and further distanced from its voluntary donor base, there is a danger that the vitality and voluntary nature of the sector could be irretrievably undermined.

Recommendations

▪ Donors want to know that their donations are being used for the benefit of beneficiaries. Large charities should therefore present their accounts in a common format so that the public can compare data on direct charitable expenditure; management, pension and administration costs; and fundraising and publicity costs.

▪ In addition, advertising and fundraising literature of all large charities should contain a brief statement of key data (such as management and fundraising costs, proportion of income that reaches beneficiaries etc).

▪ For those charities involved in providing a public service, the direct financial link between the state and charity should be broken, wherever possible. The intended beneficiaries of charities should be given the ability to control which charity they use for a particular service.

- The following regulatory principles should be adopted for the sector:
  - that smaller charities with high levels of voluntary donations, together with philanthropic foundations, should be subject to a light-touch regulatory regime;
  - that smaller charities should be subject to the newly proposed public benefit test less frequently than larger charities.

- Government authorities should be excluded from being sole trustees of charities and the charitable status of Registered Social Landlords should be reviewed.

- The Charity Commission should act only as a regulator for the sector, and should relinquish its role as a free adviser. Charities should seek advice from the commercial sector or from specialist charities offering advice.

- The Charity Commission should be accountable to Parliament and not to the Crown.

- The Public Accounts Committee should enforce regular and detailed monitoring of the financial well-being and the regulatory effectiveness of the Charity Commission.

CHAPTER ONE

INTRODUCTION

BRITAIN HAS A CHARITABLE SECTOR of which it is proud, and rightly so. As of December 2005, there were 167,000 main charities on the Charity Commission's register.[1] Their total annual income is nearly £38 billion[2] – equivalent to over £600 for every man, woman and child in the UK. The income of the sector has, according to the Charity Commission, almost doubled since 1997.[3]

A NOTE ON SOURCES

There are two main sources of data for the charitable sector: the Charity Commission and the National Council for Voluntary Organisations (NCVO). As the two organisations have different definitions of the sector, it is important to be clear on the source of all data. The main difference is that the NCVO data, unlike the Charity Commission data, exclude housing associations, independent schools, government controlled charities (such as NHS charities and non-departmental bodies) and organisations whose primary purpose is the promotion of religion.

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1 Charity Commission, *Facts and Figures*, 2005.

2 Ibid.

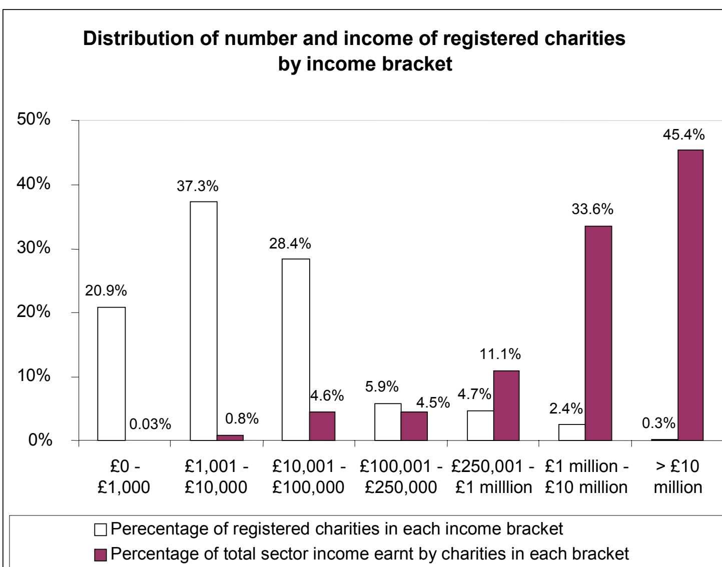
3 The Charity Commission reports that the income for the whole sector grew from £19.8 billion in 1997 to £37.9 billion in 2005.

The number of registered charities is growing by roughly 1,800 a year. It is also a significant – and a growing – employer. The NCVO estimates that in 2001/02 there were 549,000 full-time equivalent jobs in charities, up from 533,000 the previous year.[4]

Much of the charitable sector's income goes to large charities: 511 charities have a turnover of more than £10 million. Their combined income represents 45% of all charitable income.[5]

In contrast, nearly two thirds (96,000 out of 167,000) of charities have an annual income of below £10,000.[6] Their combined income is less than 1% of all charitable income. These small charities often represent the most creative side of the charitable sector.

Share of total charitable income broken by income bracket



Source: Charity Commission.

4 NCVO Publications, *The UK Voluntary Sector Almanac 2004*.

5 According to the Charity Commission, a charity is recognised as large if it has an income in excess of £10 million for two consecutive financial years or £100 million assets.

6 Charity Commission, *Facts and Figures*, 2005.

Many people give their time freely to charities. In 2003, over 20 million people were involved in some kind of volunteering in the community and half of those were involved in formal volunteering more frequently than once a month. Young people aged 16-24 are more likely to be involved in informal volunteering (at least once a month) than any other age group.[7]

Three million volunteers work for one or more registered charities,[8] doing the work equal to 1.5 million full-time-equivalent jobs. The value of this unpaid work to charities has been estimated at over £15 billion.[9]

Charities are growing – and are more dependent on the state

While charities have been increasing their overall income in recent years, the source of that income has been changing. Income from the public sector in particular has been growing rapidly. According to the NCVO, income from the public sector accounted for 27% of total income in 1991. By 2003/04, this figure had climbed to 38%.[10] Voluntary donations from the general public have been growing far more slowly.

Table 1 shows how, in the last few years, the public sector is now the most important source of income for the sector. Between 2000/01 and 2003/04, income from the state grew by 36%, whereas income from the general public grew in cash terms by just 7% (as inflation over the period was 8%, voluntary income has fallen marginally in real terms).

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7 Home Office, *Early findings from the 2005 Home Office Citizenship Survey*, 2005.

8 Cabinet Office, op. cit.

9 Ibid.

10 Income from the state for all charities increased in real terms from £3.2 billion in 1991 to £7.5 billion in 2001/02. See NCVO, *Voluntary Sector Almanac*, 2004.

Table 1

Where does the money come from?

	2000/01		2001/02		2003/04	
	£m	%	£m	%	£m	%
General public	6,647	31.4	5,739	27.6	7,130	27.1
The state	7,349	34.7	7,731	37.2	10,024	38.1
Other income	7,203	34.0	7,300	35.1	9,169	34.8
Total	**21,199**	**100.0**	**20,770**	**100.0**	**26,323**	**100.0**

Note: See the box below for definitions of each of these income streams.

Source: NCVO Publications, *The UK Voluntary Sector Almanac 2004*, and *The UK Voluntary Sector Almanac 2006*.

A NOTE ON DEFINITIONS

The above tables and those on following pages are derived from NCVO almanacs of 2004 and 2006. However, the definitions used in this report for voluntary and public sector donations differ from those of the NCVO in order to show clearly the three main income streams of the sector. The definitions used in the report are as follows:

"Income from the General Public" is comprised of donations of voluntary income from individuals, voluntary sector groups, private companies and legacies.

"Income from the state" is comprised of grants and contracts from the public sector for the provision of services and money given to the sector through National Lottery distributors.

"Other income" is comprised of fees and payments for services provided to individuals, other private sector fees and contracts, fees and payments from the voluntary sector, trading income, and investment income.

LARGE CHARITIES – A CAUSE FOR PUBLIC CONCERN

THE BRITISH PUBLIC are becoming increasingly wary and sceptical about larger charities. A MORI poll showed that only 10% of people agreed with the statement, "When I give money to charity, I feel confident that most of it will go directly to the cause."[11] Another survey, for the Charity Commission, showed that while an overwhelming majority agree that charities are trustworthy, only 26% of the public agrees a lot with the statement that: "I trust big charities more than smaller ones".[12]

In a poll carried out for the Centre for Social Justice by YouGov,[13] people were asked to which type of charity they would donate a hypothetical £200. Nearly eight times as many said they would give to a local charity working with needy people (31%) rather than to a national charity that campaigned for better policies to help poor people (4%).

A latent unease

Reports of large charities being slow to help their beneficiaries are likely to have exacerbated this unease. These reports have included:

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11 MORI Press Release, "Public Survey Shows Costs As Top Concern", November 1999.

12 Charity Commission, "Report of findings of public trust and confidence in charities", November 2005.

13 www.centreforsocialjustice.org.uk/client/downloads/pubYouGov200409.pdf

- accounts of the inadequate distribution of aid and donations to victims of the 2004 Tsunami.[14] The National Audit Office found one year after the disaster that money from taxpayers and private donors had still not been spent and was languishing in the accounts of those meant to be carrying out third party projects.[15]

- allegations by Imran Khan, the former cricketer, that charities involved in the Pakistan earthquake appeal had used up to half their funds on marketing instead of relief. It has been revealed that some charities paid up to £200,000 for blocks of airtime advertising slots on channels watched by Asian audiences.[16]

- reports that the Tate Gallery paid £700,000 to Chris Ofili, one of its trustees, for a piece of art work.[17] After a nine month investigation by the Charity Commission, the Tate was found guilty in July 2006. The Commission found that the Tate had failed to seek independent valuations of this and other purchases from trustees. The Tate received £30 million a year in subsidy from the taxpayer between 2003 and 2006 and almost £9 million from direct donations.[18] The Commission has confirmed that it is now investigating a further 13 purchases between 1960 and 1989 from artist-trustees, including Sir Anthony Caro, John Piper, Patrick Heron and Howard Hodgkin.[19]

- reports that Scope (rebranded from the Spastics Society) appointed a firm of head hunters to find a new executive

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14 See for example, *The Daily Mail,* "So where are our Tsunami millions", 11 November 2005.

15 National Audit Office, *Provision of Financial Support for Humanitarian Assistance*, 1 March 2006.

16 *The Evening Standard*, 10 November 2005.

17 *The Guardian*, "Emails reveal Ofili's cash deal from Tate", 24 October, 2005.

18 The Tate, *Tate Report 2002-2004*, 2005.

19 *The Daily Telegraph*, "Tate broke charity laws by buying art from its trustees", 19 July 2006.

director of external affairs at a salary of £90,000 – the same amount as Scope's subsidy for horse-riding facilities at a school for the disabled in Meldreth Manor, Hertfordshire.[20] Scope has decided to withdraw this subsidy. The riding unit will only remain open because of the generosity of a local equestrian charity.[21]

Income trends for large charities

Public antipathy towards large charities is perhaps reflected by the fact that, despite substantial fundraising efforts,[22] income received from the general public grew by only 9% in cash terms between 2000/1 and 2003/04.[23] Table 2 shows that, in contrast, the income for large charities from all other sources has grown by 39% over the same period. For large charities, the state is now the most important paymaster.

Table 2

Large charities: where does the money come from?

	2000/01		2001/02		2003/04	
	£m	**%**	**£m**	**%**	**£m**	**%**
General public	2,792.1	35.0%	2,675.4	33.4%	3,040.3	29.7%
The state	2,667.4	33.5%	2,881.2	36.0%	3,605.7	35.2%
Other income	2,510.3	31.5%	2,455.9	30.7%	3,587.2	35.1%
Total	**7,969.8**	**100.0%**	**8,012.5**	**100.0%**	**10,233.2**	**100.0%**

Source: NCVO Publications, *The UK Voluntary Sector Almanac 2004*, and *The UK Voluntary Sector Almanac 2004*.

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20 "Scope's riding school for disabled facing closure in cash crisis", *The Mail on Sunday*, 13 November 2005.

21 Telephone conversation with Meldreth Manor.

22 See Table 3 below.

23 Income from the general public of all other charities grew at an even lower rate (by just 6% over the same period). Large charities therefore did relatively well: however, this can probably be attributed to their high (and rapidly growing) fundraising expenditure.

How much do large charities spend on fundraising?

Table 3 shows that, between 2000/01 and 2003/04 large charities increased their fundraising and publicity expenditure by just under £500 million (or by 76%). Over the same period, donations to large charities from the general public have increased by only £248 million – or by just 9%. It appears that the increased fundraising expenditure of large charities are seeing diminishing returns: £2 spent on additional fundraising and publicity seems to have generated only £1 in additional voluntary income.

Table 3

Large charities: diminishing returns from increasing fundraising expenditure

	2000/01	2001/02		2003/04	
	£m	£m	change since 00/01	£m	change since 00/01
Income from general public	2,792.1	2,675.4	– 116.7	3,040.3	**+ 248.2**
Fundraising and publicity costs	623.2	702.6	+ 79.4	1096.9	**+ 473.7**

Source: NCVO Publications, *The UK Voluntary Sector Almanac 2004*, and *The UK Voluntary Sector Almanac 2004*.

Note: Fundraising and publicity costs are defined by the NCVO as any expenditure that induces other parties to make donations or voluntary contributions to the charity. It includes any payments made to professional fundraising intermediaries.

Large charities may claim that voluntary income might have fallen faster without this increase in fundraising efforts. Indeed, in 2004 the NCVO argued that:[24]

> *Larger charities continued to invest in fundraising and brand awareness, despite pressures on income. Such strategies may have insulated them from this fall in voluntary income.*

Yet it is questionable whether the increases in fundraising expenditure will ever successfully address the underlying

[24] NCVO Publications, *The UK Voluntary Sector Almanac 2004*.

problem: if the public is becoming increasingly disillusioned with large charities, then are expensive marketing campaigns the most effective way of recapturing public goodwill? Indeed, it is at least possible that aggressive marketing could be adding to the long-term sense of disillusionment.[25]

Table 4 also suggests that smaller charities are more efficient at raising their funds than large charities. This may not be a surprise: smaller charities tend to raise money through their own informal networks of volunteers rather than through professional fundraising. However, it can be assumed that the public would like to see as much of its money as possible spent on beneficiaries. If this is the case, the expensive fundraising activities of large charities are potentially further alienating their voluntary donor base.

Table 4

Comparison of fundraising efficiency between small and large charities, 2003/04[26]

	Fundraising & publicity costs (£ million)	Total Income (£ million)	Cost of raising £10,000 (£)
Small charities	62.3	2,034.8	**306.2**
Medium small charities	233.8	5,882.8	**397.4**
Medium charities	458.2	8,171.7	**560.7**
Large charities	1,096.9	10,233.2	**1,071.9**

Note: In this table, small charities are defined as those with income of less than £100,000 a year; medium small charities are those with an income of between £100,000 and £1 million; medium charities are those with an income of between £1 million and £10 million; and large charities are those with an income of over £10 million.

Source: NCVO Publications, *The UK Voluntary Sector Almanac 2004*, and *The UK Voluntary Sector Almanac 2004*.

[25] For example, the employment of professional street fundraisers (or "chuggers" – a contraction of the words "charity" and "muggers") to solicit long-term donations is unlikely to enhance the image of charities.

[26] The data in the table are only indicative, since there is no statutory accountancy definitions across the sector for each expenditure category.

The increasingly corporate style of large charities

With average staff numbers of 395, the large charities often resemble the UK's larger companies. As one of the leading innovators in the sector, Joe Saxton, has written:[27]

> *Over the last twenty years the way that non-profits and charities work has changed beyond all recognition. Charities now run their operations like professional businesses: they set pertormance targets, employ professionals fundraisers, marketers, campaigners, CEOs (but not yet trustees) – to do their work…*
>
> *One of the side-effects of the professionalisation of the sector is that modern charities are no longer the same as the image that most members of the public have in their mind. Indeed in every area of our client research we find that the public live in a rosy fog of ignorance about how charities do their job…*
>
> *The public want to believe that non-profits do good works, are run by nice people in small homely organisations where everybody calls each other by their first names, the sun always shines and they do fantastic work all on a shoestring for little or no pay. Charity marketers want them to go on believing that too. They don't want this rose-tinted view to be shattered because they worry it will impact negatively on fund raising and less measurable types of support. As one colleague said to me, charities should never get 'caught marketing'.*

How long will it be before the general public actively questions this corporate approach?

There are certainly some trends which would worry the public, should the "rosy fog of ignorance" ever be lifted. For example, in 2003/2004, employee costs in the large charities increased by 8.5%, three times the rate of inflation, significantly more than the 5.6%

[27] *Charity Times,* May-June 2006.

average rise in the charity sector as a whole,[28] and more than twice the 3.7% increase in wages costs in the private sector.

In these large charities, just over 1% of all employees are paid more than £50,000, with an average top salary of £83,000. Sixty of the top 511 charities have employees earning over £100,000.[29] The high level of pay appears to be unpopular with the public: according to a poll by nfpSynergy, over 80% of people think that paying the chief executives of charities more than £60,000 a year is excessive.[30]

Large charities justify the high levels of remuneration by arguing that the task of running a multi-million pound organisation needs professional managers; and that to attract the necessary calibre of individuals, it is necessary to offer reasonable salaries. It is certainly true that large charities will generally benefit from appointing highly competent managers. And it is also true that the growing regulatory burden faced by many charities adds to pressures for professionalism.

However, the tension between the increasingly professional style of the sector and the public's image of charities is surely not sustainable in the long term. The public is clearly less than happy with six figure salaries, corporate rebranding, aggressive fundraising and other symptoms of what might be termed corporate self-indulgence. The public still donates over a quarter of the sector's total income. Relying on a continuing presence of a "rosy fog of ignorance" on their part would not be a sensible long-term strategy.

No clarity on management costs

Given the above concerns of over-professionalisation, the question of how much a charity actually spends on its beneficiaries (as opposed to its own costs) is likely to be an issue of increasing

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[28] CAF, op. cit. These data were first collected by CAF Trends for 2003/04, so longer term trends are not, at present, known.

[29] CAF, op. cit.

[30] Reported in "Chiefs are not charity cases", *The Times,* 20 June 2006.

interest to the public. However, little reliable information appears to exist on this. Indeed, the Charity Commission accepts that it is difficult to find detailed information on this subject:[31]

> *The truth of it is that there is no simple definition of what constitutes administration or direct charitable expenditure, and no yard stick applies to all charities.*

This failure to provide clarity can only undermine public confidence. As the Charity Commission has also confirmed that:[32]

> *We are often asked questions relating to fundraising or administrative costs in comparison to direct charitable expenditure. Often people want to view the amount spent… to help them choose which charity to give to.*

So far, the sector appears to have failed to respond to the public's questions in this regard. Is complacency a sensible basis for a sector which is already – by its own admission – relying on the continuation of a "rosy fog of ignorance"?

Charities at risk from pension deficits

Large charities are facing a deficit in their pension funds estimated at £550 million.[33] This presents a further problem for the charity sector. Charities with substantial deficits will have little choice but to put more money into the pension schemes, often at the direct expense of their intended beneficiaries. Help the Aged spokesman Mervyn Kohler has accepted the nature of the problem:[34]

> *It is not a very good proposition to donors if we have to cut back the good work and they begin to see their money going into a pension scheme.*

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31 Authors' correspondence with Charity Commission, 4 January 2006.

32 Ibid.

33 "Charities hit by £550m pension black hole", *Sunday Telegraph*, 27 November 2005.

34 Ibid.

This problem will be exacerbated by the need to contribute to the Pension Protection Fund. For example, Barnardo's, which has an £80 million deficit on its £343 million fund, may face an annual charge of £4 million. For some charities, their pension shortfalls are so large that their continuing existence is at risk.

While some large charities (including Macmillan Cancer Relief, Marie Curie Cancer Care and the British Heart Foundation) do have low deficit levels, Table 5 suggests that others face real problems.

Table 5

A Comparison of the Pension Shortfalls of Selected Large Charities (2005)

	Income £m	Pension shortfalls £m	Pension shortfall % of income	Value of freehold property £m
Barnardo's	149	80.4	54	43.2
Cancer Research UK	330	42.7	13	25.7
Children's Society	40	11.3	37	11.9
Macmillan Cancer Relief	96	1.4	1	0.1
Marie Curie Cancer Care	93	1.0	1	17.9
Mencap	158	22.2	14	39.3
National Trust	315	85.1	27	5.0
NCH	207	52.0	25	48.5
NSPCC	105	9.0	8	14.3
SCOPE	107	13.6	13	33.9
Shaftesbury	34	3.8	11	26.5

Source: Authors' research based on the published accounts of the selected charities. The majority of the above charities have been selected due to their role in caring for the most vulnerable in society.

For many large charities, there can only be one outcome of this pension funding crisis – charities are going to have to put more of their donors' money into pension schemes to the detriment of their beneficiaries. This is already happening: in April 2006, the

Family Services Unit (FSU) collapsed due to crippling staff pension costs and an inability to cover overheads under local government contracts.[35] Many of the charity's staff were members of local authority pension schemes and the organisation had been hit with a demand for an estimated £5 million to meet scheme deficits.[36] The FSU in England was taken over by the Family Welfare Association (FWA), a slightly larger charity, [37] while parts of the FSU north of the border were separated into a new charity. At the time of the take-over, the FWA's chief executive, Helen Dent, said of the FSU, "I knew they were in difficulties, but I was surprised that the tender they approached us with was for the wholesale take-over of the organisation."[38] The FSU's pension liability did not transfer to the FWA, but the latter has had to hope that its own pension fund could cope with the 220 new members of staff. Dent says that the FSU were short-changed in local authority contracts. Industry practice is to add 10% to the marginal cost of a service to cover core costs, but that this is never enough. "Charities are going to have to be very careful in future that the services they run are really viable," she says.

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[35] "The show must go on", *The Guardian*, 17 May 2006.

[36] "Crippling pension costs lead to charity closure" *The Guardian*, 4 April 2006.

[37] The FWA had a turnover of £13.0m in 2004, compared to the FSU's £11.8m. Source: Charity Commission.

[38] "The show must go on", *The Guardian*, 17 May 2006.

THE CHARITY COMMISSION – A CONFUSION OF ROLES

THE CHARITY COMMISSION is established by law as the regulator for charities in England and Wales.

It is reasonable to expect a regulator to match the standards of those it is intended to regulate. It is questionable whether the Commission has achieved this. For example, the Public Accounts Committee of the House of Commons (PAC) has examined the Commission four times in recent years: 1988, 1991, 1998 and 2002.[39] On the first three of these occasions the PAC found what it described as "severe shortcomings".[40] In 1998, the PAC found weaknesses in "management effectiveness; the accuracy of the Register of Charities; submission of accounts and monitoring of charities; and support and investigation of charities."[41]

The NAO found in 2001 that the Commission had improved in areas such as "meeting more of its key business targets; reducing the number of inactive charities on its Register of Charities; and improving the accuracy of the Register." However, it still described problems, in particular with "the Commission's investigation work, a fact recognised by the Commission itself."[42]

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39 National Audit Office, *Giving confidently: The role of the Charity Commission in regulating charities*, 25 October 2001.

40 Ibid.

41 Ibid.

42 Ibid.

Adviser or regulator?

One aspect of concern is the way in which the Commission will act in both a regulatory and advisory role. The Commission "may on the written application of any charity trustee give him their opinion or advice on any matter affecting the performance of his duties as such".[43] However, it is by no means clear that, even though the Commission gives advice only when it is solicited by charities, that charities always make the distinction between regulation and advice. This was recognised by the Prime Minister's Strategy Unit review in 2002, which said:

> … *the blurring of boundaries between the Commission's advisory and regulatory roles continues to cause confusion among charities and other key stakeholders.*[44]

The danger is that well-meaning advice may be interpreted as heavy-handed regulation. As the NCVO has stated, small charities in particular may adopt a cautious approach and treat everything it receives from the Commission as if it were regulation. The NCVO identifies an "enormous potential creep towards more stringent regulation if the distinction is not obvious".[45]

Also, if a charity, with every intention of obeying the law, wishes to ask the Commission whether a course of action is lawful, it may fear that this will attract closer investigation in future. To draw an analogy: if a member of the public wished to seek advice about the legality of an activity, he would go to a lawyer rather than to the police. This separation is important and needs to be recognised formally.

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[43] Section 29(1) of the Charities Act 1993.

[44] Cabinet Office, op. cit.

[45] Joint Committee on the Draft Charities Bill, *The Draft Charities Bill,* 2004.

The Large Charities Unit

In a strategic review in November 2005, the Charity Commission relaunched its Large Charities Unit which is meant to monitor the accounts and returns of large charities. However, it has yet to implement active monitoring. In 2004/2005 the Commission aimed to visit only 100 of the top charities to conduct "active monitoring".

In June 2004, the Charity Commission published a review of the information provided in the Annual Report and Accounts and the Annual Reviews of a sample of 200 of the largest charities. This Review did not assess the extent to which large charities complied with the Commission's Statement of Recommended Practice (SORP)[46] compliance, but tried to assess the amount of additional information that created a sense of transparency among the charities reporting.[47]

The Charity Commission concluded that the general standard of performance was not satisfactory. It remarked that:

> *Funding bodies and the wider public demand evidence of efficient stewardship of the funds they donate.*

This is a welcome first step. Greater transparency for all large charities is required if public confidence is to be restored.

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46 The 2005 SORP quotes its own role as: "[recommending] particular accounting treatments and provides guidance on the application of accounting standards (compliance with which is considered necessary, in all save exceptional circumstances, to meet the legal requirement to give a true and fair view) in a manner which takes account of the particular circumstances of charities. In all but exceptional circumstances, charities preparing accruals accounts should follow this SORP's accounting recommendations to assist in ensuring that their accounts give a true and fair view."

47 Charity Commission, *Transparency and accountability*, 2004.

Does the Charity Commission over-regulate small charities?

It appears that the distribution of formal inquiries into the affairs of charities is skewed disproportionately towards charities with lower income levels.

Table 6 indicates that large charities, each with an annual income of over £10 million, account for 45% of all charitable income but only 1% of inquiries. However, charities with an annual income of less than £10,000 make up 0.8% of the sector's total income, yet attract 13.2% of all inquiries. It therefore appears that while the Charity Commission appears to be relatively relaxed in its attitude to large charities, it spends a disproportionate amount of time in investigating the affairs of small charities.

Table 6

Distribution of Charity Commission inquiries

	Number of inquiries	Percentage of inquiries	Percentage of income
below £10,000	38	13.2%	0.8%
£10,001 - £100,000	90	31.3%	4.6%
£100,001 - £250,000	53	18.4%	4.5%
£250,001 - £1 million	72	25.0%	11.1%
£1 million - £10 million	32	11.1%	33.6%
over £10 million	3	1.0%	45.4%
Total	**288**	**100%**	**100%**

CHAPTER FOUR

CHARITY AND THE STATE

THERE HAS ALWAYS BEEN a dynamic relationship between charities and the state. For example, over the last 20 years, the state has gradually withdrawn from providing much front-line social care, i.e. care for the elderly, mentally ill, children and the mentally disabled. Also, the doctrine of Care in the Community has caused the closure of virtually all institutionalised care. Council-run small care homes have also all but gone as a direct result of the Care Standards Act 2000. The service providers which remain are mainly either in the private or the not-for-profit sectors.

All the main political parties have recently considered using the not-for-profit sector as a vehicle for delivering public services. The Government has stated, in *Private Action in Public Benefit*, that it wants: "to enable the sector to become a more active partner with Government in shaping policy and delivery."[48] The Conservative Party has consistently argued in favour of the benefits of the voluntary sector becoming involved in provision of both education and healthcare. The benefits of diversity and independence of supply are now widely acknowledged.

As the voluntary sector does more for the state, so its independence and its voluntary nature are undermined. Even the partnership approach carries a risk that a charity can become far too

[48] It is also clear that the Government does not want the private sector to have the same opportunities. The report concludes: "the sector is not about making profits for investors".

dependent on public sector funding, and is thus less innovative and less likely to criticise its paymaster.

The concerns of the Charity Commission

The Charity Commission and the NCVO are both lobbying the government on this issue. The NCVO has warned its members of the danger of loosing their independence. It is concerned "that the voluntary sector may be perceived as little more than an agent of the state."[49]

The Charity Commission has detailed rules as to how close to the state an organisation can be while remaining a charity. Indeed, it has warned that "increased co-operation increases charities' reliance upon the state for fundraising and, in turn, creates a potential risk to charities' independence."[50] Its guidance also explains the extent to which legal principles require charities to be independent, and concentrates on issues relating to charitable status, the way the charities are governed and operate.

The Charity Commission notes that governmental authorities are not prevented in law from setting up charities, provided that the purposes of the body are exclusively charitable. It is also important to note that it is possible for charitable purpose to coincide with government function.

The Commissioners ruled in 2004, in the cases of Trafford Community Leisure Trust and Wigan Leisure and Culture Trust,[51] that government authorities are allowed to set up and be a trustee of a charity, provided their aims are exclusively charitable.[52] Local authorities are allowed to "privatise" mainstream functions in this way, even ones they have a statutory duty to provide. It is doubtful whether this mode of privatisation

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49 NCVO, *The future of public services: a briefing and discussion paper*, 2001.

50 Charity Commission, *The Independence of Charities from the State,* 2001.

51 charity-commission.gov.uk/library/registration/pdfs/traffforddecision.pdf

52 Note that local authorities are also prohibited from trusteeship of ecclesiastical charities and those whose objects are the relief of poverty.

is in the long-term interests of beneficiaries. However, the Charity Commission specifically warns:

> *A body may be created with a stated purpose that is charitable, but with an unstated purpose that is concerned with giving effect to the wishes and policies of a government authority…*
>
> *It would be difficult to avoid the conclusion that a body of that kind was not really a charity at all. Instead of being set up for the stated charitable purpose, it would exist in fact for the purpose of securing the benefits of charitable status while carrying out the wishes and policies of the governmental authority. In that case, the body would not be a charity because it would not have been established for purposes that are exclusively charitable.*

The Charity Commission offers further advice to charity trustees that they cannot agree to accept funding from government on terms that require them expressly to:

- implement particular policies of the authority;
- pursue the objectives of the authority;
- discharge the statutory duties of the authority; or
- comply with decisions that are made from time to time by the authority.

Although a funding authority can have strong bargaining powers, simply carrying out the policies, wishes or statutory duties of a government authority is, in the words of the Charity Commission, "plainly not the same as carrying out a charitable purpose."[53]

Government bodies may be required by law to respect charities' independence. However, it is clear that, when a local authority is a trustee, the risk is that local authorities can exercise undue influence.

[53] Charity Commission, *The Independence of Charities from the State*, 2004.

Regulation

At the same time as the boundary between the state and the charitable sector become blurred, so has the burden of regulation on charities increased.

Charities are, by their voluntary nature, particularly vulnerable to regulation in general. Charities are regulated not only by charity law and Charity Commission guidance but also bear the increase in the burden of overall regulation. Those particularly affected include charities providing social care on behalf of the state. The introduction of the Care Standards Act 2000 has caused an estimated 3% increase in costs for care homes; the imposition of the requirement for all staff to undergo a Criminal Records Bureau check also adds costs and time delays before employees can start work.[54] Service-providing charities also have to cope with increasing burdens from the Health and Safety Executive, the Environment agency and local authority inspectors, who often duplicate each other's work, thereby diverting charities' resources away from beneficiaries to complying with bureaucratic regulation.[55] Since 1995 charities have seen a huge increase in regulation from the Charity Commission itself.

These trends are damaging to those charities which rely on the goodwill of volunteers. Volunteers presumably prefer to spend their time helping the supposed beneficiaries of a charity, not in ensuring compliance with regulations. Similarly, smaller charities are less likely to have the resources needed to ensure regulatory compliance than large charities.

The growth of SORP

The size of the Charity Commission's Statement of Recommended Practice can be taken as a rough indicator of the burden of charity regulation: in 1995, SORP was 68 pages long with 240

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54 See F Heath and R Smith, *People, not Budgets*, CPS, 2004.

55 Ibid.

56 www.charity-commission.gov.uk/investigations/sorp/default.asp

paragraphs.[57] Five years later, this had expanded to 89 pages and 358 paragraphs. The 2005 version has 109 pages and 451 paragraphs.

In January 2003, before Parliament had even had a chance to debate the Charities Bill, the Charity Commission was already taking action to introduce recommendations from Private Action Public Benefit that did not require primary legislation. In all, 18 recommendations were being introduced ranging from the undertaking of ongoing checks on the public character of charities to the introduction of the annual Standard Information Return (SIR) to the improvement of the Statement of Recommended Practice for charity accounts.[58]

This matters. An inappropriately heavy regulatory regime is damaging to any activity. But where that activity depends on the goodwill and enthusiasm of volunteers, the burden of regulation is likely to be particularly damaging.

Charities with local authorities as sole trustees

One area of ambiguity in the relationship between the state and the charitable sector is where a local authority is the sole trustee of a charity.[59]

Local authorities can enjoy a number of benefits should they wish to set up their own charities. Charities are able to employ people on terms far less favourable than the public sector does, and do not have to pay, for example, national non-domestic rates.[60]

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57 Joint Committee on the Draft Charities Bill, op. cit.

58 See www.charity-commision.gov.uk/spr/cordbb.asp

59 According to original research by the authors based on data from the Charity Commission, there are 731 charities which have a local authority as a trustee. For 595 of these, the local authority is the sole trustee.

60 One example of how local authories can take advantage of the favourable status enjoyed by charities is the case of Cornwall County Council and Cornwall Care. After an unsuccessful attempt to close four care homes, the controlling group on the Council proposed that a new charity,

Registered Social Landlords and their dependence on the state
The way that charities which rely wholly on government funding fit into the Charity Commission's definition of independence of the state needs examination. This could start with a study of Registered Social Landlords (RSLs)[61] and whether they merit their charitable status. 72% of RSLs in England currently enjoy charitable status and are thereby exempt from corporation tax and national non domestic rates. Between 1996 and 2000, annual funding to RSLs from the taxpayer averaged £1.17 billion.[62]

Although their purpose may be charitable, RSLs have been formed in direct response to a Government policy initiative. For RSLs to be considered a charity, they should be truly independent. Moreover, while the Charity Commission admits that a funding authority inevitably enjoys a strong bargaining position, it also states that:

> *Simply carrying out the policies, wishes or statutory duties of a governmental authority is plainly not the same as carrying out a charitable purpose. Hence trustees cannot agree to accept funding on terms that require them expressly to implement particular policies of the local authority.*

Cornwall Care, should be created. While the Council would retain ownership of its 18 residential homes, the 249 staff should be transferred to the charity. In the process, staff were required to sign new contracts of employment on less generous terms than they had when working directly for the Council. The members of staff refused to sign the new contracts and subsequently took their case to an Industrial Tribunal, which they won, and received compensation. Since then the Council has tried to wash their hands of any responsibility saying that the problem of staff relations was for the charity, Cornwall Care, to resolve. Employees have not been reinstated on their old salaries.

61 Registered Social Landlords in England are registered with the Housing Corporation to provide social housing for those in housing need. The Housing Corporation allows individual RSLs to decide whether to apply for charitable status.

62 Cabinet Office, op. cit.

The Charity Commission gives specific advice to RSLs on how to register as a charity.[63] One of the specific areas of concern is that the RSL must be independent of other bodies. As such, the RSL must "have the final choice over all tenants (beneficiaries) it houses, there can be no question of any outside body having a right of selection, only a right to nominate candidates for consideration by the RSL". There is a concern, however, because many RSLs receive a majority of candidates for social housing through local authority nomination and funding from Government,[64] that pressure on the RSL to conform to the authority's wishes may tacitly develop and true independence may be compromised. Such interference in a charity would be almost impossible to detect. But, without the appropriate separation of RSL and local authority, it is still quite probable that it happens. The RSLs need to be able to demonstrate that they do not take their purpose and direction from government authority and that they are carrying out activities that further the purpose of a non-charitable body.

Providing health, education and social services

There is a paradox at the heart of the debate over the future of charities. Despite the concerns over the independence of charities from the state, it is also clear that in many areas, charities will continue to have a growing role in providing public services. For example, both Labour and Conservative policy-makers appear enthusiastic about encouraging charities to be involved in the management and provision of schools and healthcare. The question is how this can be achieved without further undermining their independence from the state.

The answer may lie in reasserting who is the true beneficiary of the charity – and to endow that beneficiary with the power to decide which charity they wish to use. For example, in the case of

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[63] See www.charity-commission.gov.uk/supportingcharities/hcguide.asp

[64] Cabinet Office, op. cit.

disabled children and their families, funds could be given to them directly to pay for the services which they see as most appropriate to their needs (as opposed to being given the services which their local authority sees fit to provide).[65]

These proposals would give greater choice and control for the beneficiaries of those charities which are predominantly state-funded. It would also give charities greater incentives to respond to the demands of their beneficiaries. The role of the state would thus be limited to that of enabling the recipients of the service to make informed decisions, rather than, as at present, controlling the whole service. .

The freedom of individual beneficiaries to choose will act as a catalyst creating an environment in which social entrepreneurs can flourish. Responsive charities will prosper whereas mediocre or insincere charities will find their fortunes failing.

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[65] This approach was first outlined in F Heath and R Smith, *People, not budgets*, CPS, 2004.

THE PROMOTION OF PHILANTHROPY

Charitable Foundations

There are nearly 9,000 grant-making charitable foundations in the UK. The top 500 foundations give over £2 billion to charitable causes.[66] The role and activities of these foundations differ significantly from that of other charities: in general, foundations do not seek to collect money from the public or the state to fund their work. However, foundations and grant-making trusts come under the same regulatory umbrella as mainstream charities. Moreover, as the regulatory burden on charities increases, the attraction of setting up a philanthropic trust decreases. While philanthropic donations have increased in recent years,[67] a number of settlors of foundations have said they would not have done so in the current regulatory climate.

The most damaging aspect for grant-making trusts is that they are treated as if they are collecting charities. This means that they are required to be 'transparent' to a public that is not connected with them. The Association of Charitable Foundations stated:

> *We support a regulatory and advisory regime that goes no further than ensuring that grant-making charities make grants within the scope of their objects, that they don't persistently fund poor quality projects, and that their objects reflect the public good.*

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[66] CAF, *Key Statistics on the top grant-making trusts,* 2004.

[67] For example, philanthropic donations increased by 36% in the last year according to *The Sunday Times* rich list.

The Charities Bill (see Chapter 6) also proposes the removal of anonymity for any settlor. Lord Sainsbury of Preston Candover put forward an amendment, accepted by the Lords, designed to reach a compromise by allowing anonymity of settlor and his or her spouse throughout both of their lifetimes.[68] It remains to be seen whether this will survive into the Act. As he said in the debates in the House:[69]

> *Once, anonymous gifts were those most valued. If the present regulatory regime – including forbidding anonymity – had existed in 1973 when I set up the Linbury Trust I would certainly not have done so.*

Further concerns were raised by the Association of Charitable Foundations (ACF), which carried out a three-year project, looking at the reasons why philanthropists set up their foundations. The ACF stated that:[70]

> *A fifth of those who had set up grant-making charities had serious reservations about one or more aspect of doing so, the majority of which were related to the burden of bureaucratic regulation.*

Charity Commission guidance now instructs all charities, including foundations, to move towards a balanced investment portfolio. This can be against the express wishes of trustees and could act as a further deterrent to settlors. It could, in some cases, also lead to a lower return on the foundation's investment (particularly where a settlor had extensive knowledge and

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68 Paragraph 128 of Schedule 8 to Commons Bill 83 in 2005/06 Session of Parliament.

69 Lords *Hansard*, 20 January 2005, col. 904. According to the Charity Commission, the Linbury Trust has assets of £130 million and in 2003/04 gave grants of £6.9 million.

70 Written Evidence to the Joint Committee on the Draft Bill, "Supplementary memorandum from the Association of Charitable Foundations (DCH 276)", Annex 2.

experience of a particular industry or investment vehicle). While the intentions of the Commission are laudable, it appears that intrusive regulation and guidance are in danger of undermining the enthusiasm of future philanthropists.

CHAPTER SIX

THE CHARITIES BILL

THE LONG-AWAITED CHARITIES BILL has now completed its passage through the House of Lords. At the time of writing, the Bill has had its second reading in the House of Commons and is awaiting committee stage.

The main purposes of the Bill are to establish the Charity Commission on a statutory footing, to create a new legal form for Charities, the Charitable Incorporated Organisation and to reverse the presumption of public benefit which currently exists for charities whose objects fall under the three named charitable heads (the relief of poverty, the provision of education and promotion of religion). Other changes include changes to the law for street collections, which are outside the scope of this pamphlet.

The Bill contains a number of measures which are a cause for concern. These include:

- The Government did not accept the Joint Committee's recommendation[71] that the Charity Commission should be independent of government. The Commission would therefore still not be fully independent from government, since it still derives its executive authority from the Crown, rather than being accountable to Parliament.

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[71] A Joint Committee with members from both Houses of Parliament was appointed to scrutinise the Charities Bill as it went through Parliament.

- The Government has side-stepped the recommendation that the Charity Commission should be more accountable to Parliament and its committees. It said, in effect, that this is a matter for both Houses to consider and declined to give statutory force to a requirement for the Commission to report to either House.[72]

- The Joint Committee recommended that the Home Office and the Ministry of Defence explore ways of ensuring that funds remain properly accounted for without bringing such a large number of small Armed Forces accounts, which currently have excepted charitable status, within the remit of the Charity Commission. The Government rejected this, saying that there was a public interest in these charities, since they were eligible for tax-efficient mechanisms for giving.

- The Charities Bill accentuates the confusion over whether the Charity Commission is an adviser or a regulator. Clause 20 allows the Commission to give any advice or guidance it thinks appropriate without being asked. This is a significant departure from the terms of the 1993 Act.

- The Bill would reverse the presumption of public benefit which currently works in favour of some charities (those whose objects fall within the three named heads), so that the onus is on charities to demonstrate public benefit. Many charities which operate in the "grey area" – where public benefit cannot be proven or disproven in court – may cease to be charities. Setting up new charities will be more expensive, due to the legal counsel required to demonstrate public benefit. Furthermore, since the Commission proposes to monitor each charity on a regular basis, there will also be ongoing costs associated with this change in the law.

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[72] Government reply to the report from the Joint Committee on the Draft Charities Bill, Session 2003–04.

- The Bill seeks to change the regulation of excepted charities.[73] All excepted charities with an income of £100,000 or over would be obliged to register with the Charity Commission. This threshold can be changed by regulation issued by the Secretary of State.[74] The Government has indicated that it will remain this high only as a temporary measure, before reducing to £5,000. This would add considerably to the burden of regulation experienced by thousands of charities. If a threshold of £100,000 is introduced, then it is estimated that 5,000 excepted charities would be required to register (this would include 2,000 armed forces charities and 2,000 Church of England parishes. The remaining 1,000 would include 650 Methodist churches and up to 300 Baptist Union churches).[75] If the threshold were reduced to £5,000, almost all 100,000 excepted charities will be required to register.

- The Bill seeks to establish a new legal form for charities called the Charitable Incorporated Organisation (CIO). The CIO is the first incorporation designed solely for charities. Unlike charitable companies at present, which register with the Charity Commission and Companies House, CIOs would be required to register solely with the Commission. Moreover,

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73 Charities can be designated as excepted charities, either through a specific order made by the Charity Commission, or by the Secretary of State. An excepted charity has no obligation to register with the Charity Commission. Examples of excepted charities are churches in the Church of England and charities that exist to provide social benefits to members of the armed forces. Excepted charities, which do not need to register with the Commission, have fewer regulatory requirements (they do not have to submit accounts, prepare, nor transmit Annual Reports nor complete Annual Returns). The rationale behind such a reduction is that excepted charities are those which are under the control of another body acting in a regulatory capacity.

74 Clause 9 of the Bill, which inserts 3A(7) to the Charities Act 1993.

75 Explanatory notes, p. 243 (Joint Committee on the Draft Bill, p. 99).

the Commission will gain powers in controlling mergers and acquisitions between CIOs, without any oversight from outside. Rather than set out specifically how CIOs will work on the face of the Bill, regulatory power is handed to the Secretary of State. Although regulations have been published in draft, charities cannot yet have confidence about how CIOs will work in practice.

- The Bill proposes to widen the set of circumstances under which trustees of charities can be remunerated. Many who gave evidence to the Joint Committee on the Draft Charities Bill, including NCVO,[76] stressed that the voluntary nature of trusteeship was "the essence of the sector, without which it would be little different from the commercial sector". The Bill would also allow trustees to be paid for services rendered (as distinct for being paid for undertaking trustee duties). Here also, there is concern that conflicts of interest may result in malpractice, where work done by a trustee attracts a higher-than-market-price.

[76] Joint Committee on the Draft Charities Bill, op. cit.

CHAPTER SEVEN

RECOMMENDATIONS

Large charities

- The Charity Commission should establish accounting definitions of the following terms: direct charitable expenditure, management and administration costs, fundraising and publicity costs, and shop and trading costs.
- Using these new definitions, large charities should be required by the Statement of Recommended Practice to publish their expenditure breakdown in their accounts in a common format. This information should also be shown on the Summary Information Return (SIR).
- While charities are required to produce timely Annual Reports and Accounts and Annual Reviews, many large charities fail to do so. Such requirements must be enforced more strongly by the Commission, since they are vital in ensuring that large charities are accountable to the public. Also, the Annual Reviews should have mandatory content and should be "donor-friendly". The content should be designed for transparency and should contain information presented in a form that allows donors to make easy comparison with other charities in the same class. Annual Reviews should include a copy of the SIR and should contain data on direct charitable expenditure, management and administration costs, fundraising and publicity costs, and shop and trading costs, number of employees by role, remuneration of top executives, pension fund statements and other relevant data.

- The Charity Commission should publish the data for all large charities through an independent research organisation such as Guidestar UK.[77] This public database on all large charities will provide the public, the media and the Government with clear data on how individual charities are performing. It would also be hoped that the data would be reproduced in the national and regional press in the same way as school league tables are today. The pressure of public scrutiny may prove a powerful force to ensure that all large charities are always operating in the best interests of their beneficiaries.

- In addition, the Charity Commission should oblige all public advertising and fundraising literature of every large charity to contain a brief statement of the key data (such as management costs, proportion of income that reaches beneficiaries etc).

Government and the State

- The direct financial link between the state and charity should, wherever possible, be broken. Beneficiaries should be given the ability to regain control of their lives and choose which service they use.

- The greater use of highly-targeted universal benefits should be a priority for further financial analysis. Service providers should work on the basis of a fixed cost per activity so that service users know exactly what their benefit will buy.

- People should have the freedom to make informed choices from which charity they receive state-sponsored public services.

- Service providers should trade directly with users on the basis of a fixed cost per activity.

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77 GuideStar UK is an independent charity which provides detailed information about every charity and voluntary organisation in the UK.

- Government authorities should be excluded from being sole trustees of charities and the charitable status of Registered Social Landlords should be reviewed.

Philanthropy

- Philanthropic foundations should form a separate class of charity, with far lighter regulation than at present. Smaller charities, and those with a significant voluntary donor or volunteer base, should be similarly treated.
- A separate SORP should be created for foundations similar to the basic checklists as suggested by the ACF.

The Charity Commission

- The Charity Commission should act only as a regulator for the sector, and relinquish its role as a free adviser to the sector.
- Charities should seek advice from the commercial sector or from specialist charities offering advice.
- The Charity Commission should use its powers in a fair, reasonable and proportionate way when investigating smaller charities.
- The Charity Commission should concentrate its investigations to fairly reflect the distribution of income levels in the sector.

The Charities Bill

- The Charity Commission should be accountable to Parliament and not to the Crown.
- Parliament must enforce regular and detailed monitoring of the financial well-being and the regulatory effectiveness of the Charity Commission.
- In order to minimise the financial and administrative burden on smaller charities of passing an annual public benefit test, a sliding scale should be introduced, adopting the principle that

the smaller the charity, the less frequent the public benefit test.

- The measure in the Bill to require excepted charities to register with the Charity Commission should be withdrawn.
- The legal form of CIO must be much more clearly defined in the Bill.
- Measures allowing remuneration of trustees must be removed from the Bill. Trustees must also be prevented from being remunerated for services they provide to the charity, owing to the potential for a conflict of interest.
- Any lobbying activity by a charity should be conducted through a non-charitable subsidiary (as Greenpeace and Amnesty International do already). The public can then choose whether their donation is used for charitable purposes (for which they are eligible for tax relief) or to influence public policy (for which they are not).
- Charities are currently forbidden from carrying out political lobbying as a primary purpose.[78] Some large charities have recently begun to shift the emphasis of their activity away from directly looking after their beneficiaries (for which they were founded) towards political lobbying.[79] Not only should the current law be more strictly enforced here, but the law should be strengthened to prevent charities who are lawfully engaged in political campaigning through current loopholes in the legislation.

78 Guidance issued by the Charity Commission states that any such activity must be "incidental or ancillary" to the charity's main purposes. See Charity Commission, *Campaigning and Political Activities by Charities*, 2004.

79 Examples would include charities such as Scope, Christian Aid and the NSPCC.

- Campaigning organisations which retain charitable status, such as Scope and the NSPCC, do so only because of the proportion of expenditure represented by campaigning. Such charities should be forced to restructure into a model similar to that of Amnesty International and Greenpeace.

A Way Forward

During the debates in the House of Lords on the Charities Bill, Lord Dahrendorf defined the problem from another angle: [80]

> *For me, a thriving civil society is the basis of a liberal order and a thriving civil society consist of a creative chaos of voluntary and essentially private activities by individuals and their associations.*

It is time to recognise the importance of this creative chaos. This can be achieved by encouraging a lighter regulatory approach for smaller charities while imposing the discipline of consumer choice on those large charities which are involved in the delivery of public services.

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80 Hansard, 20 January 2006.

A SELECTION OF RECENT PUBLICATIONS

PEOPLE, NOT BUDGETS: valuing disabled children £7.50

Florence Heath and Richard Smith

Social services and the NHS are failing the 49,000 severely disabled children in this country. Care is fragmented, seemingly arbitrary and often inadequate. It is time to give disabled families more control over their own lives. To this end, the money spent by social services on 'assessment and commissioning' tasks (over a quarter of the total spent by social services on disabled children) should be paid directly to disabled families. These proposals are consistent with the broad direction of public sector reform: they are based on giving greater choice to disabled families and greater freedom to suppliers of care to respond to that choice.

"It comes to something when some of the most practical and insightful recommendations for improving the lot of families with disabled children come not from the political left, but from the right" – leading article in *The Independent*

FROM LATCHKEY TO LEADERSHIP **£7.50**

Kathy Gyngell and Ray Lewis

Too many children in our country today are being failed by their schools, by their parents and by the environment in which they are being brought up, particularly in the inner city. Yet an extraordinary voluntary organisation has succeeded in changing the behaviour – and just as importantly, the aspirations – of the very children who are most likely to become the drug dealers and the violent criminals of tomorrow. The Eastside Young Leaders' Academy is based in Newham, East London. It recruits only black boys who are about to be excluded from school. It turns their lives around. It achieves this by providing structure and rules, by intervening early in the boys' lives and by creating a commitment to learning. There is now an opportunity to replicate the success of EYLA. For this report shows how dozens of Young Leaders' Academies can be opened – on a franchise basis – across the UK based on the winning formula devised at EYLA.

"More than 100 community groups and local authorities have been in touch, asking to export the academy idea around the country. That will soon become a real possibility, because the Centre for Policy Studies is shortly to publish a guide to replicating the academy" – The Sunday Times

NO MAN'S LAND: how Britain's inner city young are being failed £10.00

Shaun Bailey

Shaun Bailey works in one of the most deprived inner city areas in Britain, trying to save the neglected, the rootless, the crack-addicted from a life of death and despair. He tells of how the problems on the estates are getting deeper every year; and of how failure and a poverty of aspiration have become engrained into the soul of the community.

What can be done? First, the liberal consensus must be challenged. Easy access to, and liberal attitudes towards, drugs, alcohol, pop culture, teenage sex, greed, single parenthood and the celebration of violence are causing deep damage. Second, people need practical help. Bailey describes how he and his colleagues have brought round heavy crack-users; how they have set up drug rehabilitation schemes, job clubs and football clubs for the young people on the estates; and of how these – and not government initiatives – are beginning to fill the ethical void that is at the root of so many young people's problems.

"Shaun Bailey comes from one of Britain's most deprived inner city estates. Here he describes a deepening spiral of broken families, drugs and violent crime. But it is his solution that may surprise you: strong moral codes, school discipline, a return to family values and a crackdown on all drugs" – The Daily Mail

A SUBSCRIPTION TO THE CENTRE FOR POLICY STUDIES

The Centre for Policy Studies runs an Associate Membership Scheme which is available at £100.00 per year (or £90.00 if paid by bankers' order). Associates receive all publications and (whenever possible) reduced fees for conferences held by the Centre.

For more details, please write or telephone to:

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