

CONTENT OF THE ANNUAL RETURN FOR 2015

CHARITY COMMISSION CONSULTATION

NPC SUBMISSION: CHARITIES, TRANSPARENCY AND DOING GOOD

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About New Philanthropy Capital (NPC)

NPC is a charity think tank and consultancy dedicated to helping funders and charities achieve the greatest impact. We have an ambitious vision: to transform the charity sector so it becomes as effective as possible in improving people's lives and creating lasting change for the better.

As well as working with individual donor and charity clients, we encourage debate across the sector, provide thought leadership, pioneer solutions and bring people together. We identify issues that are preventing the charity sector from achieving its potential, explore ways to overcome them, and work with partners to catalyse change.

The principles behind this submission

As a core principle, NPC believes strongly in transparency in the charity sector. We therefore welcome this consultation from the Charity Commission.

It is right that the public, potential donors, users and beneficiaries can see how charities operate. Provided the data required of charities is made easily available in relevant forms, it also allows researchers to scrutinise the way the sector works. It is important to be clear that this is not a principle we would only apply to the charity sector; we believe that government and the private sector should also be as open and transparent as possible, and would always want to make sure that the charity sector is not being asked to do something that isn't required of other sectors unless there is an overwhelming case for treating it differently.

Transparency should apply to questions about where charities get their income from and where their expenditure goes. That is the heart of this consultation from the Charity Commission. These are, however, just inputs and outputs. Transparency can and should also be introduced to bring more incentives, clarity and focus on to what

charities actually achieve—their impact. This is not easy, and we will be saying much more about the topic in our manifesto for the sector to be published later this year.

However we are very clear that in looking for increased transparency the following provisos must apply:

- The data collected must make sense and must be properly comparable across time and across charities.
- Requirements must not impose unfair and unnecessary burdens on charities, especially smaller ones
- Any changes should be tested, and piloted before being introduced.
- The Charity Commission should be clear how they will use, publish and make available the data before the requirements are brought in.
- It must in no circumstances be an excuse for trying to attack organisations that do more of one activity than another, or who obtain income from one source rather than another. There must be no implicit favouring of one charity model over another, and absolutely no ‘slippery slope’ towards using this data to question the charitable status of some organisations.

Consultation response

Q1. Do you agree with the proposal to introduce a question into the annual return to ask how much of a charity’s total expenditure has been on campaigning activities?

Yes, as long as the conditions set out above are met.

NPC has long argued that greater transparency in the charity sector—which turns over billions of pounds every year and enjoys substantial tax breaks—is the right thing to do. It would be especially helpful to both public and private funders of charities, who would be able to see how their money is used and how this might inform funding decisions of the future.

However, there seems little reason to target campaigning spending only for transparency. We would like to see a drive for transparency across the whole sector. Indeed, to only act in the area of campaigning might be thought of as having other motivations, given the recent Lobbying Act. The Charity Commission should consult on what other categories of spend would be usefully collected.

It is likely to be a challenge for charities to isolate campaign spending and define the money spent in ways which both minimise the bureaucratic burden on charities and yields useful results. The Charity Commission will need to define their terms very carefully to make sure that the information they ask for is comprehensible, unambiguous and accessible to charities (so that they can provide what the Commission wants) and useful to other stakeholders (so that this data can be easily understood and compared). Where the additional information requested can readily be met from the details already required for the trustees’ annual report and the charity accounts, the burden will of course be less. It may also be helpful that charities have already been advised in the new Statement of Recommended Practice (SORP) to include additional subheadings in their analysis of charitable activities,¹ which can act as a guide to providing this information.

Nonetheless, the Commission will need to consider its definition carefully. When is a campaign a campaign rather than just profile raising? Will ‘campaigning activities’ cover only the work of paid campaigning staff or all the resources employed in different campaigning projects (which may include other members of staff)? Will it include the costs of producing and distributing campaign materials, which may come from administrative budgets? What about campaigns run mainly through social media? How might a charity measure the amount of unrestricted funding used for campaigns work?

¹ See Clause 4.53 http://www.charitySORP.org/media/620742/frs102_module-4.pdf

It is important to stress what this data can usefully show stakeholders, and equally importantly what it *won't* show. The total resources spent on campaigning will, if it can be correctly measured, tell you how much a charity is committed to this area of work, and the attention it receives relative to service delivery or other activities. However, spending on campaigning activities will tell you almost nothing about the impact or effectiveness of those campaigns, something which may be just as important to stakeholders including potential donors. Measuring the impact of charity campaigning is a complex process which need its own system of evaluation, and the available data produced by these questions will do nothing to help identify that.²

Neither must the availability of this data be used to argue that charity status should be withdrawn from any organisations on the basis of their campaigning work, as long as it is complying with charity law. Political arguments about charity campaigning have grown in recent months³. We would stress that data transparency is important in helping charities become more effective. It would be wholly inappropriate, however, to use this information as an argument to prevent charities from campaigning.

One important dimension to the public debate around campaigning has been the extent to which charities ensure that the 'voice' of service users is considered at all policy levels. This captures the core value of charities, which will usually have more contact with their beneficiaries and a stronger understanding of their needs than any other part of society. As governments set about addressing social problems, this expert knowledge is essential to reaching coherent solutions. This expertise is often openly accessible to officials through what might be defined as charity campaigning.

Q2. Do you agree with the proposal to introduce a question to the annual return to ask how much a charity's income was received from:

- public service delivery**
- private donations?**

Yes, with certain provisos.

Charities rely on private donations for, on average, a third of their total income⁴; they also receive grants from the public sector and receive funding from national and local public sector commissioners for delivering (and sometimes shaping) public services. Transparency around the sources of their funding is in the interests of the people who fund this work and stakeholders who want to understand it better.

However, using two very broad categories as the Charity Commission proposes runs the risk of important information being missed and observers being misled. 'Public service delivery' income might be in the form of grants or commissioning, and the Commission should consider capturing information on both. Similarly, a single figure for a private donations total won't tell the Commission whether this consists of one or two very large donations, a series of much smaller donations from a wider range of givers, or even if the donation comes from the government. Equally it will not tell us if the funding comes from purely private funders or more complex funders like the Big Lottery or the Heritage Lottery Fund. It also misses out the growing category of social investment. These sort of distinctions provide crucial information about who is helping fund charity work and how, and the Commission might want to adapt its questions to address this.

To clarify sources of income in this way, the Commission could look to the breakdown already required of charities for the Statement of Financial Activities⁵.

² Evaluating the effectiveness of charity campaigning is the subject of an NPC paper, forthcoming in September

³ See for example <http://www.telegraph.co.uk/news/politics/10888966/Oxfam-MPs-shocked-by-disgraceful-political-campaigning.html>

⁴ See *Money for good: Understanding donor motivation and behaviour* (NPC: 2013) <http://www.thinknpc.org/publications/money-for-good-uk/>

⁵ See <http://www.charitycommission.gov.uk/media/513632/module-4.pdf>

Q3. If we did introduce the questions set out above is it feasible for charities to provide this information for the annual return for 2015, or should we wait to introduce the question in the annual return for 2016?

No. All these ideas need to be researched and piloted before bringing them in.

So while it would make some sense to align this request with the requirements of the new SORP timing, and begin for financial years starting after 1 Jan 2015, delay is preferable.

Q4. Do you agree with the proposal to ask whether a charity has a written policy on remuneration of executive staff?

Yes. In the name of transparency it is right that charities provide information about their remuneration policy of the CEO. However it should not be used as an attempt to launch a general attack on levels of CEO pay. Indeed some evidence from the private sector suggests that more transparency has led, if anything, to upward pressure on pay, not downward.

There is evidently a question of trust and transparency which needs to be addressed over how much charities pay their senior staff and how they reach decisions on this issue.⁶ If charities feel that these opinions are based on public misunderstanding, this is an incentive for them to make a persuasive case for how they have reached the decisions they have. It is in the interest of charities to confirm, at the very least, that they have written policy guidelines to help them reach these decisions.⁷

NPC doesn't feel that it would be unduly arduous for charities to provide this information.

Q5. Do you agree with the proposal to introduce a question into the annual report for 2015 to ask if a charity has carried out a review of its financial controls during the reporting year?

Yes, as it is part of good governance—although asking for this to be done every year may be disproportionate, especially for smaller charities.

Q6. Do you agree with the proposal to ask charities with incomes of between £10,000 and £500,000 to provide some key financial information through the financial return?

In principle, collecting information from charities of all sizes makes sense. But we need a sense of proportionality here. As the Charity Commission has acknowledged, this proposal would place an additional burden on more than 75,000 charities, including many with a relatively small income and as a result likely limited resources. The £10,000 lower limit may be far too low.

While NPC welcomes moves towards transparency in the sector, we're surprised that no impact assessment seems to have been conducted to decide which charities might be most adversely affected by these demands. Such a process would help ensure charities have confidence in these new requirements if and when they are brought in, and we would recommend that an impact assessment is conducted before any final decision is made.

The Commission may also consider aligning this requirement with the demands already made by the independent examination of charity accounts.⁸

⁶ See *Mind the gap: What the public thinks about charities* (NPC: 2014) <https://www.thinknpc.org/publications/mind-the-gap/>

⁷ The same call is made in *Good governance gathers pace* (Grant Thornton: 2014), p. 20.

⁸ See <http://www.charitycommission.gov.uk/detailed-guidance/money-and-accounts/independent-examination-of-charity-accounts-examiners-cc32/>