HOUSE OF LORDS

Select Committee on Charities

Corrected oral evidence: Charities

Tuesday 8 November 2016

4.00 pm

Watch the meeting

Members present: Baroness Pitkeathley (The Chairman); Baroness Barker; Lord Bichard; Lord Chadlington; Lord Foulkes of Cumnock; Baroness Gale; Lord Harries of Pentregarth; Baroness Jenkin of Kennington; Lord Lupton; Baroness Scott of Needham Market; Baroness Stedman-Scott.

Evidence Session No. 11	Heard in Public	Questions 105 - 114

Witnesses

I: Frances McCandless, Chief Executive, Charity Commission for Northern Ireland, and David Robb, Chief Executive, Office of the Scottish Charity Regulator.

Examination of witnesses

Frances McCandless and David Robb.

Q105 **The Chairman:** Good afternoon and welcome. We are very pleased to see you. I have to make some things plain to you before we begin. This session is open to the public, as you know, and it is being broadcast on the parliamentary website. A transcript will be taken of your evidence, and you will be sent a copy of the transcript to check it for accuracy and to advise us of any corrections. If, after this session, you wish to clarify or amplify any points made during your evidence, or if you have any additional points to make—if there was something else that you would have liked to say—you are welcome to submit supplementary written evidence to us. We are not going to say, except in specific instances, who we expect to answer a question. We leave that to you. You do not both have to answer. If you think the other one has said all that needs to be said, that is fine. My colleagues will feel free to come in with supplementary questions as they wish. I should warn you that it is possible that we will have a vote. You will not be able to mistake it; the bell will sound very loudly. Thank you very much for coming. Perhaps you would like to introduce yourselves. Then we will move straight to the questions.

Frances McCandless: Thank you, Lord Chairman. I am Frances McCandless, the chief executive of the Charity Commission for Northern Ireland.

David Robb: I am David Robb, chief executive of the Scottish Charity Regulator.

The Chairman: Welcome to you both. The first question is to both of you. What are your main objectives in overseeing the charity sector in your respective areas, and how do you fulfil those objectives?

Frances McCandless: Our objectives are set out in the legislation, and the legislation in Northern Ireland is very similar to the legislation in England and Wales. Scotland is slightly different, as you will hear. Our legislation is largely the same, although not entirely. The objectives set out there are the same as those for the Charity Commission for England and Wales: promoting public benefit, compliance by charity trustees with legal obligations, effective use of charitable resources and promoting and enhancing accountability. We go about that by building a comprehensive register, which we are doing in a slightly different way in Northern Ireland. We are starting from scratch and registering all charities individually. Many organisations have existed in Ireland, in some cases for hundreds of years, and called themselves charities, and they have had charitable tax status from Her Majesty's Revenue and Customs. We are building a clean register by looking at charities individually and making a determination on their status. That is our first way of approaching it. Those will then be the organisations over which we know we have jurisdiction.

The second aspect of our work is making sure that the register of charities is kept up to date by annual reporting. In the same way as in England and Wales, we are just starting a programme of submission of accounts, on an annual basis, annual reports and monitoring returns, with small amounts of information for small charities and much more detailed information for larger charities. We have a robust investigatory and compliance function, where we address alleged wrongdoing from externally or internally generated complaints, and we do a lot of engagement with stakeholders, because the regime in Northern Ireland is very new. We are involved in engaging with and educating charities and their trustees about their obligations under the law.

David Robb: In Scotland, legislation was passed by the Scottish Parliament in 2005 to establish OSCR—"Oscar" as we are affectionately known—as a non-ministerial department. We took over some functions previously performed by the Inland Revenue and the Crown Office in Scotland. That legislation added new functions and powers, although they were largely based on the model already running in England under the Charity Commission for England and Wales.

Our corporate plan sets out three main externally facing strategic priorities. We try to help the public to have more confidence in charities. Our overriding aim and vision is to underpin public trust and confidence. Part of that, as Frances said, flows from the register. We have an accessible, comprehensive register. There are 24,000 charities in Scotland on the register, and we supply a range of information about those charities. We are trying to enhance the transparency of the register all the time.

We can investigate possible misconduct or other risks to charity assets or to public confidence in charities. As Frances outlined, we try to help charity trustees understand and comply with their legal duties, and we have an aim of keeping registration and reporting straightforward and proportionate. That is particularly important for us, given the number of small charities over which we have jurisdiction.

Our strategic direction is set by our board, which has eight members. Executive action is delegated to the staff team. We have roughly 50 members of staff based in an office in Dundee, and they carry out a wide programme of operations to deliver our objectives. Recently, following public consultation, we shifted to a more risk-led approach to our work. Under that, we aim to ensure that our resources are deployed in the areas that add most value.

The Chairman: To help us understand a bit more about your roles, I have two other questions. First, how does your role in regulation differ from that of other regulators? It may not, but, if it does, could you tell us how? Secondly, how do you balance that regulatory role with your role of enabling and supporting?

David Robb: I presume you are drawing a comparison with other charity regulators, not the widest sphere of regulation.

The Chairman: Well, some people say that regulation is regulation. It would be interesting to hear whether you think that charity regulation is intrinsically different.

David Robb: Yes, I think it is. Confusion can arise when people hear the word "regulator". They imagine that we are a regulator of a particular sort. Often they think that we have a sort of inspectorate function or that we perform a role around efficiency or are more akin to an economic regulator. We are not that kind of regulator. Sometimes, the label creates unrealistic expectations. I am always careful to point out that we are the registrar. A lot of our effectiveness flows from maintaining an accurate register. In that sense, we are the gatekeepers; we control access and make decisions about who we believe passes the charity test, and we make sure that the register stays accurate and up to date.

In other areas, we have a relatively light touch over our regulated constituency. As I said, we are not an inspectorate. We do not have a role in grading efficiency or effectiveness. We concern ourselves with matters of governance and regulatory propriety, and that focuses on the actions of trustees. We do not try to second-guess the operations of charities and their management. We are not involved in intervening in that way.

Frances McCandless: On the issue of enabling and regulating, as a brand-new regulator with a brand-new piece of legislation, which charities are only just getting used to, the model we have adopted is that we have to tell people what we expect them to do, not just wait for them to get it wrong and then step in to try to sort it out, punish or whatever.

We have had to do quite a lot of engagement in our early years, face-to-face where we can. When we call groups of organisations forward for registration as charities, we do it in managed tranches. When we call them forward, we offer them a registration workshop. They sit in a room with one of our staff and are talked through the online system to try to dispel fear and anxiety, especially for small charities. We say, "It is straightforward. We are going to explain how it works. We provide checklists and toolkits. These are all the pieces of paper you will need when you sit down to do this". First of all, we try to dispel any anxieties, to encourage people to comply, so we explain, face to face where we can, but largely through a large range of online guidance. We have been operational with staff in place for six years, and we have produced 59 pieces of guidance in that time. We think we need to explain first and enable people to comply, and then we get on with looking at where things are going wrong. In the vast majority of cases, people want to get things right, but they need to know what they are expected to do and what the law requires them to do.

Q106 **Lord Chadlington:** Part of that exercise is a sort of market research exercise, is it not? You are talking to the market and hearing what it wants. When you look back over recent years, have you noted any changes in the challenges you face in meeting that market demand? Can you see any distinct differences between what you do that may apply to other parts of the United Kingdom?

Frances McCandless: Because we are relatively new, we have been facing much the same challenges as we have gone through. We have just been dealing with them in greater volume as we have speeded up the process. We have been facing more complex legal challenges, as we all seek to understand what the law actually means. We have no specific case law in Northern Ireland yet relating to the Charities Act (Northern Ireland) 2008. The economic environment in which charities operate has perhaps become more challenging during the years we have existed. I do not think we have yet seen evidence of their ceasing to comply with our requirements because of that, but from what we hear, they now find themselves in a very challenging environment.

On the differences, the sector that we regulate is very different from the sector in England and Wales. We did a sample of the first 4,000 charities on the register in Northern Ireland; 93% of them have annual incomes of below £500,000, and a quarter of them have less than £5,000 a year. We have no de minimis threshold. Everyone is on the register. It is compulsory registration.

Lord Chadlington: A quarter of the total.

Frances McCandless: A quarter of the total 4,000. It is a small, local sector. We are looking at quite a different picture of regulation from what our colleagues see in England and Wales.

David Robb: Thinking about trends in Scotland, certainly in the early days of OSCR’s life, a lot of effort was put into improving the quality of the financial records kept by charities. We issued a lot of guidance and we worked closely with many people in the advisory community to improve the quality of charity financial recordkeeping. That has been very successful. From a position in the early days when less than 20% of the accounts that came to us met the acceptable standard, we now have well over 80%—probably around 90%—acceptability, which has allowed us to shift our efforts into other areas. That is partly because charities are becoming familiar with what is expected of them and partly because the education and guidance whose dissemination we supported is becoming more widely understood.

On other changes, there is the new legal form: the charitable incorporated organisation. We have a Scottish version of that, which is proving extremely popular. The sector is having to get used to things that are limited and have legal personality but are not companies. For the charity sector, and for financial institutions and funders, there has been quite a process of education to understand the SCIO, as we call it. It is very popular: around half the applications that we see nowadays are from charities that want to take that legal form. That is transforming the constitutional make-up of the sector. About 10% of the charities on our register are now SCIOs. The company is less popular as a vehicle.

Frances mentioned the growing complexity in the sector. Charities are responding to pressures—funding and other pressures—in the environment where they operate. We are seeing the growth of more self-sufficient funding models, trading and enterprising approaches, with less reliance on grants or contracts, giving a bit more income generation. Sometimes, the structural response to that from within charities creates complexity, so there are lots of trading subsidiaries. The innovative structures involved sometimes take quite a bit of unpicking. That is a shift we have seen over the last 10 years.

Q107 **Baroness Barker:** My question stems from the fact that you operate in a much smaller environment, with much smaller and very local organisations. What difference does that make to your powers of intervention and how you use them? We are interested, for example, in the Scottish move towards a risk-based approach and how that is working out. Can you tell us about that?

David Robb: We have finite resources and potentially an infinite number of things that we could pursue. We are trying to make sure that we put our resource into areas that address the biggest areas of concern, which have the biggest potential to undermine public trust and confidence. We have been developing a risk framework, which we see as a living document that will respond to shifts in pressures. Through our operations, and through other engagements with key stakeholders, we have established the sorts of areas that we think would most undermine public trust and confidence. We want to be a little more proactive, rather than reacting to issues as they arise or to issues in specific areas.

If we spot patterns or risk factors, we can do thematic reviews. We can try to get upstream of the issues and possibly develop solutions, to make sure that the issues do not escalate to become real problems. Sometimes, if we arrive late in the day, we are not always able to add a great deal of value when there has been a real breakdown in the operation of a charity or in its governance. We might be able to confirm it, but it would be better all round if we were able to spot it and help prevent it. Regulation can be seen as preventive, if we identify risk issues and take a proactive approach.

Q108 **Lord Foulkes of Cumnock:** First, I declare an interest, especially as it is the Scottish regulator: I am chair of Age Scotland.

On the new notifiable events procedure, there are certain things such as fraud, allegations of abuse or Revenue or police investigations that are fairly obvious. There are others that are not so obvious—a shortfall in pensions provision or something else. How do you define notifiable events? Some of the charities in Scotland are not sure what you mean by notifiable events.

David Robb: That is one of the elements of the regime that we introduced in April this year. It will take a wee while to bed down. It is not an entirely new idea. We borrowed some of the thinking from a regime that the Charity Commission has operated for some time under a different name, which escapes me.

Frances McCandless: Serious incident reporting.

David Robb: We decided that that was a little scary sounding, so we borrowed the term "notifiable events" from our housing regulator. It is not an entirely new idea, but it will take Scottish charities a wee while to get their heads round it.

We are trying to do a couple of things. First, we are trying to offer a checklist to encourage trustees to think about the kind of risk areas that they might want to be watchful of in their own charity. We also want to get charities used to reporting issues in real time, rather than on an annual cycle. Should there be an incident that a charity considers significant for it, it is hard for us to be prescriptive about that—£50 going missing in a small charity might constitute a significant matter; in a larger charity, it would be of less significance—so we leave the judgment to trustees about what is a significant matter, but we want to encourage trustees to be watchful and to alert us, as a regulator. So far it is working very well, and trustees are telling us not just about what has happened but about the mitigation they have put in place and the steps that they have taken. It is encouraging.

Lord Foulkes of Cumnock: Is that based on a similar provision for the serious incidents reporting regime in England?

David Robb: Yes.

Lord Foulkes of Cumnock: Is it exactly the same?

David Robb: No, it is not exactly the same, but it comes from the same place and it has similar intentions.

Lord Foulkes of Cumnock: Do you have that in Northern Ireland?

Frances McCandless: We will bring it in in Northern Ireland. We have not yet got round to it, but we will have a version of it.

Baroness Barker: Given that you work with a lot of smaller charities, do you agree that there could be a profound impact on your work if every charity, no matter what size, was required to have a very simple website on which they put their annual report and annual accounts? The people in their communities who know their work could see directly what they do. Given that you have far fewer charities than in England, do you have the freedom to work on such initiatives, which might improve regulation?

David Robb: I certainly feel that—whether or not it is a product of our scale and of our reach. I have been chief executive for five years now. I remember, as I was starting in the job, that we were moving our annual returns process to be an online activity. We had quite some nervousness that some of our charities—we guessed the smaller ones in particular—would have difficulties operating on that basis. We have been pleasantly surprised that well over 90% of charities now use the online service with no real difficulty.

The realities of operating in a digital age mean that most charities have a website, although not all; we have lots of Brownie packs and mother or parent and toddler groups, and for them maintaining a website might not be realistic. However, for single-instance charities, it would be pretty unusual to find one without a website these days. As for whether we would want to make that a requirement, some of them use the register as the equivalent of a website, so having a comprehensive register with basic information performs that function. There is a lot in what you say, but whether we would find it easier to move in that direction because we are smaller, or maybe just a bit more innovative, I do not know.

Frances McCandless: We would say to smaller charities that one of the benefits of charity registration being mandatory for everyone is that everyone has a presence on the register, and the register is the live front page where any member of the public can look up a charity's details. Its annual report will be on there, its accounts will be on there and its public benefit statement will be on there, and it can tell its story about the good work that it is doing and can describe its activities in a separate section. Hopefully, the register will provide that facility for charities that may be too small or too nervous about the technology to set up their own.

David Robb: If the Committee is thinking about recommendations in this area, do not overlook Facebook. A lot more charities have Facebook accounts than have websites.

The Chairman: You will have an opportunity later to give us your idea about a recommendation.

Q109 **Baroness Scott of Needham Market:** I want to stay in this space, on the question of the threshold for registration. We have set it at £5,000. You have just described one of the advantages as being that there is a uniform portal. I have a general question about the pros and cons of compulsory registration for everyone. Specifically, Frances, you mentioned in your evidence that "the quality of the public benefit statements has proved to be problematic". Could you explain a little more about the issues around public benefit statements? Then, there is the question about registering everyone, including the very small charities, and how that fits in with a risk-based approach to regulation.

Frances McCandless: We have known no other system. We have come in with this new legislation, and everyone must register. It provides a level playing field, which is very easy for the public to understand. We regulate in the public interest. We are there to underpin the effective operation of charities, and to guarantee accountability and transparency to the public. As I was saying earlier, if we were to have a de minimis at the level that it is in England and Wales, about a quarter of the 4,000 organisations that were first on the register would not be regulated at all. It is a clean system for the public: if the charity is on there, they know it is a charity; if it is not, the chances are that it is not a charity. We have no categories of exempt charities either, as is the case here.

We think that the process of compulsory registration for everyone, because we are doing it from scratch, has made all charities consider their governance. Not all charities examine their governing documents on a daily basis, but if you are forced to take it down from the shelf to fill in a registration application, or for the purposes of governance reporting, you might be surprised at what is actually written there. It might not accurately reflect what today's charity is doing. We have a point in time when everyone is forced to look at that document, weigh it up against their current activities and see whether it needs to be refreshed or updated, and whether they are doing something they should not be doing, or whether they are permitted to do things that they have never done.

We think that aids openness and transparency, and we did some trust and confidence research earlier this year, which we have shared with the Committee. Of the public we surveyed, 84% said that charities being transparent about how they collect and spend funds is hugely important to them; 83% said that charities being open and transparent about their activities is very important. Given that so many charities in Northern Ireland are small and local, the register helps to provide that transparency.

On the disadvantages, we know that smaller organisations have felt more anxiety, but of those that have been through the process, many would say that it was not as bad as they feared. It is not necessarily the reality that is problematic; it is the anticipation. Many very small organisations that are completely volunteer-run have been through it. We have a pop-up survey, which asks, as soon as you have finished completing the registration process, "Did you understand what we were asking? Was the guidance useful?" Smaller organisations say that it works well for them. In practice, we do not think that it is as much of a problem as people perhaps feared it would be.

We have put a lot of strategies in place to try to help small organisations, not just the face-to-face sessions. We have written a toolkit for public benefit reporting, because it has been challenging. This is a new language in Northern Ireland. Charities did not talk about public benefit before. They are used to describing their activities. They are getting extremely good at talking about their outcomes, because that is what a lot of funders now ask for, but public benefit was an entirely new term. When we started asking, "Please give us a public benefit statement", we got a description of activities, so we produced a toolkit that lists a number of questions. Who are the public you are dealing with? How do they benefit? What are the benefits? How are they demonstrable? If charities answer those questions, they will write a good public benefit statement and the public will see it on the register. Those are the kinds of challenges we were seeking to deal with.

David Robb: Frances has captured a lot of the experience in Scotland very well, so there is little value in my repeating all that. The obvious downside of having a larger number of charities to deal with is that there are resource implications. If you have a proportionate, light-touch approach at the bottom of the size spectrum, you can minimise that, but it is undoubtedly true that catering for large numbers of small charities has an implication for resourcing. You can be clever and use websites and automated procedures as much as you can; Frances is right—we have both always done it that way. Had we developed a regime and then suddenly had to bring in a whole large extra tranche of charities, it would be quite a thought as regards resource commitments. You have summarised the advantages of the approach very well; that has very much been our experience.

Q110 **Baroness Jenkin of Kennington:** How do you approach the regulation of cross-border charities? How do you communicate with neighbouring regulators to ensure effective oversight?

David Robb: I will kick off on this one; we have been at it a little longer. We work very closely with the Charity Commission for England and Wales and sometimes the Charity Commission for Northern Ireland. Clearly, there are charities whose operations span the boundaries. We have established a lead regulator model. We try not to burden charities and duplicate, so when a charity is headquartered in England or Wales but operates in Scotland, we let the Charity Commission be the lead regulator. We require an annual return from it, but for all intents and purposes the Charity Commission would be the lead regulator.

When there are regulatory matters relating to that charity, we are in close contact, including on individual cases. We have regular bilateral and, indeed, multilateral meetings. We have agreed memoranda of understanding on information-sharing protocols. We have similar arrangements with other regulators—with the Scottish Housing Regulator and the Care Inspectorate. Increasingly, we are becoming better at sharing intelligence with other regulators. We try to take a "minimising the burden" approach, avoiding duplication through constant communication.

Frances McCandless: We undertake joint work, where possible, to standardise an approach across these islands. For example, we work together on the SORP committee, which is looking at the format for charity accounts. We are working at the minute on the Financial Action Task Force. Is that right?

David Robb: Yes.

Frances McCandless: FATF is the acronym we use. That will be a UK Government report, and all the regulators are working together on it. We had a joint consultation earlier this year on the matters of material significance that we want auditors to report to us. We try where we can to put a regime in place that will operate in a similar way for charities across the UK, and sometimes the UK and Ireland.

In the Northern Ireland legislation, we have a specific section, Section 167, which, when it is commenced—it has not yet—will deal with charities that are regulated primarily in other places but that also operate in Northern Ireland. Until we have thrashed out the detail of what that will look like when it is commenced, we do not have much legislation that describes how cross-border regulation will happen. As David says, we have very good relationships. We talk frequently.

We have charities in Ireland that predate partition. We have charities whose governing documents do not take account of the fact that there is a border at all. We need very close working relationships with our counterparts at the Charities Regulatory Authority in Dublin to ensure that we do not have duplication of regulation in those instances. In particular, the Churches straddle the border.

Q111 **Baroness Stedman-Scott:** How have UK-wide problems, such as some of the recent charity fundraising scandals, affected the sector in Scotland and Northern Ireland, if at all?

Frances McCandless: Our public read and watch the same media, and the same perceptions that there has been a problem are held. Our recent trust and confidence research indicated that about a quarter of the people spoken to said that they had less trust in charities than they had previously. Although I do not think that we really have evidence that the problem has emanated in Northern Ireland particularly, UK charities are phoning members of the public in Northern Ireland and collecting funds and working in Northern Ireland, so the public in Northern Ireland certainly perceive some of the same problems. That is an issue if trust and confidence, and therefore support for charities, drop.

The solution that has been put in place for England and Wales has left us with something of a hiatus, because it does not present us with an automatic solution for Northern Ireland. Scotland has taken a slightly different approach, which David can talk about, but we do not yet have an approach to fundraising self-regulation in Northern Ireland. As the regulator, our view is that it is up to the sector to decide what self-regulatory mechanisms it wants, but there must be something. If confidence and trust are falling, some sort of self-regulation must be put in place.

Lord Foulkes of Cumnock: The media are now on to this, are they not? They are looking out for charities that might be sailing close to the wind or beyond it. There is 1st Knight, for example. BBC Scotland has done an investigation and found that a charity providing respite care for soldiers with post-traumatic stress was selling anti-Islamic and Nazi T-shirts. Is there something that you and others can do to warn people about that kind of thing and alert them to the media interest?

David Robb: Yes. We have recently been alerted to that programme, which I believe may initially have been planned as a UK-wide programme. It has not been broadcast, but it is being broadcast in Scotland at 8 o'clock tonight, and we believe that it was first planned as a "Panorama" programme. It took evidence from the Charity Commission and from the fundraising regulator. The charities were England and Wales charities. For reasons that I do not understand—I do not really understand how the world of TV operates—it is not being broadcast as a "Panorama" programme now; it is being shown only in Scotland, although it will be available on the iPlayer. That is an instance of what you describe; elements of the media have a sense that charities might be of interest, and a charity scandal story is always good TV or good copy, sadly.

As regulators, we urge people to keep those problems in perspective. There are a great number of military charities, and the timing of the programme is extremely unfortunate. It shines a light on military charities at a time when, traditionally, we would be working in solidarity with such charities. The timing is, probably calculatedly, a little salacious. It will call into question the great majority of military charities and other charities whose governance is exemplary. The rotten apple can spoil the barrel, and when single charities stray off the path and media attention is given to that, it can create a misleading impression in the public's mind that poor governance or, in this case, extreme ill judgment, as it appears, is widespread, whereas the reality is very different.

Lord Foulkes of Cumnock: You would see it as part of your role or as part of the Charity Commission's role in England and Wales to make clear that it is an exception, and that the vast majority—all the other charities—

David Robb: Yes. I think we have a responsibility, first, to take swift regulatory action where there are problems, and to ensure that things are nipped in the bud and dealt with swiftly, but also to remind people that there are hundreds if not thousands of charities that are not in the news, and to keep the problems in perspective. The media has always been a slightly distorting lens.

Lord Bichard: May I invite you to elaborate on that a bit? Leaving aside the particular case, you point out in your written evidence that trust in charities in Scotland remains strong and has decreased only slightly, which is rather different from what is happening in England.

David Robb: Yes.

Lord Bichard: Apart from the excellent work that you are doing, what do you attribute that to? Why do you think it is? Is it because there is less negative media coverage? What makes Scotland different?

David Robb: It is very difficult to ascribe the proper reasons, but we have found, and SCVO, from which you will hear evidence later, has also found in its surveys, that the dent in confidence in Scotland was at a greatly reduced level. Public confidence in Scotland is still at higher levels than it was four or five years ago, although it has slightly dropped from last year.

Frances said earlier that people see the same media. That is partly true, but we have our own media in Scotland. We have our own devolved

Parliament, and the political debate and climate for discussion around these issues differs significantly. It has been shown through analytical and survey work that people strongly associate with, and place a high degree of trust and confidence in, local charities whose work they know very well. It may be that in Scotland the public can differentiate large UK charities, whose operations are on a certain scale and perhaps have a degree of remoteness, and local charities, which they may have direct involvement with. There are nuanced, layered issues around public perception and how it is influenced.

Lord Bichard: You are really saying that the tone of the political debate is different in Scotland. Do you want to elaborate on that? In what way is it different from England?

David Robb: It is very difficult to generalise in terms, but we have a Government of a different persuasion, and some of the interaction between the body politic and civil society in Scotland takes on a different character as a result. That can change as Governments change.

Q112 **Baroness Gale:** What is the proper role, if any, of the UK Government and Parliament in oversight of charities in devolved areas? How does UK-wide legislation, for example on taxation, affect your sectors? What reforms may be necessary?

Frances McCandless: David and I often talk about such issues. Clearly, there is a significant role in UK legislative frameworks, including the tax system and company law frameworks. We recently had the introduction of the register of persons with significant control, which affects charities. There is data protection legislation and accounting practice. Some of those things are international and are interpreted in UK law. There is electoral law and the new common reporting standard. Even the fundraising self-regulation changes are a good example of something that happens in London and does not necessarily take account of Northern Ireland or Scotland, but has consequences. We are often involved at a much later stage than our counterparts in London would be, yet there are consequences for the charities that we regulate.

We have some very good examples, such as working with HMRC when it was changing the definition of community amateur sports clubs. HMRC came over to Northern Ireland and did sessions. We were able to facilitate those sessions with the sport governing bodies. That worked extremely well, but that is not always the case. We are not always involved in the central discussions; it is when things roll out that we discover that there are consequences and we have to work out what those consequences will be.

Baroness Gale: Do you ever have the opportunity for consultation while the discussions are going on? Are you ever involved in that?

Frances McCandless: In my experience, not often.

Baroness Gale: Would you like to be?

Frances McCandless: It would be useful for us to inform the sectors that we regulate at an earlier stage about what the consequences will be, because that enables preparation.

David Robb: Frances speaks for both of us there. Devolution has introduced a variable geometry across the UK, and it is sometimes disappointing for those of us outside England when we have to work quite hard to remind UK government departments and officials of the realities of that variable geometry. Charity law was devolved. There are many areas where it makes sense to co-operate and collaborate, but the devolution of charity law should suggest to people the value of earlier engagement where policies have an effect in our different devolved areas. Frances's experience—that it works better when we are engaged early—would certainly be our experience.

Baroness Gale: You have had similar experiences of not being consulted.

David Robb: Yes.

The Chairman: As Lord Chadlington does not wish to come in, we will go on to Lord Harries's question.

Q113 **Lord Harries of Pentregarth:** How do you ensure that you operate accountably and transparently and that you maintain the confidence of the public, the charity sector and your respective Governments? I am particularly interested in the relationship with government, not just on behalf of your own organisations but the whole charities sector. One of the pieces of evidence we had seemed a bit ambivalent. On the one hand, they were saying that it was very good with government, but on the other hand there had been a lot of issues and they were disappointed.

Frances McCandless: Our relationship with government is constantly evolving and emerging, as it becomes clear in our jurisdiction exactly which areas are affected by charity law. Not all of them have been clear from the beginning. As we get further into the implementation of the legislation, we come up against more and more instances where charity law touches housing, education and aspects of economic policy. There are various backstops beyond which charities cannot go, and government policy may be pushing them in a certain direction. We might take the example of registered social landlords in England and Wales as a concrete way in which the interaction with government is not written on the face of the charity legislation. We have been given the charity legislation, and we suddenly find ourselves involved in all sorts of relationships with other parts of government.

We have tried to ensure accountability and transparency by including sections in the research into trust and confidence that we shall keep doing with the public and with charities. We are going to include sections on trust and confidence in the commission. We have started with a baseline, and we will try to monitor it over time to track whether we can improve what the public and charities see as our levels of transparency and accountability. We have put an awful lot of work into engagement, not just consultation. When we engage with stakeholders, we always publish a response: "Here is what we heard you say to us. Here are the bits where we can make the changes you have suggested. Here are the bits where we cannot. Here is why. If this were to change, we could have this conversation again". We are trying to develop meaningful dialogue. As we discussed earlier, that kind of feedback is extremely important in working out what people need from us and what they understand our role to be. We use all the usual mechanisms—Twitter, Facebook, websites and all of that—but we try to have meaningful engagement on the topics that really affect those we regulate.

David Robb: Our experience is fairly similar. I know that the Committee has taken evidence already about the mysterious thing that is a non-ministerial department. The Charity Commission and ourselves—CCNI has a different model—were built on the non-ministerial departmental model. That makes us slightly different as a public body. We often have to work quite hard to explain the degree to which government can properly involve itself in our operations, because it is extremely important to us to have operational independence from government, not least because we sometimes make decisions about the charitable status of other public bodies. It is very important for us to be able to reach a view unfettered by ministerial influence.

We are a public body. We spend public money. I and the other staff are civil servants, and we therefore have the usual lines of accountability to Parliament. We report on an annual basis. As Frances said, we place a high degree of importance on transparency. We have public meetings around the country. Each year, we go out on "meet the regulator" events, so we are a bit more visible and accountable. Ultimately, our accountability is to the public, through the Parliament, and not just in our engagement with the charities sector, because that can sometimes be—

Lord Harries of Pentregarth: Could I ask a more general question, which comes from my sheer ignorance about Northern Ireland? Even taking into account the comparatively much smaller population, there seem to be fewer charities. Is that so, and, if it is so, why?

Frances McCandless: We do not know how many there are yet, because there has never been a central register. We are just starting to do that. We know that about 7,000 had registered with Her Majesty's Revenue and Customs for charitable tax benefits, but our estimates go up to about 16,000 potential charities. Per head of population, it is not actually that different from Scotland.

Lord Harries of Pentregarth: There are more to come.

Frances McCandless: Absolutely. We have about 5,500 on the register at the minute, but that is as fast as we can register them. It is not the end of the road.

I should explain that we are a non-departmental public body, unlike our colleagues in Scotland, England and Wales, so we report through a Minister. We have an ongoing strategic review at the minute, which our Minister has initiated, and that might well come up with some helpful suggestions about our relationship with government.

The Chairman: That is a slightly different status.

Frances McCandless: Yes.

The Chairman: Our last question is from Lord Bichard.

Q114 **Lord Bichard:** We are obviously keen to help support a healthy charitable sector. Is there one recommendation that you would like the Committee to make to assist in that?

Frances McCandless: Thriving healthy charities need to be independent, and they need to be driven and overseen by skilled and enthusiastic trustees. We, the regulators, can tell trustees what their legal duties are, but we will never have the resources to train them, motivate them, network them or do all the many things that they need to do to have thriving and independent charities. There may be things that the Committee can do to encourage employers to release people for charity trusteeship so as to build a healthy civil society. Trustee skills, which underpin confident and independent charities, would be my suggestion.

David Robb: That is interesting. I am going to offer some thoughts in a similar territory. The legal duties around charity law bear on trustees; when there are governance or operational issues in charities, they usually track back in one way or another to the activities of the trustees. For me, the future of the charities sector depends intrinsically on having a steady supply, as Frances has called it, of skilled, competent trustees.

Anything that the Committee can do to ensure increased diversity of the charity boards would be my recommendation. Charity boards are not as diverse as they could be, and we think that diverse boards make better decisions and are better placed to sustain charities in a changing environment, so anything that improved the supply and diversity of the trustee pool, and strengthened that key role, would help. For the most part, people are doing this on a voluntary basis. We want to encourage that; we do not want to create an environment that puts people off taking a trusteeship. We want them to be encouraged and supported and to continue to flourish in that way.

Lord Bichard: We can obviously make that recommendation and say that it is an important issue, but I will push you a stage further. What is the one thing you would do to achieve greater diversity in the trustee body?

David Robb: A question often asked is whether trustees should have a maximum term of office. It is possible to point to models that have different groups and different ages represented, and to suggest that where a homogeneous group is running an organisation, that charity is invited to review. It is about promoting models, taking the risk out of involving service users in trusteeship, involving young people and thinking harder about succession planning. You could break it down into manageable chunks, rather than promoting an ideal, and make the steps involved realistic and approachable. The notion is not contentious, but implementing it can be hard for charities. They are often behind the sentiment, but they are not quite sure how to start going about it, so if we can start offering some practical things along the way towards more diversity and a better pipeline for succession planning, we could make progress.

The Chairman: On behalf of the Committee, thank you very much indeed for coming to see us and for your most interesting answers to our questions.

Frances McCandless: Thank you.

David Robb: Thank you, Lord Chairman.