

Written evidence submitted by ACEVO, the Association of Chief Executives of Voluntary Organisations

DCMS Select Committee The work of the Charity Commission

1. Introduction

1.1. ACEVO is the Association of Chief Executives of Voluntary Organisations. It is a membership body of over 1,400 CEOs and senior leaders of civil society organisations working in England and Wales. Through its network ACEVO inspires and supports civil society leaders by providing connections, advocacy and skills.

2. Charity Commission response to high-profile investigations

- 2.1. Following revelations about abusive organisational cultures within the charity sector, the Department for Digital, Culture, Media and Sport funded ACEVO and the Centre for Mental Health to carry out research on bullying in charities. The research, *In Plain Sight: workplace bullying in charities and the implications for leadership*, considered the conditions in which bullying occurs and might persist in charities, and provided analysis and recommendations for creating safer workplace cultures.
- 2.2. All the survey respondents for the research had experienced bullying in a charity setting within the previous five years. There were a number of areas of improvement identified for charity leaders, which ACEVO is committed to realising. However, the report also highlighted weaknesses in the Charity Commission's response to reports of bullying in charities.
- 2.3. A large number of victims' accounts referred to the relative weakness of the external regulatory framework as being highly problematic, with several describing the Charity Commission as a 'toothless tiger'. The absence of mechanisms within either the formal regulatory framework or the charity sector to which victims of bullying could take their concerns with confidence was described by some victims as 'almost worse than the bullying'. This was particularly the case where bullying involved or implicated the chief executive or the board so internal redress was very difficult to achieve.
- 2.4. *In Plain Sight* provided the following recommendation for the Charity Commission as a first step to addressing concerns raised in the report: "The Charity Commission should clarify how existing regulations and guidance, including those around whistleblowing and safeguarding and the reporting of serious incidents, should be understood and used by victims of bullying in charities and by charity leaders in relation to workplace bullying. The Commission should help victims understand its own thresholds for reporting bullying incidents including what is in or out of the Charity Commission's scope."
- 2.5. The Charity Commission has not yet met the recommendation made in the report, although it has reassured us it intends to but has not offered a timescale. It has been challenging in recent months to follow up with the Commission on an operational basis because it seems there have been a significant number of changes to its senior and middle management positions.

- 2.6. In its recent report into Save the Children UK, the Charity Commission did say that it “cannot enforce healthy internal cultures in charities and nor can we adjudicate individual complaints by charity staff.” This is the closest the Commission has come to publicly acknowledging it does not/cannot deal with bullying complaints or complaints about culture.
- 2.7. However, a number of ACEVO members have raised concerns that the Charity Commission’s decision on whether to investigate a report against a charity is dependent on whether there is media interest. This results in an inconsistent approach that is unfair to charities, and to victims of bullying who whistleblow to the Commission.
- 2.8. The recent media coverage of reports of bullying at Alzheimer’s Society is an example of this. Alzheimer’s Society was informed by a Guardian journalist of a whistleblowing complaint lodged with the Commission nearly two years previously, a complaint that had previously been unknown to Alzheimer’s Society.
- 2.9. When the Society phoned the Commission to find out more, an officer at the Commission confirmed the existence of the complaint and verbally told the Society’s lawyers that the Commission had decided there was no case to answer. The lawyer was also told they would need to submit a Freedom of Information request to see the complaint.
- 2.10. Subsequently, the Charity Commission made a statement to the Guardian that it had made a mistake and overlooked the complaint and would be opening an investigation. The charity had never been informed of the original complaint and had not been given any opportunity for redress before the Commission’s statement was published in the press.
- 2.11. The Society has since responded to the Commission’s request for information regarding this investigation but has still to see the original complaint. Staff at the charity feel they are now responding to media allegations rather than the original complaint.
- 2.12. This example is not used to make a judgement about the complaint itself but to illustrate that the current process of reporting is not satisfactory. It is unfair to whistleblowers that go through the stress of making a report, and then have to make a difficult decision about whether to talk to the press. It is also unfair to those that work/volunteer for the charity against which the complaint is lodged because it cannot respond to, or take action to address the complaint.

3. Serious incident reporting

- 3.1. Guidance on the Charity Commission website says that a serious incident report should be made to the Charity Commission by a charity if there is an “...adverse event, whether actual or alleged which results in or risks significant” harm to beneficiaries, staff, assets, property or reputation.
- 3.2. ACEVO members have reported to us that there is an inconsistency in the Charity Commission’s response to serious incident reporting. This includes not formally acknowledging reports, delays investigating reports, and failing to keep charities updated on the progress of investigations.

3.3. ACEVO recognises and is grateful for the time that Charity Commission staff have given in the last 12 months to talking to our members about serious incident reporting at ACEVO's regional forums. ACEVO also recognises that the Commission has committed to putting in place new processes for dealing with serious incident reporting. Indeed, in its last annual report the Commission indicated its workforce had grown by a third. However, these processes/resources do not yet seem to have made an improvement in the way serious incident reporting is handled and there remains a lack of transparency, consistency and communication from the regulator. We would be interested to know when the Commission expects improvements, and how it will measure the success of any new initiatives.

4. Baroness Stowell's performance as Charity Commission chair

- 4.1. When Baroness Stowell was appointed in 2018 ACEVO and five other charity infrastructure bodies wrote to the DCMS select committee expressing concern about the suitability of her appointment. These concerns were due to her inexperience working or volunteering with charities and because, less than two years prior to her appointment to a party political neutral position, she was a member of the cabinet.
- 4.2. In the select committee's own words Baroness Stowell was unable to "demonstrate any real insight, knowledge or vision for the charities sector" and her answers were "often lacking in detail or relevance". Baroness Stowell's vision for the regulator and her answers centred around vague notions of the importance of public trust.
- 4.3. ACEVO recognises the important role that trust plays in any publicly accountable organisation, including charities. However charities are not a homogenous group and are primarily accountable to the communities and people they serve, their donors and their staff or volunteers. Often in a charity these groups will be interlinked (ie a volunteer may also receive a service from the charity, or be directly impacted by the issue it addresses).
- 4.4. People have different expectations of charities depending on the purpose and mission of the charity. For example people who support hunting may not trust the objectives of charities that campaign against hunting, but that does not mean the anti-hunting charity is operating outside of its legal obligations or that the charity's staff, donors and supporters don't trust it.
- 4.5. In the two years since her appointment, Baroness Stowell's public statements have not captured the nuance and variety of our sector and the public's engagement with it, as demonstrated by the example above. Almost all her public statements have included generic statements on public trust, and have not indicated an understanding of the varied purposes, roles and activities charities undertake.
- 4.6. A number of ACEVO's members are concerned that her approach is moving into one of moral judgement. Paul Parker who leads a Quaker organisation wrote the following last year about the Commission's recent approach:

"The Charity Commission is, rightly, bound to regulate charities according to these standards. Where it strays beyond this, into subjective judgments based on its chair's own assessment of the 'public interest', the Commission is acting outside its mandate, and we should call it out."

The role and scope of the Charity Commission is clear and laid out in legislation, however, at times the current chair's approach has strayed beyond the regulatory and into subjective judgements.

- 4.7. Baroness Stowell has also made 'public trust' the key issue in statements responding to inquiries or incidents where it is not the primary concern. This was particularly noticeable in the Charity Commission's response to, and Baroness Stowell's statement regarding, the Garden Bridge project.
- 4.8. The size, structure, influence and purpose of Garden Bridge were all anomalous in a sector of 170,000 registered charities, and many charities themselves raised concerns about the project. However, in her statement, Baroness Stowell deemed the project a "failure for charities that risks undermining public trust" instead of drawing attention to the lessons identified in the report for policy makers and politicians.

5. Charity Commission strategy

- 5.1. The Charity Commission released its 'statement of strategic intent' in October 2018. ACEVO welcomed the announcement which included commitments to reduce the length of time to conclude recommendations and make better use of data.
- 5.2. However, the Commission has not followed up its statement of strategic intent with a more detailed document containing information about what exactly it plans to do in the short and long-term. We would welcome more transparency about what we can expect from the Charity Commission, when it is planning to deliver this and how it will measure success.
- 5.3. The Commission's strategy also made reference to the regulator viewing its purpose as "more than the sum of its legal obligations" causing some to be concerned about the Commission straying into territory outside of its remit (also see paragraph 4.5).

6. Conclusion

- 6.1. Regulation is a necessary and important function to ensure that any sector is complying with its legal obligations and to investigate claims of wrongdoing. Good regulation is enabling, inclusive and transparent. Strong regulators balance enforcement and support functions and their leadership teams include people with specific sector expertise. Regulation should give civil society leaders the tools and information they need to run effective organisations.
- 6.2. ACEVO is concerned that there is a lack of transparency about how decisions are reached by the Charity Commission, there are inconsistencies in approach and delays in delivering services which are undermining charities' confidence in the regulator to deliver its purpose.
- 6.3. In addition to this ACEVO is concerned that the personal and political opinions of the Charity Commission chair are influencing operational decisions, which is inappropriate and unacceptable. These concerns have been raised directly with the chair and CEO previously but have not been addressed.
- 6.4. ACEVO would like the Charity Commission to:

- 6.4.1 Commit to a timescale in which it will publicly respond to the recommendation in the *In Plain Sight* report
- 6.4.2 Explain how it will improve the process of Serious Incident Reporting and when improvements in respect to communication and decision making can be expected, as well as an increase in capacity to deal with increased reports.
- 6.4.3 Engage with sector bodies to develop a wider and deeper understanding of the challenges of charities outside of the subjective lens of public trust.

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