

Written evidence submitted by the NCVO

THE WORK OF THE CHARITY COMMISSION

DIGITAL, CULTURE, MEDIA AND SPORT SELECT COMMITTEE'S CALL FOR EVIDENCE

About NCVO

1. Established in 1919, the National Council for Voluntary Organisations (NCVO) is the largest representative body for voluntary organisations in England, with over 14,000 members. NCVO champions voluntary action: our vision is a society where we can all make a difference to the causes that we believe in. A vibrant voluntary sector deserves a strong voice and the best support. NCVO works to provide that support and voice.

Concerns about the operational performance of the Charity Commission

2. In this submission, NCVO raises a number of issues linked to the performance of the Charity Commission's core regulatory duties. In so doing, while we acknowledge the significant pressure of resources upon the Commission, we also note the recent increase in the Commission's baseline funding, and the recruitment of over 100 new members of staff, net, in 2018-19.¹

Registration delays

3. One of the Commission's statutory functions is to assess applications to register as a charity. Provided the legal criteria for charitable status are met, the Commission must register the organisation as a charity.

4. Clearly it is important that whether the criteria are met is properly assessed – about 61% of applications are successful, indicating that it is a necessary step. However, delays are a cause of increasing concern in the charitable sector. Bates Wells found that the average time to process a charity application was around six months in 2018, around double the previous level. Delays can affect charities' ability to fundraise, as many grant applications and other sources of income can be dependent on registration. The Charity Commission notes a 41% rise in the number of applications to register a charity since 2012-13. With over 17,000 charitable incorporated organisations (CIOs) in England and Wales (these could only be registered since 2012-13), there is a clear potential reason for this rise. Unlike other legal forms of charity, CIOs must be registered with the Commission however small they are. Given that the rationale for creating CIOs was to reduce regulatory burden, offering a form of incorporation which did not require registration with Companies House, longer and longer delays risk reducing the advantage of the status itself.

¹ [Charity Commission Annual Report 2018-19](#), p50

5. The Commission has itself acknowledged these delays and committed to improving its communications with applicants.²

Length of investigations

6. Given the potential seriousness of a Charity Commission investigation and the potential sanctions involved, it is proper that such investigations are carried out responsibly and diligently, meaning that they take time. The Commission takes a risk-based approach to its investigations, leading to regulatory action being progressed significantly more quickly in relation to high-profile cases.

7. However, while the average duration of active compliance cases generally seems to be reducing, it remains long (at 127.58 days on average in April-September 2018). Statutory inquiries, meanwhile, appear to be taking longer – at 446.6 days in April-September 2018, up from 335 in 2017-18 (already over a year).³ This can have a serious impact, both on public confidence and on charities themselves.

Lack of action over serious incident reports

8. Following the revised guidance on Serious Incident Reports published by the Commission,⁴ and the new complementary guidance on reporting serious incidents involving partners,⁵ the criteria on the basis of which trustees must submit an SIR have considerably expanded. This is particularly true in respect of safeguarding.

9. While it is important for charities to take these issues seriously and – where appropriate – report them to the Commission, the new requirements have caused a considerable amount of uncertainty for charities (as set out in more detail below).

10. Furthermore, the increase in SIRs seems to have resulted in a rise in delays and a relative lack of action on SIRs: charities are frequently raising concerns about the fact that they may hear nothing at all from the Commission, having submitted a serious incident report.

Unclear guidance of limited use and difficulties in accessing support

11. The Commission has often engaged constructively with the sector when developing new guidance or updating existing guidance. A good example is its guidance on charities connected to non-charitable organisations. NCVO and others had significant concerns about the first draft, which did not strike the right balance between identifying and managing risks and acknowledging opportunities when working with partners. This was due to an excessively broad approach to defining a connection between organisations. While the final version still presents some issues, it was significantly improved following engagement with the sector.

² [Ibid](#), p23

³ Charity Commission, '[Dealing with wrongdoing and harm: statistics](#)'.

⁴ Charity Commission, '[How to report a serious incident in your charity](#)'.

⁵ Charity Commission, '[Reporting a serious incident in your charity when it involves a partner](#)'.

12. However, this is not always the case. Recent guidance on serious incident reports (SIRs) involving partners is a case in point. Charities and charity lawyers have long been asking for more clarity on what incidents are serious enough to require a SIR. However, the Commission's supplementary guidance will do little to assist charity trustees when making this decision. The guidance sets out such broad criteria that the majority of trustees will report everything unless it has nothing to do with their charity.

13. Charities often report significant difficulties in getting through to advice via the Charity Commission's helpline, though its longer opening hours (from 9am to 5pm on Monday to Friday) are warmly welcomed.

The Commission's new strategy

14. In October 2018, the Commission published its 'Statement of Strategic Intent' for 2018-2023.⁶

15. This sets an ambitious strategy for the Commission, setting the Commission's task as regulating beyond legal requirements and shaping its role into something different. For example, the strategic objective of 'keeping charity relevant to today's world' shows aspirations of shaping the policy and public debate about charity, and leading the thinking about the future of charities and their activities.

16. But as highlighted above, there is still room for improvement in the basics of its regulatory functions: carefully assessing whether it is registering the right organisations, maintaining the register adequately, ensuring charities are reporting on their finances and on public benefit accurately and properly, and helping trustees understand their obligations.

17. It has been this unique role in ensuring compliance with charity law that has led the Commission to be highly regarded worldwide as an example to follow. When done efficiently and effectively, this will go far in achieving the Commission's ambitions on public trust.

18. The sector itself has a responsibility – and a willingness – to step up more broadly. NCVO's work on a set of Charity Ethical Principles for the charity sector is meant to offer charities a framework to recognise and resolve ethical issues and conflicts, going beyond legal requirements.⁷ Our popular and rigorous quality standards already underpin many charities' work. We have also helped develop a strong, clear Charity Governance Code⁸ – in favour of which the Commission withdrew its own guidance. We will continue to play our part and carry on with all the work that we have been doing over the years to raise standards within our charities.

March 2020

⁶ [Charity Commission Strategy 2018-23](#).

⁷ NCVO, [Charity Ethical Principles](#).

⁸ [Charity Governance Code](#).