

Sir Oliver Heald QC MP
Minister of State for Courts and Justice
Ministry of Justice
102 Petty France
London
SW1H 9AJ



24 October 2016

Dear Sir Oliver,

I am writing in response to the consultation on 'Transforming our justice system' that is currently being held by your department, and in particular to some of the proposed reforms to tribunals.

The National Council for Voluntary Organisations (NCVO) is the largest representative body for charities and voluntary organisations in England, with over 12,000 members. We support the principles of fair, proportionate and accessible justice, and the intention to create a system that is easier to use and delivers better value for money. Further, we agree that the justice system needs to meet the changing needs and expectations of everyone who uses our country's courts and tribunals.

The consultation proposes to revise the current arrangements for setting the composition of panels that make decisions in tribunals. The stated aim is to make sure that appropriate expertise is focused on those cases that need it, and that panels are designed to best suit the circumstances of the case.

However, we are concerned that the proposal to only include non-legal members as part of the panel at the discretion of the Senior President of Tribunals (SPT) represents a retrograde step in terms of access to justice. We believe it could have a particularly negative impact on cases relating to charities and charity law.

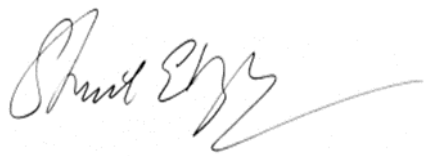
As the consultation document recognises, non-legal members are a vital part of the judiciary, bringing unique skills and expertise that would not otherwise be available to the tribunal. They also help make sure that the judicial system is better representative of society, bringing more diversity to the judging panel.

These benefits are of particular importance in cases brought by charities, which more often focus on whether a particular decision by the Charity Commission was reasonable, rather than undertaking a technical legal review. The perspective of non-legal members with charity expertise and experience is therefore key to ensure a fair decision is reached.

Furthermore, those charities bringing a case before the tribunal often represent themselves in order to maintain their costs low: the presence of non-legal members is an important factor that helps parties feel they can do this, enabling fairer and greater access to justice.

We would therefore urge government to reconsider its proposed amendments to the First-tier Tribunal and Upper Tribunal (Composition of Tribunal) Order 2008. While agreeing that the SPT should have the freedom to adopt a more proportionate and flexible approach to composition, we believe that the specialist charity expertise and knowledge of non-legal members should continue to be represented on the panel in all hearings between the parties and the tribunal.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Stuart Etherington', with a long horizontal flourish extending to the right.

Sir Stuart Etherington
Chief Executive