

HOUSE OF LORDS SELECT COMMITTEE ON CHARITIES REPORT EDITED LIST OF 42 RECOMMENDATIONS

Trustee skills and training

It is essential that charities regularly undertake skills audits of their trustee boards to ensure that they have the necessary capabilities to undertake their vital governance role. For large charities, this should be an annual occurrence.

1. Training and development are essential for charity trustees in order for the sector to work effectively. It is the responsibility of charities' chairs to ensure that this vital activity takes place. We recommend that the sector's infrastructure bodies review the training opportunities that exist, identify where there may be shortcomings in provision, particularly for small charities, and take action to address them. They could assist charities by publishing collated information about available training and providing a platform for users to rate the value of courses they have accessed.

Induction processes are essential so that new trustees have a well-established understanding of the charity and of their responsibilities. Trustees need to feel confident and well informed in order to provide strategic direction, oversight and challenge. We welcome the inclusion in the Governance Code of appropriately resourced inductions for all new trustees.

2. We believe that smaller charities would benefit from having free access to a template induction process. We recommend that grant-making bodies consider applications from infrastructure organisations and governance professionals to develop such a best practice template.
3. There is greater potential for charities to benefit from better connections to the business community and vice versa. We recommend that the government takes fresh measures to get more senior business leaders directly involved with charities to foster those relationships and maximise their value.

Board diversity and turnover

We acknowledge that recruitment of trustees is challenging for many charities, especially when seeking trustees with particular skill sets. However, we believe that trustee diversity is important, as boards with a range of skills, experiences, ages and backgrounds are likely to lead to better governance.

4. We recommend that the Office for Civil Society (OCS) works with other departments and business leaders to develop a new initiative to promote trusteeship to employees and employers, and thereby encourages greater participation and diversity. The initiative should encourage employees to see both the selfless, charitable value of trusteeship and the

personal benefits in the form of skills and career development. Employers should be encouraged to give greater recognition to trustee roles in recruitment and progression of their staff.

5. We further recommend that the government holds a public consultation on the possibility of introducing a statutory duty to allow employees of organisations over a certain size to take a limited amount of time off work to perform trustee roles.
6. We agree that there should be a time limit for individuals to serve as trustees, along with a maximum term of office, and we endorse the proposed inclusion of such time limits in the revised Governance Code. We recommend that the materials and draft articles of association provided by the Charity Commission include a suggestion of time limits.

We believe that, irrespective of trustee time limits, charities should regularly review the operation of their boards and the tenure of their trustees and chair to ensure that their governance is sufficiently robust. For large charities, this should be an annual occurrence.

7. We acknowledge the challenges that the Charity Commission faces in securing a diverse board, however the regulator cannot expect to hold the sector to a higher standard than it is able to achieve itself. We recommend that the commission is mindful of the example it sets to the sector and that when filling future vacancies it explicitly seeks to recruit individuals with a range of skills, charity experiences and demographic characteristics, such as age, gender, ethnicity and geography. We expect to see the results of this approach in the next set of board appointments.

Executive leadership

8. Charities recognise that training and development for leaders and staff is important, however there are still significant shortcomings in terms of available training and levels of take-up. We therefore recommend that infrastructure bodies in the sector take the lead on working with government, academics and research institutions, and with the business community, to identify further opportunities to support and fund leadership programmes.

We agree that maintaining a separation of executive and oversight responsibilities is important for good governance. Governance is about making sure that charities do the right things, while management is about making sure that those things are done right. In a few cases, for the smallest of charities, we acknowledge that a complete separation of roles may be difficult, but it should remain the aspiration nonetheless.

9. We recommend that the Governance Code steering group reflect in the code the importance of executive and trustee relationships and the clear separation of their roles and responsibilities.

Payment of trustees

We believe that the voluntary principle of trusteeship is an important one and that trustees should not receive payment for undertaking the role.

Transparency, accountability and impact

10. We believe that it is important for all but the very smallest charities to have a simple website or public social media page to provide that transparency. We recommend that public sector funders and other donors should evaluate the transparency of charities when considering requests for funding.
11. We recommend that the Governance Code steering group set out best practice suggestions for governance reporting by charities. This might involve charities including in their annual report a statement that they follow the Governance Code, or a similar specialist governance code relevant to their work, and report any actions they have taken over the year in light of the code.
12. All charities should be seeking independent evaluation of their impact on their beneficiaries, in order to ensure that they are delivering for them and to demonstrate this to beneficiaries, funders and the public. The form of such evaluation may vary considerably, depending on the size of the charity and the type of work it is engaged in. We recommend that public sector commissioners assess such evaluation when awarding contracts.
13. We welcome initiatives such as inspiring impact that seek to assist charities in demonstrating impact. We recommend that the government and the charity sector continue to pursue initiatives to better understand and promote the impact of charities.
14. We recommend that the OCS develops guidance for the rest of the public sector on how to set contractual impact reporting requirements appropriately and in a standardised fashion in order to reduce the bureaucratic burden on charities. The OCS should promote its work beyond the public sector in order to maximise its reach and value.

We endorse the suggestion in the Governance Code that charities should provide regular information to stakeholders that enable them to measure the charity's success in achieving its purposes.

Contracts and commissioning processes

15. The commissioning landscape is skewed against smaller charities. We recommend that contracting authorities embrace the recent changes to public procurement rules, which allow for smaller contracts, potentially giving charities better access to funding opportunities.
16. We welcome the government's recent announcement on new measures to improve commissioning and help small charities get commissioned. We recommend that government provides support for the development of voluntary sector bidding consortia, and takes steps to promote commissioning based on impact and social value rather than simply on the lowest cost.
17. We recommend that the government's implementation group on commissioning practices considers the risks of larger organisations exploiting smaller charities through the commissioning and subcontracting process. We recommend that government guidance on public sector commissioning should highlight these risks and encourage the design of contracts in a way which prevents such practice so far as is possible.
18. We believe there is merit in considering the options for extending the Public Services (Social Value) Act 2012 as set out by Lord Young of Graffham. We recommend as a first step that the Government requires public sector commissioners to 'account for' rather than merely 'consider' social value. We further recommend that the government sets measurable targets

for the use of social value in commissioning and outlines the steps it will take if those targets are not met.

Financial and planning challenges

Where contracts—especially those involving payment by results—are used for service delivery, public sector commissioners should give greater consideration to the sustainability of organisations which are commissioned to deliver services. The government should examine whether its guidance to public sector commissioners needs to be amended to ensure that this happens. At the same time, charities need to ensure that they have the cash flow to support undertaking work within such schemes.

19. We recommend that the government’s review of commissioning considers the impact of payment by results contracts on charities and examines what support the sector needs to engage in service delivery in a sustainable manner.
20. Charities cannot operate unless their core costs are met. We recommend that public sector commissioners should be expected to have regard for the sustainability of the organisations that they commission to deliver services. This should include an expectation that realistic and justifiable core costs are included in contracts.

Contracts and innovation

21. Tightly-prescribed contracts that dictate the process of delivery, rather than the desired outcome, can be the greatest inhibitor of innovation. We therefore recommend that public sector commissioners refrain from setting overly-detailed requirements for the mechanisms of service delivery.
22. Additionally, restrictive commissioning practices can hinder charities’ capacity for innovation by limiting their working capital. We recommend that, where appropriate, public sector commissioners pay or provide grants for charities to test new ideas and innovate during both the early scoping and development of services, and their later delivery. Such funding would generate positive returns, through supporting new and more effective ways of working, while also contributing to the sustainability of the charity sector and generating potential cost-savings for commissioners.

A revitalised role for grants

While acknowledging the increasing financial constraints that public sector bodies are under, we emphasise the important role that grant funding plays in ensuring the sustainability of charities, particularly with regard to innovation. There should be a wider understanding in the public sector of the use and potential of grant funding for charities and their beneficiaries, drawing on the practices of institutions such as the Big Lottery Fund.

23. We recognise the significantly reduced funding available to local authorities. Nevertheless, grant funding has great potential in sustaining a healthy civil society and in enabling communities to benefit from charities’ capacity to innovate. We recommend that local

authorities should bear this in mind in the course of their financial planning, and maintain or revive grants wherever possible.

Fundraising

We welcome the action that has been taken to address the concerns about fundraising practices in the charity sector. The new fundraising regulator has only recently been established and therefore we do not recommend that further changes are made to the regulatory landscape for the time being.

24. We are conscious of the concerns from the sector that the voluntary levy to fund the regulator may be disproportionately burdensome for small and medium-sized charities. We recommend that the new fundraising regulator continually monitors the impact of the levy, particularly on small and medium-sized charities, and makes changes if appropriate.

Economic and tax policy

25. We welcome the government's changes to gift aid as part of the Small Charitable Donations and Childcare Payments Act 2017. We recommend that the OCS works closely with Her Majesty's Revenue & Customs (HMRC) to examine whether there are further changes that would help charities maximise the value of gift aid and minimise bureaucracy.
26. We recommend that the OCS works with HMRC to ensure that the needs of charities are high on the agenda in relation to future changes to VAT and the National Living Wage.
27. We recommend that the OCS works to improve significantly the awareness and availability of payroll giving by companies. In addition, there is no excuse for any government department not offering payroll giving to their employees. The government must set an example in this regard by ensuring that payroll giving is offered to staff as standard by all departments and executive agencies.

Infrastructure bodies

Infrastructure bodies must ensure that they work together effectively, both to ensure they survive and so that they can improve the services they offer charities. They should explore collaborative service models to raise awareness among charities of the support available, and improve the accessibility and coherence of this support.

Role of volunteers

Harnessing and maximising the efforts of volunteers is central to the principle and the practice of many charities, and comes with a cost. Volunteers may need managing, supporting and training. Investing in volunteers, where possible, is a way of respecting their contribution as well as increasing their value to the charity.

28. Funders need to be more receptive to requests for resources for volunteer managers and coordinators, especially where charities are able to demonstrate a strong potential volunteer

base. We recommend that government guidance on public sector grants and contracts is amended to reflect this and set a standard for other funders.

29. There is scope for further efforts by the government to allow people to incorporate volunteering into their lives. We recommend that, in line with our earlier recommendation on trusteeship, the OCS should work with other departments, the public sector and businesses to encourage greater flexibility for employees to take time off for charitable work.

We welcome the minister’s review of full-time volunteering by young people. This should be encouraged, by government, by infrastructure bodies and by employers, with the caveat that volunteering should be a springboard to, not a substitute for, paid employment.

Expectations and trust

Trust cannot be taken for granted, however, and charities should continue to be mindful of the impact of recent negative publicity, as well as of any indication that trust may be declining. The sector has learned hard lessons and charities need to be conscientious and scrupulous in order to retain that trust, maintaining their focus on transparency and accountability. We believe that the recommendations in this report will help them to do so.

Mergers and closures

We note that it would be easier to avoid overlapping work in the charity sector by discouraging charities with similar purposes from being established where existing charities in the same field are working well and delivering for their beneficiaries. However, we would not want to discourage people from establishing new charities, which could be the effect of such a system.

30. We welcome the Law Commission’s work to address some of the legal and technical barriers to charities looking to merge. We recommend that the government brings forward the bill at the earliest opportunity.
31. We recommend that the Charity Commission, as part of its emphasis on enabling regulation, considers what support and guidance it can offer to charities seeking to merge, and provides signposts to help that may exist elsewhere. The commission should take a positive approach to assisting charities that choose to merge and assist in removing any barriers that may exist, notably with regard to liabilities such as pension arrangements.
32. We recommend that the Charity Commission include options for time-limited structures in the model governing documents that they produce for charities, as such clauses would prompt new charities to consider their lifespan from their inception.

Charities and digital technology

Charities should actively consider including a digital trustee role on their boards. We note the potential benefits to board diversity that would be likely to result from adopting such an approach.

33. We recommend that infrastructure bodies share knowledge and best practice on innovation and digitisation across the sector and coordinate training opportunities, at minimal cost, for charities with limited digital experience. We recommend that the Big Lottery Fund provides support to enable this.

Devolution

34. Central government needs to better understand, and take account of, the implications of devolution for charities and civil society. There needs to be a proper dialogue between charities and new regional administrations at every stage of the devolution process, and voluntary sector representatives should be involved in leadership structures and decision-making where appropriate. We recommend that the OCS works closely with the Department for Communities and Local Government and infrastructure bodies to ensure that this happens.

In addition, the government must improve the way it consults with devolved administrations and infrastructure organisations when developing legislation on reserved matters which may impact charities in Scotland and Northern Ireland.

Compacts and engagement with the sector

35. Compacts are a valuable statement of principle about the relationships between government, both local and national, and the voluntary sector. We recommend that, where compacts do not currently exist, they are re-established in consultation with the sector.
36. We also recommend that, where they have not done so recently, national and local government should review their compacts in collaboration with the voluntary sector to ensure that they continue to be fit for purpose, reflecting the changing role of charities. They should restate their intent to apply the principles of the compact and include a mechanism for review to ensure that they are observed.

The role of charity advocacy

37. We believe that Lord Hodgson of Astley Abbotts' proposals for a review of the rules set out in the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 is eminently sensible and will provide reassurance to charities that they will not face censure for carrying out ordinary campaigning activity during election periods. We recommend that the government implement Lord Hodgson's recommendations in full.

We welcome the government’s decision not to proceed with a restrictive anti-advocacy clause in public sector grant agreements.

Just as charities must be judicious in their activities, in order to remain politically impartial, the Charity Commission must take care in its public communications to ensure that it retains the confidence of the public and the charity sector.

38. Poor consultation and ill-thought-through policy proposals have caused serious unease and disruption to the work of charities. We recommend that the government reviews its approach to engagement with the charity sector before policy announcements are made, with a view to ensuring that charities feel better informed about legal changes which may affect them and have a greater opportunity to provide input on new policies.

Impact on charities of the UK’s departure from the European Union

39. As part of its ongoing engagement with the charity sector in relation to the UK’s withdrawal from the EU, the OCS should undertake an audit of the potential impact of Brexit on charities. This should include the impact of loss of funding as well as on research collaboration. We recommend that the OCS publish its assessment by the end of 2017.

Regulation of the charity sector

40. Charity staff and trustees who have concerns with regard to their charities should be encouraged to report them to the Charity Commission where appropriate. We recommend that the commission makes clear that those charities which are proactive in reporting issues to them will be supported to help put things right

In light of the Charity Commission’s reduced budget, and its necessary focus on regulatory work, it should seek to be clearer to charities about what support it can and cannot offer. It should also be more proactive in helping charities to find the most appropriate sources of external support and advice.

We recognise the resource pressures and the wider economic climate that have led the Charity Commission to consider charging charities an annual fee to be on the register. Any charging model must ensure that the burden does not fall upon small charities which will not be able to afford it. This should be established not just at the outset of any charging regime, but by continual monitoring and testing of the impact of charging, with changes made to lift the burden on charities where necessary.

41. We have grave concerns about the commission proceeding with any proposal to charge charities. We recommend that the Charity Commission makes clear how a charge would benefit charities and strengthen the sector overall. To achieve such clarity, the commission must be transparent from the outset as to how additional revenue from charities would be spent, and what services would be delivered or enhanced in return. The commission must set out how it envisages its supporting and enabling role developing or expanding if a charge for registration was introduced.

42. We recommend that the Treasury maintains adequate direct funding of the Charity Commission, irrespective of any proposal to charge charities.