Government Responses to:

1) **The Public Administration Select Committee's Third Report of 2013-14:** ***The role of the Charity Commission and "public benefit": Post-legislative scrutiny of the Charities Act 2006***

2) **Lord Hodgson's statutory review of the Charities Act 2006:** ***Trusted and Independent, Giving charity back to charities***

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1. Introduction

1. The Charities Act 2006 represented an overhaul of charity law and regulation. As such, it was only right that the changes it made should be subjected to proper evaluation and scrutiny. In that regard we are fortunate to have had not only the statutory review of the Act undertaken last year by Lord Hodgson of Astley Abbotts, but also the review undertaken by the Public Administration Select Committee ("PASC") and published in June of this year. There is much overlap between the two reports; in many cases the recommendations align, but in some cases the recommendations differ, and on occasion are contradictory. Inevitably, this means that we cannot accept all of the recommendations made in both reports. This document provides the Government's response to both reports.

2. We thank both Lord Hodgson and PASC for the breadth of their reviews, their well thought-through conclusions and recommendations, and their involvement of charities and other interested parties in drawing the evidence together for both reports.

3. A number of conclusions are apparent from both Lord Hodgson's report and the PASC report. We have a large and incredibly diverse charity sector, with many tens of thousands of organisations of different shapes and sizes, passionately committed to fulfilling their wide range of charitable missions. There is real public interest in what charities are, what they do and how they do it. The current economic environment presents challenges for charities and their regulator the Charity Commission. There is a need for the Charity Commission to have a sharper focus on its core responsibilities.

4. On the key question of public benefit, PASC and Lord Hodgson reached different conclusions. Whilst we recognise the frustrations of those who have been caught up in the sometimes long and difficult legal arguments, we support Lord Hodgson's conclusion that, despite the shortcomings, public benefit is best left to case law rather than Parliament attempt to define it in statute. However public benefit is defined there will always be those cases around the margins where interpretations of the law differ, and which will sometimes be tested through the courts.

5. Looking ahead, many of the recommendations are for the Charity Commission. It has already implemented several recommendations and is actively working on others. The National Audit Office is expected to report to Parliament later this year on its inquiry into the Charity Commission and in particular the Commission's compliance and enforcement work in light of the Cup Trust case. We are already working with the Charity Commission to consider whether any changes need to be made to its compliance powers to enable it to identify and tackle abuse more effectively. The Cabinet Office is working closely with the fundraising community to ensure stronger self-regulation of fundraising and practical improvements to licensing public charity collections. We will also consult on sensible de-regulatory changes for charities that can be made through

Secondary legislation. The Law Commission has begun its charity project which will consider several of the more technical recommendations in more detail, will consult on potential changes, and could ultimately result in legislative changes.

6. In responding to these reports, our aim, like that of PASC and Lord Hodgson in making their recommendations, is to provide charities with a legal and regulatory environment that preserves public trust and confidence in charities and wherever possible makes it easier for them to continue to deliver their valuable work.

7. The Government's responses are limited to England and Wales. Charity law and regulation is devolved in Scotland and Northern Ireland.

8. We will report back to both Lord Hodgson and PASC in one year's time on progress made in implementing the recommendations that have been accepted.

2. Government Response to the Conclusions and Recommendations of the Public Administration Select Committee's Third Report of 2013-14

This section responds to the conclusions and recommendations of the Public Administration Select Committee's (PASC's) Third Report of 2013-14: *The role of the Charity Commission and "public benefit": Post-legislative scrutiny of the Charities Act 2006*

Charity Commission's role

1. **The core role of the Charity Commission must be the regulation of the charitable sector. The exposé of the scandal of the Cup Trust demonstrates that there are shortcomings in the regime for regulating tax evasion involving charities. The Charity Commission was obliged to register the Cup Trust when it was established, but it does not have the means of investigating potential tax fraud, which must be the role of HMRC. Furthermore, the Commission has complained about limitations on its powers to deregister suspect charities. (Paragraph 20)**

2. **Charities should not be used as a tax avoidance vehicle. We welcome the Charity Commission's statutory investigation into the Cup Trust. We recommend that the Commission follows this inquiry with a review of lessons learnt from this scandal. The Commission should specifically reconsider the legal advice it received on the status of the Cup Trust, and whether it was right not to take its concerns about the Cup Trust further. Having reviewed this case, if the Commission still feels that it was restricted in its legal abilities to prevent such organisations from obtaining charitable status, we would welcome its proposals for a change in the law on the criteria for registering as a charity. (Paragraph 21)**

The Government supports these recommendations, which are for the Charity Commission and HMRC. Both are continuing to work closely together to tackle the unacceptable abuse of charity for the purposes of tax avoidance. We cannot comment on any cases that are currently before the Tribunal and are therefore sub judice. The Government is discussing with the Charity Commission whether it has the powers it needs to efficiently and effectively intervene where there is abuse of charity. We also look forward to the National Audit Office's report to the Public Accounts Committee on the Charity Commission, which we understand is expected later this year.

Charity Commission objectives and priorities

3. **The objectives of the Charity Commission, as set out in the 2006 Act, are far too vague and aspirational in character (an all too frequent shortcoming**

of modern legislative drafting) to determine what the Charity Commission should do, given the limitations on its resources, to fulfil its statutory objectives. The 2006 Act represented an ambition which the Commission could never fulfil, even before the budget cuts were initiated. (Paragraph 22)

4. **The Commission's reduced budget means extra tasks, outside of its statutory objectives, are an unaffordable luxury, particularly as it has to use its precious resources to combat lobbying and legal pressure from some well-resourced organisations. Furthermore, by seeking to be an advice service to charities, the Commission also risks a conflict of interest: it cannot simultaneously maintain public trust in the charitable sector while also acting as a champion of charities and the charitable sector. The latter should be, as the Commission and Lord Hodgson have recommended, a role for the sector's umbrella bodies and not its regulator. (Paragraph 23).**

5. **The Cabinet Office must consider how to prioritise what is expected of the Charity Commission, so that it can function with its reduced budget. This must enable it to renew its focus on regulation as its core task. The Commission is not resourced, for example, "to promote the effective use of charitable resources", or for that matter, to oversee a reappraisal of what is meant by "public benefit", nor is it ever likely to be. (Paragraph 24)**

The Government supports these conclusions, and welcomes the Charity Commission's approach following its 2011 strategic review which has focussed its resources on its core regulatory functions of registering charities, maintaining the public register of charities, promoting compliance through guidance, and identifying and tackling the abuse of charity. Legislative change to the Charity Commission's objectives is not needed to support this and would be a distraction from the Charity Commission's focus on its priorities. We welcome the Charity Commission's work to develop more effective partnerships with charity sector umbrella bodies as a means of supporting and improving compliance. The Cabinet Office will work with the Charity Commission to identify statutory functions that add little value to the regulation of the charity sector but are resource intensive for the Charity Commission, and investigate the options for removing or reducing them. And the Law Commission, in its charity project will also investigate some areas where powers could be transferred from the Charity Commission to charity trustees, along with appropriate safeguards.

Abuse of charitable status to obtain tax relief

6. **Abuse of charitable status to obtain tax relief is intolerable and should be uncovered by HMRC and the Charity Commission working more closely together. We recommend that the Commission should prioritise the investigation of potential "sham" charities but the obligation to investigate and report tax fraud rests with HMRC, recognising that the Commission's financial position will limit their own investigation. Ministers must decide whether they think it is necessary to have a proactive regulator of the**

charitable sector, and if so, the Government must increase the Commission's budget and ask Parliament to clarify their powers. If funding cannot be found for the Commission to carry out such a role, ministers should be explicit that they accept that the regulatory role of the Commission will, by necessity, be limited. (Paragraph 25)

The Government agrees that any abuse of charitable status to obtain tax relief is intolerable and supports the recommendation that HMRC and the Charity Commission should work more closely together. We welcome the Charity Commission's recent announcement that it is discussing better ways to share information and work closer together with HMRC to tackle the abuse of charity. The Government accepts that with limited resources the Charity Commission's regulatory role will, by necessity, be limited. The challenge for the Charity Commission is to ensure that its limited resources are put to maximum effect. As mentioned above, we will work with the Charity Commission to explore the potential to remove statutory functions that add little to the regulation of charities.

Charges

7. **We do not support Lord Hodgson's recommendation for the introduction of charges for the registration of new charities or the submission of annual returns. To do so would act as a block on the creation of new charities and the dynamism and charitable spirit of the volunteers working hard in their communities. It would be, quite simply, a tax on charities and charitable work. Furthermore, the Commission would also incur substantial administrative cost in a time of austerity, since it does not have the people and systems for invoicing and receiving payments from all 163,000 registered charities once per year. There would be something absurd about a system which would result in the Treasury giving tax relief to charities with one hand, and then clawing back from charities the money to fund the regulator, with the other hand. It is undesirable in principle that a regulatory body should be funded by those that it supervises. (Paragraph 32)**

8. **There is a case for charging charities for late returns to the Charity Commission. The cost of such a system would be much less than for a full-scale charging system and the income received would not constitute a conflict of interest. The failure to submit annual returns on time is a risk to public trust in the charitable sector and charging will promote increased transparency: members of the public wishing to make a charitable donation should have up-to-date information, proportionate to the size of that organisation, on the charity's income and expenditure, in order to make an informed choice about their donation. (Paragraph 33)**

9. **We endorse Lord Hodgson's recommendation that the Cabinet Office should work with the Charity Commission to develop a proportionate and flexible system of fines for late returns to the Commission. This is subject to the acceptance of our recommendation on joint registration in paragraph 51. (Paragraph 34)**

The Government agrees with the Committee that the Charity Commission should not charge the charities it regulates. Charging would not support our policy to make it easier to set up and run a charity, social enterprise, or voluntary group. We agree with the Committee that there would also be significant practical hurdles for the Charity Commission to establish a cost-effective system of charging. There are no plans to introduce charging. Any such plans would be subject to full consultation with the charity sector.

We welcome the Committee's endorsement of Lord Hodgson's recommendation that we should develop a proportionate and flexible system of fines for late returns to the Charity Commission. The Government will explore with the Charity Commission the scope for such a system of late-filing fines, giving due consideration to the practical difficulties of such a system both for the Commission and charities concerned. We recognise that the principal motivation for such a system would be to drive improvements in compliance rather than to raise funds.

Registration

10. In his review of the Charities Act 2006, Lord Hodgson proposed a rise in the threshold for compulsory registration with the Charity Commission to £25,000, to reduce red tape for smaller charities. We do not accept the premise that charity registration itself is a significant regulatory burden on charities, and believe that any benefits of raising the threshold would be outweighed by the potential impact on public trust in charities. (Paragraph 49)

The Government agrees with the Committee that the threshold for compulsory charity registration should not be raised to £25,000. We appreciate the logic of the approach put forward by Lord Hodgson and can see a number of advantages with his proposals, particularly when they are considered as a complete package as he intended. However, the clear message from the charity sector is that registration should be required of small charities to help protect the reputation of the charity sector as a whole. We also find the argument put forward by PASC compelling; that any benefits of raising the threshold would be outweighed by the potential impact on public trust in charities.

11. In addition to his proposal to increase the compulsory registration threshold for charities, Lord Hodgson recommended a package of changes to the way charities are registered including the introduction of a voluntary registration with the regulator, for charities of any size. Such a move could foster the development of new charities, which would be boosted by the reputational benefits of registration, but the Charity Commission must carry out a feasibility study of the costs and benefits of such a voluntary registration scheme as the basis for any decision to proceed. Any extra resources required will have to be identified and provided for. (Paragraph 50)

The Government favours the introduction of voluntary registration for those charities that are not required to be registered. However, we accept that before such a right could be conferred we would work with the Charity Commission to undertake a feasibility study and consider the costs and benefits of such a change and the impact on Charity Commission resources.

12. The bureaucratic burden on charities could be more effectively reduced by addressing other issues facing charities rather than increasing the registration threshold, so we reiterate Lord Hodgson's recommendation that charities which are also companies should not be required to file annual returns with both the Charity Commission and Companies House. There should be agreement between the Charity Commission and Companies House about what information is required from registered charitable companies in one place. Ministers should make this a priority, to facilitate cost savings for the Commission and for charities. (Paragraph 51)

The Government supports this recommendation, which mirrors a recommendation made by Lord Hodgson. The Charity Commission has accepted this recommendation in principle. It will continue to explore this recommendation subject to any concerns about cost and proportionality. It has agreed to report back on progress in its annual report.

13. We recognise the difficulties faced by charities operating across the separate countries, and charity jurisdictions, of the United Kingdom. While recognising that charity regulation is a devolved matter, we believe there would be benefits for charities in all parts of the country if a passporting system for charity regulation could be developed. The present system wastes the resources of both charities and taxpayers. If this proposal results in the convergence of conditions for the registration of charities across the UK, this would be welcomed by the sector. We call on the Cabinet Office and the Charity Commission, and the equivalent bodies in Scotland and Northern Ireland, to renew efforts to achieve this. While respecting the UK's different jurisdictions, we expect ministers accountable to PASC to be proactive in this. (Paragraph 52)

The Government and Charity Commission will work proactively with the devolved administrations with the aim of minimising cross border regulatory burdens for charities that operate throughout the UK, while respecting the UK's different charity jurisdictions. We will keep PASC informed of progress.

Public Benefit and Charitable Status

14. The legal disputes relating to the Charity Commission's interpretation of "public benefit" and the Charities Act 2006 are complex and touch upon controversial and political questions concerning charitable status. This has

also been a considerable financial burden on the Charity Commission and on the charities concerned, which is itself an injustice. (Paragraph 59)

15. **We accept the case of the Charity Commission that there is a lack of certainty about religious charities and public benefit in the 2006 Charities Act. This ambiguity suggests that it is reasonable to examine the Official Report for a consideration of the ministerial intent behind the statute. (Paragraph 64)**

16. **Parliament should be under no illusion about the scale of the task it presented to the Charity Commission when it passed the Charities Act 2006, which required the Commission to produce public benefit guidance without specifically defining "public benefit". This has had the effect of inviting the Commission to become involved in matters such as the charitable status of independent schools which has long been a matter of party political controversy. (Paragraph 85)**

17. **In our view, it is for Parliament to resolve the issues of the criteria for charitable status and public benefit, not the Charity Commission, which is a branch of the executive. In this respect the Charities Act 2006 has been an administrative and financial disaster for the Charity Commission and for the charities involved, absorbing vast amounts of energy and commitment, as well as money. (Paragraph 86)**

18. **We are far from happy with the manner in which the Charity Commission has conducted policy concerning public benefit. We have, however, received clear advice from the Attorney General that it is not Parliament's role to make decisions on the charitable status of particular organisations (see appendix A). We will not therefore prejudge the Tribunal decision in the case of the Preston Down Trust, part of the Plymouth Brethren (or Exclusive Brethren). For the purposes of this Report, we are therefore treating the Preston Down case as sub judice and will not make a substantive comment on the Commission's decision, until any judicial proceedings on the case have been concluded. (Paragraph 87)**

The Government accepts that there has been a lack of certainty in relation to religious charities and public benefit following the Charities Act 2006, and supports the Committee's conclusion that it would be reasonable to consult the Official Report for a consideration of the ministerial intent behind the statute.

We should recognise and celebrate the important contribution made by the wide range of religious charities and faith communities that exist in England and Wales. Over 32,000 registered charities have a religious purpose and many more, including some of our most successful charities, were started from a strong religious sense of duty or affiliation.

The Government agrees that it is for Parliament, not the Charity Commission or the Government of the day, to define the criteria for charitable status, including what is meant by "public benefit". And it is for the Charity Commission, not for Parliament or

the Government, to determine whether organisations meet those criteria in individual cases.

Following almost two years' debate, Parliament provided a new statutory definition of charity in the Charities Act 2006, with a statutory list of headings of charitable purposes, and chose to continue to rely on the case law definition of public benefit. The Charities Act also gave the Charity Commission the difficult task of providing guidance on public benefit. It was almost inevitable that the Charity Commission's interpretation of the case law would be challenged through the tribunal or courts at some point, and more likely than not that such challenges would arise in relation to education, religion, or poverty relief, which were widely considered to benefit from a presumption of public benefit prior to the Charities Act 2006.

Part of the purpose of creating the Charity Tribunal was to facilitate the development of charity case law. The Upper Tribunal has already provided clarification of the law relating to public benefit and education in the Independent Schools Council case, and public benefit and poverty relief in the benevolent charities case. We appreciate that these cases may have proved costly for the charities involved, and that the Charity Commission has invested significant resources in its approach to public benefit and the resulting legal cases. However, it is up to the charities concerned to make their own choices about their representation. The Tribunal has no power, nor should it, to control the parties' legal costs in proceedings before it. The Tribunal Procedure Rules are designed to allow processes to be flexible so that they can accommodate a range of litigants - from those who choose to represent themselves through to those who choose to employ a full legal team.

The Government welcomes the stay in proceedings to enable the Charity Commission and Plymouth Brethren Christian Church attempt to resolve the matter through dialogue, but if this proves unsuccessful the matter will rightly return to the Tribunal for a decision. The Government reaffirms the importance of respecting the sub judice rule in respect of cases which are before the Tribunal.

Whilst there are clearly worrying issues for the small number of organisations involved, the concerns that have been raised about public benefit need to be considered in context of the charity sector as a whole. The Charity Commission registers over 6,000 new charities each year, and in the vast majority of cases public benefit presents no problems. This is true of educational, religious and poverty relief charities, as well as charities with other purposes. In addition, tens of thousands of charities have to report on their public benefit each year in their trustees' annual report, and do so without any difficulty.

A statutory definition of public benefit?

19. The Charity Commission's evidence argued that there was a "lack of certainty as to the law relating to the public benefit requirement for the advancement of religion" since the passing of the Charities Act 2006. This lack of certainty, and the Commission's interpretation of the Act, have led to the questioning of the charitable status of independent schools and the

Plymouth Brethren Christian Church (or Exclusive Brethren) and concerns over the wider impact on faith charities. (Paragraph 91)

20. **In its approach to the question of public benefit, the Charity Commission chose not to rely on previous jurisprudence, as it could be argued Parliament intended, in the light of the vacuum of definition left by the Act. Ultimately the Charities Act 2006 is critically flawed on the question of public benefit and should be revisited by Parliament. (Paragraph 92)**

21. **We recommend that the removal of the presumption of public benefit in the 2006 Charities Act be repealed, along with the Charity Commission's statutory public benefit objective. This would ensure that no transient Government could introduce what amounts to substantive changes in charity law without Parliament's explicit consent. If the Government wishes there to be new conditions for what constitutes a charity and qualifies for tax relief, it should bring forward legislation, not leave it to the discretion of the Charity Commission and the courts. (Paragraph 93)**

The Government agrees with Lord Hodgson's recommendation not to pursue a statutory definition of public benefit at this time, although the possibility of change should not be completely ruled out, particularly in light of any developments in the case law. The case law definition of public benefit has served us well for over 400 years, although we know that recent and current cases before the Tribunal have caused much anxiety for some groups of charities.

On the surface, a statutory definition of public benefit might appear attractive, but no-one has yet been able to adequately describe what a statutory definition would be. The diversity of charitable purposes and activities mean that, in our view, the case law is too complex to encapsulate in a simple statutory definition. This is evident from the difficulty that the Charity Commission had in trying to distil the concept of public benefit into many pages of guidance. Any attempt to legislate a definition would face the same challenges. We consider that a statutory definition of public benefit would be just as likely to result in legal challenges and would have the potential for serious unintended consequences. A statutory definition would be also inflexible and would risk ossifying the law, unlike the existing case law definition which can evolve flexibly over time and respond to social and economic change.

In passing the Charities Act 2006 Parliament debated at length whether or not there should be a statutory definition of public benefit and concluded that, whilst not perfect, continuing to rely on the case law definition was the right solution. Since then we have had the law clarified in two key cases relating to education and poverty relief, with one case on religion ongoing.

Charities must exist for the public benefit, and an important part of the Charity Commission's regulatory role lies in ensuring that charities are aware of that requirement. We therefore believe that the Charity Commission's public benefit objective should remain in place, although we accept that this should not be such a significant focus of the Charity Commission's resources when compared to its other core regulatory objectives.

The Upper Tribunal made it clear in its judgment on the Independent Schools Council case that there had not been a legal presumption of public benefit in the case law before the Charities Act 2006. Therefore it would not be possible to "restore" a presumption of public benefit that may never have existed. We also believe that restoring or creating a presumption of public benefit for a particular class or classes of charity would not be supported by most charities.

The Charity Tribunal

22. The Charity Commission's reliance on the Charity Tribunal to resolve contentious areas of the law means, in practice, that some of the cost of regulating the sector falls on the particular charities concerned, taking away vital funds that could be used to fulfil their charitable objectives. This amounts to an abdication of responsibility by the Charity Commission, and an expensive, time-consuming and unjust way to test the law. (Paragraph 100)

23. The present policy for determining questions of public benefit has proved disastrous in terms of the time and commitment of the Charity Commission and the charities involved. It must also be noted that the tribunal system, has failed in its objectives to reduce the cost of disputes. The Commission should devise informal dispute resolution procedures and should not use the tribunal system as a means of determining the law, except as a last resort. (Paragraph 101)

The Charity Commission already offers an Internal Decision Review process, which provides the potential for informal dispute resolution. We would encourage the Commission to be as clear as possible in setting out to charities, or those applying to register as charities, the reasons for its decisions as regulator and where any changes would be needed in order for it to reach a different outcome. We have also asked the Commission to review its decision making processes in light of recent experience to ensure that unacceptable delays are avoided in future.

The Charity Tribunal is an independent judicial body. In creating the Charity Tribunal, Parliament intended for it to be a lower cost route than the High Court. However it is up to the parties in any proceedings before the Tribunal, including both charities and individual beneficiaries, to make their own choices about whether to incur the cost of legal representation. The Tribunal Procedure Rules are designed to allow processes to be flexible so that they can accommodate a range of litigants - from those who choose to represent themselves through to those who chose to employ a full legal team. It is by reason of the choices that the parties have made about their legal representation that legal costs have been high. We do not see the Charity Commission as abdicating its responsibility by referring difficult cases or points of law to the Tribunal. The independent Tribunal is an important feature of the overall regulatory system and part of its function is clarifying points of charity law as it has shown through several of its important decisions.

In 2011, the Senior President of Tribunals published a report 'Costs in Tribunals' that contained recommendations for change to costs regimes in order to promote access to justice in the tribunal system. One suggested change impacts upon the charity jurisdiction: "the GRC [General Regulatory Chamber] and T&CC [Tax and Chancery Chamber] should have the power to make prospective costs orders in charity cases." This would enable trustees of a charity, if they chose to incur legal costs, to obtain authority to recover those costs out of the charity's funds. The Tribunal Procedure Committee is currently considering this issue and the Government has drawn the comments in the Public Administration Select Committee Report to its attention. As noted above, the Law Commission is also currently considering the question of giving the Tribunal the power to authorise charity trustees' expenditure on legal proceedings, whether via primary legislation or by an amendment to the rules of the Tribunal Procedure Committee.

A charity ombudsman?

24. We heard worrying testimony from people with complaints about the way charities have treated them, as employees, trustees or volunteers. The sector must recognise the risk to the reputation of charities as a whole from such complaints, and must take responsibility for resolving these matters, through internal complaints mechanisms and independent appeal processes. We agree with Lord Hodgson that, while superficially attractive, the costs of a charity ombudsman should not fall upon the Government or the regulator, and should be borne by the sector itself. (Paragraph 108)

The Government welcomes the Committee's view. A charity ombudsman would undermine the independence of charities and their trustees, and would represent a disproportionate response that would be unaffordable to Government or the charity sector. We agree with both the Committee and Lord Hodgson that charities should take more responsibility for resolving complaints and internal disputes, or risk damage to the sector's reputation.

Fundraising

25. We appreciate the very significant levels of public concern about face-to-face fundraising, or "chugging". Many members of the public report that they feel pressured by chuggers and businesses warn of the nuisance caused to their customers and obstruction on the streets. It is clear that self-regulation has failed so far to generate the level of public confidence which is essential to the success of the system and the reputation of the charitable sector. (Paragraph 117)

26. The case for statutory regulation of fundraising is compelling, but this must be balanced against the significant cost, whether to the public purse, or to charities themselves. We also note the progress made by the self-regulatory bodies—the Fundraising Standards Board (FRSB), the Public Fundraising Regulatory Association and the Institute of Fundraising—in

clarifying where responsibilities lie, and the response they have shown to the companies which have been shown to harass and pressure potential donors. With this in mind, we recommend to the Cabinet Office that the self-regulation system remains in place but is placed on notice, as recommended by Lord Hodgson, with progress reviewed in five years' time. The self-regulatory bodies must act with urgency to increase membership of the FRSB, improve compliance with its code, and strengthen public awareness of the complaints system. The Charity Commission should do more to promote the self-regulatory system as part of its statutory duty to increase public trust and confidence in charities. There should be no complacency from the charity sector about the need to rebuild public confidence in charity fundraising. Should statutory regulation become necessary, the cost should be borne by the charities themselves, and should focus on the solicitation of direct debit collections. Some means of excluding traditional "street collections", such as those by the Royal British Legion, the Royal National Lifeboat Institution, and local hospices, should be found. (Paragraph 118)

The Government welcomes the Committee's conclusions on fundraising and agrees with the Committee's recommendation that self-regulation should be given more time to prove itself. Opting for self-regulation means far less bureaucracy and form-filling for charities than statutory regulation would. Levels of public trust and confidence in charities are high, but evidence suggests that fundraising is an area where there remain public concerns, and in our view the best means for addressing these concerns is through self-regulation. We support the Committee's view that there should be no complacency from the charity sector about the need to rebuild public confidence in charity fundraising. We accept the recommendation to review progress in five years' time and will report back to Parliament.

House-to-house charity collections

27. We share the view of many of the charities that submitted evidence to us that Lord Hodgson's proposal to abolish National Exemption Orders is not the way to improve the legislation relating to house-to-house charitable collections. While it was made with the intention of deregulation and supporting smaller charities, it is unlikely to have this effect in practice, and would increase the administrative costs of larger charities. Such a move would reduce the charitable funds available to such organisations and would therefore be unwise. (Paragraph 123)

The Government accepts the Committee's recommendation and does not propose to abolish National Exemption Orders for house to house collections. Abolishing NEOs would result in significant new regulatory burdens on the large charities that rely on them to generate significant funds. However, there is a need to strengthen the system to ensure that the interests of small charities and local licensing authorities are not ignored. The Government will continue to work with the charity sector, local licensing authorities and other stakeholders to explore the options for change.

Payment of trustees

28. We endorse the Government's rejection of the recommendation that large charities should have the automatic right to pay trustees. We were not convinced by the call by the Association for Chief Executives of Voluntary Organisations that such a measure would be either necessary or desirable. Indeed, we share the view of the overwhelming majority of our evidence, expressed with passion in some cases, that it would undermine the voluntary principle central to the whole ethos of the charitable sector. It is clear that in a few, exceptional, cases, trustee payment is appropriate, for example when being a trustee is incompatible with full-time employment. Our evidence suggested, however, that such cases are adequately and appropriately provided for within the current rules and we are not persuaded of the arguments for change. (Paragraph 129)

The Government welcomes the Committee's conclusion. Feedback received from the majority of charities and their representatives has not been in favour of de-regulation in this case. Many have argued that permitting remuneration of charity trustees would undermine the voluntary nature of charity trusteeship which is a defining feature of the charity sector. Some have also argued that there is currently insufficient evidence that paying trustees would result in more effective governance. Charities that wish to pay their trustees for acting as such can already make a case to do so and seek approval from the Charity Commission. The Charity Commission has said that applications of this sort are infrequent. We therefore consider that, for the time-being at least, and until there is stronger evidence that would support an easing of the general presumption against trustee remuneration, we should retain the status quo, but monitor the number of applications the Charity Commission receives and the number it grants or refuses.

Political campaigning and independence

29. We heard conflicting evidence on whether the restrictions on political campaigning by charities should be tightened or relaxed. Neither side made a compelling case. We note that the Charity Commission's figures show that there are few cases of inappropriate political activity by charities. Consequently, we do not recommend any changes to the rules on political campaigning by charities. (Paragraph 142)

The Government accepts this recommendation. Preserving the current position will protect charities' independence and their important campaigning and advocacy roles. It will continue to be for the Charity Commission to consider on a case by case basis whether a charity has overstepped the mark in terms of any political or campaigning activity.

30. We recommend that the Liaison Committee considers the issue of transparency by select committee witnesses who appear to be independent commentators but may be lobbying for vested interests. (Paragraph 143)

This recommendation is for the Liaison Committee.

31. We do support greater transparency by charities. Charities should be more transparent about their political and campaigning activities. Clear information about how much a charity spends on political and campaigning activity would enable members of the public to make an informed choice about whether to donate based on an understanding of how an organisation would use their donation. We recommend that the Charity Commission requires charities to declare in their annual returns how much of their spending has gone on political and communications work. We also recommend that the Charity Commission requires charities above the current registration threshold to declare on their annual returns how much of their income in the previous year was received from public or government sources in either i) grant income or ii) other forms of remuneration, and how much was received in the form of private donations. (Paragraph 144)

The Government supports this recommendation in principle. As a first step we would encourage the charity sector to take the lead in improving the information that charities provide about their political and campaigning activities. We will work with the Charity Commission to explore the potential for information on political and campaigning activities, and on charities' income sources, to be captured and disclosed in a proportionate way through existing processes. Any future changes would be subject to public consultation.

32. On the separate issue of whether public funds should be used to fund charities involved with political campaigns, this is a matter for Parliament and its oversight of public spending. We recommend that ministers should make a written statement to Parliament whenever a decision is made to provide government support by direct grant to a charity which is involved in political campaigning. (Paragraph 145)

Public funds should not be used to fund charities to undertake political activities, but if there were to be a case where public funding was used to support political campaigning or political activity, then we believe that it would be appropriate for the relevant Minister to make a written statement to Parliament. We do not believe a statement to Parliament is necessary or appropriate where grant funding is not to be used for campaigning or political activity. Government Departments must be responsible for the proper use of public funds, but cannot be responsible for knowing and reporting on the activities that charities, as independent entities, undertake with their own funding. Many charities in receipt of public funds also, using other sources of funding, engage in campaigning and political activity: it would be impractical to require a written ministerial statement in every such instance.

The charitable status of think tanks

33. While think tanks may not fit the typical image of a charity, we accept that, as organisations for the furthering of education, they have a place inside our charity sector, provided they are established for a charitable purpose and for the public benefit. Think tanks such as the Smith Institute and Atlantic Bridge failed to maintain the correct balance between political activity and neutrality as required from think tanks with charitable status, though we are concerned by an apparent lack of consistency in the application of rules to this sector. The high profile of these cases, and the potential impact on trust in the charitable sector as a whole, means that it is crucial for the Charity Commission to regulate such bodies in a fair, consistent and proportionate manner. The Charity Commission's review of the handling of applications for charitable status from think tanks must demonstrate objectivity and impartiality, which is necessary to maintain public trust in the charity sector as a whole. (Paragraph 156)

The Government supports this recommendation. We note and welcome the Charity Commission's review of its guidance on think tanks, which will help Commission staff approach these difficult issues proportionately and consistently and will help trustees of charitable think tanks, and those looking to set them up, understand their duties more clearly.

Conclusion

34. The landscape of charity law is complex and inconsistent, developed in a piecemeal fashion through centuries of case law and legislation, but which nevertheless represents a delicate and uneasy consensus amongst charities and those with an interest in the sector. The 2006 Act was a much-needed piece of legislation, but while generally welcomed by the sector, it indicated a continuation of the complexity of charity law, rather than radical change or simplification. The Charity Commission interpretation of "public benefit" has been disruptive; though the 2006 Act left ambiguity and the Commission with an obligation to provide definition in guidance but little indication about how it should interpret an unreasonable degree of latitude. (Paragraph 162)

35. Parliament must legislate to clarify the flawed legislation on the question of charities and public benefit. (Paragraph 163)

The Government does not accept this recommendation for the reasons set out above in our response.

36. Lord Hodgson has suggested that, in some ways, the 2006 Act represented a "missed opportunity" to deregulate more. We would go further and suggest that the Act, while reflecting the political climate of the time, does not equip the regulator or the Cabinet Office with the tools to address the

changes in the sector that have occurred in the relatively short space of time since the Act was passed: the reductions in public spending, and consequently in charitable income; the growth of non-charitable organisations, such as social enterprises; and a new focus on the delivery of public services by charities. (Paragraph 164)

37. **We trust that the Government will accept our recommendations, which have been made with the objective of increasing public trust in charities, while reflecting this changed economic and political climate. (Paragraph 165)**

The Government welcomes the Committee's thorough and carefully considered report. We have been able to accept or support many of the Committee's recommendations. We share the Committee's aim of increasing public trust in charities, particularly against the backdrop of a different economic and political climate.

3. Responses to Lord Hodgson's recommendations

The responses below are to the recommendations published in Lord Hodgson's statutory review of the Charities Act 2006, published in July 2012: "Trusted and Independent: giving charity back to charities".

1. **The Charity Commission should consider providing a single piece of guidance setting out how it defines each of the charitable purposes and the factors it will consider when applying those definitions to a decide whether an organisation qualifies as charitable. It should also give thought to producing more model objects to supplement this guidance and assist new charities to comply with the law. (Chapter 4, recommendation 1)**

The Government supports this recommendation which is for the Charity Commission. The Charity Commission has said that it plans to undertake a review of its guidance on and descriptions of charitable purposes during 2013/14.

2. **No statutory definition of 'public benefit' should be introduced, in order to retain the flexibility attached to the common law definition. However, the attention of the Tribunal should be drawn to the important role it has to play in ensuring case law precedents reflect emerging social mores.(Chapter 4, recommendation 2)**

The Government agrees that a statutory definition of public benefit should not be pursued at this time, although the possibility of change should not be completely ruled out, particularly in light of any developments in the case law. We have written to the President of the Lower Tier Tribunal (General Regulatory Chamber) to draw this recommendation to the Tribunal's attention.

3. **The Charity Commission, in its drafting of new guidance on public benefit and more widely, should take on board the comments made by the sector regarding the need for a clear distinction between legal requirements and best practice in the text. (Chapter 4, recommendation 4)**

The Charity Commission has said that it accepts this recommendation. The Charity Commission already adopts this approach in all its guidance published in recent years.

4. **In order to address future public concerns about 'what constitutes a charity,' in practical as opposed to historical-legal terms, the Government should stimulate a widespread sector and public debate on the question. (Chapter 4, recommendation 5)**

The Government believes that there is already widespread debate over what constitutes a charity. Parliament, through the Public Administration Select Committee, has stimulated debate on what it means to be a charity in practical as well as legal terms through its inquiry on the Charity Commission and charity regulation. Greater transparency and availability of data about charities will help the public understand the broad range of organisations that qualify as charities.

5. **The Charity Commission, as part of its information strategy review, should identify and implement ways of drawing public attention to the public benefit reports of individual charities. (Chapter 4, recommendation 7)**

This recommendation is for the Charity Commission. The Commission has said that it supports this recommendation in principle.

6. **Charities should recognise the importance of public benefit reporting both to public confidence and their own ability to attract supporters, and take responsibility for complying with reporting requirements, stressing the 'impact' rather than the 'process' of their activities. (chapter 4, recommendation 8)**

The Government recognises the value of proportionate impact reporting, and supports this recommendation. We welcome the progress that is being made in promoting good impact reporting by a number of organisations in the charity sector. The Charity Commission has said that it supports this recommendation. In 2011 it commissioned independent research on public benefit reporting which identified scope for further improvement. The Commission highlighted the benefits that many charities had found, and encouraged other charities to follow suit.

7. **The Charity Commission should instigate a set of key indicators to help identify charities which might be at higher risk of failing to meet their legal obligations and should then take steps to improve organisations' performance or take the necessary action against them. (Chapter 4, recommendation 9)**

This recommendation is for the Charity Commission. The Commission already undertakes its own internal assessments of risk and provides a wide range of guidance to help charity trustees identify and manage risk in their charities. Whether this could be boiled down to a set of key indicators is complex and the Commission has said it will require further development and consideration.

8. **Charities who fall into the 'large' category set out in Chapter 6 should have the power to pay their trustees, subject to clear disclosure requirements on the quantum and terms of any remuneration in the individual charity's annual report and accounts. (Chapter 4, recommendation 10)**

The Government does not accept this recommendation. Feedback received from the majority of charities and their representatives has not been in favour of de-regulation in this case. Many have argued that permitting remuneration of charity trustees would undermine the voluntary nature of charity trusteeship, which is a defining feature of the charity sector. Some have also argued that there is currently insufficient evidence that paying trustees would result in more effective governance. Charities that wish to pay their trustees for acting as such can already make a case to do so and seek approval from the Charity Commission. The Charity Commission has said that applications of this sort are infrequent. We therefore consider that, for the time-being at least, and until there is stronger evidence that would support an easing of the general presumption against trustee remuneration, we should retain the status quo, but monitor the number of applications the Charity Commission receives and the number it grants or refuses.

9. Trustees of all charities should consider reimbursing trustees' expenses, especially if they consider this would result in a wider range of individuals taking on the role. (Chapter 4, recommendation 11)

The Government supports this recommendation, which is already permitted in law. Charities can already reimburse their trustees' expenses without needing Charity Commission approval. Many charities do, for example, pay travel and childcare costs. We would encourage charities to make this clear when recruiting new trustees so that people are not put off by thinking they would be out-of-pocket if they were to take up a trustee role.

10. The Government, through the Civil Society Red Tape Challenge, should consider the totality of the regulation facing charity trustees with a view to reducing it where possible. (Chapter 4, recommendation 12)

The Government accepts this recommendation. The voluntary sector theme of the Red Tape Challenge was open for contributions between April and October 2012. A number of regulatory burdens were identified in submissions. Overall, good progress has been made in tackling red tape affecting charities, and there have been some important changes recently, including the introduction of the Charitable Incorporated Organisation legal structure for charities, and the simplification of criminal records checks including a reduction in the number of people who need them.

11. The Charity Commission should work with umbrella bodies and other groups in the sector (e.g. infrastructure organisations) to promote their best practice guidance on trustee recruitment. (Chapter 4, recommendation 13)

The Charity Commission already publishes best practice guidance on trustee recruitment and induction, and has said that it will continue to work with umbrella bodies and other partners to promote the guidance and other best practice in relation to trustee recruitment and induction.

12. The Government, working with business, should produce best practice guidance for employers on what trusteeship is, the benefits for employees, and how to effectively support employees who are trustees to meet the commitments of their role. (Chapter 4, recommendation 14a)

The Government accepts this recommendation and will work with Business in the Community and others to publicise to employers the benefits of supporting employees in charity trusteeship. Many successful companies already realise the significant business benefits of supporting their staff to become charity trustees.

13. The Government should lead the way in demonstrating good practice by encouraging staff to consider trusteeship and enabling them to use volunteering days in this way. (Chapter 4, recommendation 14b)

The Government accepts this recommendation. The Government would like civil servants to take a leading role volunteering in their local communities so that we turn the Civil Service in to a 'Civic Service'. Trusteeship can help Civil Servants and the Civil Service benefit by developing important skills such as leadership and financial and people management. Guidance is already available to civil servants in a volunteering hub on the Civil Service website. The Civil Service aims to donate 30,000 days a year to voluntary work.

14. Businesses should explore the potential for loaning or seconding staff to charities. (Chapter 4, recommendation 15)

The Government supports this recommendation. Many successful businesses in the UK already second or loan staff to charities as they can already see the benefits that such interchange brings to their businesses.

15. Trusteeship should normally be limited in a charity's constitution to three terms of no more than three years' service each, and the Charity Commission and umbrella bodies should amend their model constitution documents to reflect this. Any charity which does not include this measure in its constitution should be required to explain the reasons for this in its annual report. (Chapter4, recommendation 16)

The Government believes this should be a matter of best practice rather than a legal requirement. The Charity Commission's guidance already recommends that trustee boards are regularly refreshed. This recommendation would also be impractical for some types of charity – for example foundations established by a living philanthropist who may wish to serve on the trustee board for life. We do think that there is a strong argument that charities should be transparent about the length of time that trustees have served. We will work with the Charity Commission to determine whether this information is already collected and visible to the public and, if not, will consult on whether it would be appropriate and proportionate for this to be a disclosure requirement.

16. **Umbrella bodies should, working with the Charity Commission and Government, investigate ways to draw together and promote a centralised portal for trustee vacancies. (Chapter 4 recommendation 17)**

The Government supports this recommendation in principle and will work with the charity sector and Charity Commission where appropriate to promote charity trustee vacancies through online portals. We welcomed the launch in June 2013 of www.icaewvolunteers.com – a new website designed to help match charities with volunteer finance professionals.

We would welcome sector-led consolidation towards a single trustee vacancy portal in future.

17. **The Government should introduce a 'right to know' for all charitable trustees i.e. a right to access any information, within the confines of data protection law, held by the charity that they reasonably judge necessary to discharge their duties effectively. (Chapter 4, recommendation 18)**

The Government believes that charity trustees should have a right to access their charity's information where they need it to perform their trustee duties, unless there are exceptional reasons for information not to be disclosed. We will consult on whether an explicit right is necessary.

18. **The Government should consider if and how to widen the types of criminal offences disqualifying individuals from charity trusteeship, taking into account the need to support rehabilitation of former offenders. (Chapter 4, recommendation 19)**

The Government accepts this recommendation and believes there is also a need to consider whether there are loopholes in the way the current suspension and removal powers operate. The Law Commission has been asked to consider this recommendation. However, if an early legislative opportunity arises the Government may take this recommendation forward outside of the Law Commission project.

19. **The Charity Commission should prioritise its core functions:**
    a. **Registering charities (and maintaining an accurate register);**
    b. **Identifying, deterring, and tackling misconduct and abuse of charitable status; and**
    c. **Providing the public with information (in a relevant form which is easily understood by the public) about charities, and charities with information about charity law. (Chapter 5, recommendation 2).**

The Government supports this recommendation which is for the Charity Commission. The Charity Commission undertook a strategic review in 2011, resulting in the prioritisation of its core functions.

20. The Commission's statutory objectives are sound, but it should focus more tightly on regulation of the sector; not just reactive but proactive regulation, including checking random and risk-weighted samples of charity accounts. The Commission should be more proactive in deterring, identifying, disrupting and tackling abuse of charitable status. (Chapter 5, recommendation 3)

The Charity Commission already explores and implements ways of proactively identifying and tackling abuse and will continue to do so, including checking a sample of charity accounts on a random and risk basis. The Government welcomes this recommendation and is working with the Charity Commission to consider options for strengthening its proactive monitoring and risk assessment functions and practices. We will also consider whether any changes are needed to the Charity Commission's compliance powers to improve the efficiency or effectiveness of its compliance and enforcement work.

21. The Charity Commission's competence is in charity law. It should not be producing guidance on issues that are not concerned with that, unless it provides clarity on an issue that directly impacts on charity law and is published jointly with another organisation that can provide authoritative advice. (Chapter 5, recommendation 4)

This is a recommendation for the Charity Commission. The Charity Commission's guidance helps trustees to understand their duties as charity trustees. Where it issues good practice guidance it sees that as part of its pro-active work, which aims to try to reduce the need for regulatory involvement. In the light of its strategic review the Commission is focusing more tightly on issues of charity law and regulation and is working with others to produce advice where appropriate.

22. The Commission needs to be adequately funded to properly regulate the sector. Some analysis of financial efficiency and requirements needs to be undertaken as reductions in the Charity Commission's budget take place. (Chapter 5, recommendation 5)

The Government continues to believe that the Charity Commission has sufficient resources to effectively regulate charities, provided it focuses on its core regulatory functions.

23. Consideration should be given to whether the name 'Charity Commission' is sufficiently well-matched to the Commission's role going forward to support public and sector understanding of its role. A change to "Charity Authority" is suggested. (Chapter 5, recommendation 6)

Public awareness of the Charity Commission, and the register of charities, is improving, and changing its name could undermine this, as well as being a costly process. In a time of limited resources, despite recognising the underlying rationale, we do not see this as a priority and do not accept the recommendation.

24. The Charity Commission exercises a number of functions and grants a number of permissions that could be moved elsewhere, or removed altogether, to streamline regulation. A list of the functions that could be altered or removed is set out in Appendix A. Where this de-regulation enables charities themselves to make more decisions, there should be a "comply or explain" approach. (Chapter 5, recommendation 7)

The Government accepts this recommendation in principle, and has asked the Law Commission to consider many of these proposed changes as parts of its charity law project. The Government would support de-regulation that empowers charities to make more decisions themselves, provided there are appropriate safeguards against abuse or mismanagement. The Charity Commission's permissions role is resource-intensive, and a prudent reduction of this role by giving charity trustees more freedom with appropriate safeguards could free more of the Commission's resources to focus on its other core functions as a regulator.

The Charity Commission has strongly supported this recommendation and has worked closely with the Cabinet Office and Law Commission in considering the terms of reference for the Law Commission's charity law project, details of which are available here: www.lawcommission.justice.gov.uk/areas/charity-law.htm

25. The general threshold for compulsory registration should be raised to £25,000 (to match the accounting threshold), with compulsory registration also applicable to all (non-exempt) charities that claim tax relief. (Chapter 5, recommendation 8)

The Government does not propose to raise the registration threshold to £25,000. We appreciate the logic of Lord Hodgson's approach and can see a number of advantages with his proposals, particularly when they are considered as a complete package as he intended. However, the clear message from the charity sector is that registration should be required of small charities to help protect the reputation of the charity sector as a whole.

26. The process of lowering the registration threshold for excepted charities should continue, first to £50,000 and then to £25,000, over a period of three years. This three year period should commence once all existing organisations wishing to convert to a Charitable Incorporated Organisation have had two years to do so, to manage the impact on the Charity Commission. (Chapter 5, recommendation 9)

The Government has carefully considered this recommendation, alongside other options including the possibility of exempt status (subject to the availability of a suitable principal regulator), and maintaining the status quo. All excepted charities with an income of over £100,000 are already required to register. We are inclined to take view that now is not the right time to require smaller excepted charities to register with the Charity Commission. Our main concern is that to do so would impose an unnecessary regulatory burden on several thousand small charities at a

time when many may be under pressure. We will set out our specific proposals once we have concluded discussions with the excepted charities representative bodies later this year. (This makes chapter 5, recommendation 10 redundant)

27. Voluntary registration should be introduced by bringing s30(3) of the Charities Act 2011 Act into force, once the process of registering excepted charities with an income over £25,000 has been completed and when all existing organisations wishing to convert to a Charitable Incorporated Organisation have had two years to do so. Applications for voluntary registration should only be available online. (Chapter 5, recommendation 11)

The Government accepts this recommendation in principle. We will work together with the Charity Commission to bring in voluntary registration of small charities once implementation of the CIO has completed and subject to any changes that would require excepted charities to register. We also accept that online application should be the default for voluntary registration.

28. The processes for registering an organisation with the Charity Commission and for tax relief with HMRC should be joined up into a single process. The Charity Commission and HMRC will need to work together to design and implement such a process. (Chapter 5, recommendation 12)

HMRC and the Charity Commission are working together to explore options for creating a single application process. They are considering the matter in light of potential savings and affordability, and will also work with the Government Digital Service to discuss potential IT solutions.

29. All charities which are unregistered should be required to disclose this fact on their correspondence, fundraising materials and cheques. (Chapter 5, recommendation 13)

The Government does not accept this recommendation. There would be no straightforward way of knowing which charities were unregistered or whether they are compliant with the requirement. This would give rise to significant difficulties in making small unregistered charities aware of the requirement, and would make enforcement very difficult. Some small unregistered charities would seek confirmation of their status which could create substantial work for the Charity Commission, diverting resources from its core functions.

30. Work by Companies House and the Charity Commission to create a single reporting system for charitable companies, as recommended in Unshackling Good Neighbours, should continue as a matter of urgency. The potential for joint accounting requirements should also be investigated. (Chapter 5, recommendation 14)

The Charity Commission has accepted this recommendation in principle. It will continue to explore this recommendation subject to any concerns about cost and proportionality. It has agreed to report back on progress in its annual report.

31. The Charity Commission should continue its work to develop more partnerships with sub-sector umbrella bodies, enabling them to take on a greater role in promoting compliance, developing best practice (including model governing documents) and helping their membership with queries. The Commission should underscore these agreements with Memoranda of Understanding that are published on its website. (Chapter 6, recommendation 2)

The Charity Commission has accepted this recommendation. The Charity Commission already works through partnerships and is continuing to further develop this approach.

32. The Commission should keep such partnership arrangements under review, and include a section in its annual report about the effectiveness of its partnership working. (Chapter 6, recommendation 3)

The Charity Commission has accepted this recommendation and will report back in its annual report.

33. The Office for Civil Society and the Charity Commission should begin discussions with the Homes and Communities Agency about the feasibility of it becoming the principal regulator of charitable social housing providers in England. (Chapter 6, recommendation 4)

The Government accepts this recommendation and the Charity Commission supports it. The Office for Civil Society is holding constructive discussions with the Homes and Communities Agency about the feasibility of it becoming the principal regulator of charitable social housing providers in England. Similar discussions have begun with the Welsh Government in respect of equivalent charities in Wales.

34. The Charity Commission should be given the power to delegate some or all of its functions to other bodies, where it considers this to be in the interests of good regulation and the overall standard of regulation will be equivalent. In all cases the Commission must both retain its powers to investigate any individual charity and be able to withdraw a co-regulation authorisation at any time. (Chapter 6, recommendation 5)

The Government accepts this recommendation in principle, although the opportunity to implement it will be dependent on the availability of a suitable legislative vehicle to make the change. The Charity Commission has said that it would be comfortable with a discretionary conditional power to delegate functions as its partnership work matures.

35. The term "principal regulator" should be changed to "co-regulator." (Chapter 6, recommendation 6)

There are no plans to change the terminology used in the Charities Act 2011, as Primary Legislation would be required to make such a change. In general usage there is nothing preventing people from using alternative terms they consider more appropriate, such as "co-regulator".

36. The Charity Commission should continue to ensure that the information available about the charities on its register meets public needs and demand and is regularly reviewed to ensure it continues to meet these requirements. (Chapter 6, recommendation 7)

The Charity Commission holds the most comprehensive set of data on charities in England and Wales. It was announced in June 2013 that data held by the Charity Commission on the annual returns of charities in England and Wales is to be made available as free open data by March 2014. This will give basic details, including headline income and expenditure, for all registered charities and will show how charities with an income of over £500,000 allocate their revenue across fundraising and governance, charitable activities, and what they retain for future use.

The Cabinet Office is also in discussion with the Charity Commission about the information it collects and publishes to ensure that the information about individual charities meets public needs and demand.

37. The requirement to submit accounts and reporting information should be aligned with the registration threshold (recommended in Chapter 4 to be set at £25,000, with the further caveat that charities claiming tax reliefs should also be required to register). (Chapter 6, recommendation 8)

We recognise the rationale behind this recommendation; Lord Hodgson put forward a package of changes on registration and thresholds for reporting and made it clear that the benefits would only be realised if all the elements of the package were implemented together. However, in the current financial climate we are reluctant to

impose new regulatory burdens on small charities and new burdens on the Charity Commission. We will, however, explore with the Charity Commission whether small registered charities can be given the option of uploading their annual accounts and reports, or an annual return, voluntarily as a matter of good practice and to promote transparency. The Charity Commission already operates on "digital by default" principles for submission of annual accounts, reports and returns.

38. All compulsorily registered charities should be required to submit their accounts and Annual Return and they should be publicly available on the Commission website. (Chapter 6, recommendation 9)

The Government does not accept this recommendation. We do not intend to raise the registration threshold from £5,000 to £25,000, and we do not wish to impose a reporting obligation on the very large number of charities that fall between £5,000 and £25,000 that will still be required to be registered. As above, in the current financial climate we are reluctant to impose new regulatory burdens on small charities and new burdens on the Charity Commission. We will, however, explore with the Charity Commission whether small registered charities that are not required to submit their accounts can be given the option of uploading their annual accounts and reports, or an annual return, voluntarily as a matter of good practice and to promote transparency.

39. Voluntarily registered charities must submit accounts, for publication on the Commission's website, but must do so electronically. Submissions by charities that are compulsorily registered but have an income below £25,000 per year must also be electronic.(Chapter 6, recommendation 10)

As above, because we are not planning to increase the registration threshold, we do not accept this recommendation. We will, however, explore with the Charity Commission whether small registered charities that are not required to submit their accounts can be given the option of uploading their annual accounts and reports, or an annual return, voluntarily as a matter of good practice and to promote transparency.

40. All registered charities with an annual income of less than £25,000 should be identified on the Commission's register as "small" alongside their registration number. The intention of this is to improve the public perception that these charities are subject to little proactive regulatory oversight – and alert potential donors to this fact. (Chapter 6, recommendation 11)

The Government does not accept this recommendation. As the Charity Commission has pointed out, we doubt the addition of this description would help the public with understanding of charity regulation.

41. The Summary Information Return should be abolished, subject to the requirement that all the information it provides is available elsewhere in charities accounts and Annual Returns. (Chapter 6, recommendation 12)

The Charity Commission has considered this recommendation as part of its work on defining its information strategy, and is currently consulting on abolishing the Summary Information Return. The Government supports this recommendation in principle, and subject to consultation.

42. The Charity Commission should continue with its plans to simplify and improve the Charities SORP. (Chapter 6, recommendation 13)

The Charity Commission has accepted this recommendation. As part of the SORP-making body, in conjunction with the SORP Committee, the Charity Commission continues to work on simplifying and improving the charities SORP: a new draft SORP is due to be published for consultation in July.

43. The income level at which charities are required to have their accounts audited should increase from £500,000 to £1 million. The audit threshold for charities with assets valued at £3,260,000 should be removed completely. (Chapter 6, recommendation 14)

The Government partially supports this recommendation, subject to consultation. We will consult on increasing the income threshold for a full audit to £1m, although our preference would be to retain but increase the assets threshold, as we continue to believe that charities that have significant assets should be subject to a full audit even where their income is low.

44. The Charity Commission should explore technology-based ways of validating data from the information provided to it in both charities accounts and Annual Return. (Chapter 6, recommendation 15)

The Charity Commission has accepted this recommendation in principle. The Government supports this recommendation and is working closely with the Charity Commission to support its efforts to make better use of the comprehensive data it holds on the charity sector and explore technological solutions to data validation.

45. All information required to be submitted by charities should be combined into a single document for simplicity. The first page of this should be a list of key risk indicators to help the Commission identify a sample of charities for further investigation. The completed list should also be published on the charity's register entry to aid public understanding and exercise of judgment. (Chapter 6, recommendation 16)

The Charity Commission will need to explore this recommendation in more detail. The proposal suggests that the information collected has two different uses. These

are difficult to align and further work is needed to explore what can be achieved. The Government supports the intention behind this recommendation, but we recognise that there are a range of practical and technical constraints that mean that it may not be deliverable.

46. Sanctions for late filing of accounts and Annual Returns should include the withdrawal of Gift Aid. Government and the Charity Commission should also give thought to the costs, benefits and logistics of introducing late filing fines. (Chapter 6, recommendation 17)

The Government will explore whether there is the potential for the Charity Commission to charge penalties to charities who submit late accounts, although such a change would require legislation. HMRC is already able to withhold a gift aid payment where a charity's accounts are needed to verify a Gift Aid claim. However, doing so on a routine basis would be impractical and costly.

47. Government should work with the Charity Commission to develop a fair and proportionate system of charging for filing annual returns with the Commission and for the registration of new charities. Any such charges should be set at a level to reflect the activities that they cover. Any funds raised must be accepted by HM Treasury as being an incremental increase in resources available to enable the Commission to carry out its functions more effectively not merely reason to reduce its budget by the same amount. (Chapter 6, recommendation 18)

Charging is a complex and sensitive issue. A charging regime would impose additional financial and regulatory burdens on charities at a time when Government is committed to supporting charities and reducing burdens. There is also a risk that it could deter charities from being registered. There are no plans to introduce charging. Any such plans would be subject to full consultation with the charity sector.

48. The Commission should be able to continue to offer bespoke legal advice such as the development of specialised schemes, on a cost recovery basis, if it wishes. (Chapter 6, recommendation 19)

Like other forms of charging (see above), this is a complex and sensitive issue. There are no immediate plans to introduce charging, but we would properly consult the charity sector before any decision is made to introduce charges.

49. Individual charities should adopt and publish internal procedures for disputes and complaints. Umbrella bodies are ideally placed to support charities with this by the development of pro-forma procedures and support in their implementation, perhaps even taking on the role of adjudicator for their members. (Chapter 7, recommendation 2)

The Government and Charity Commission support this recommendation.

50. Schedule 6 to the Charities Act 2011 should be removed and the jurisdiction of the Tribunal reformulated on the face of the legislation as:

a) A right of appeal against any legal decision of the Commission

b) A right of review of any other decision of the Commission

(Chapter 7, recommendation 3)

51. Those who should have standing before the Tribunal to appeal or seek a review should be (i) the charity (if it is a body corporate); (ii) the charity trustees; (iii) any other person affected by the decision, order, direction, determination or decision not to act, as the case may be. (Chapter 7, recommendation 4)

In principle the Government supports the rationalisation of the appeal rights in Schedule 6 to the Charities Act 2011, provided it can be done in a way that does not:

a) expose the Charity Commission to challenges where it decides not to intervene in a charity in keeping with its risk and proportionality framework (this is already capable of Judicial Review); or,

b) create any significant new appeal rights that would add to the jurisdiction's case-load.

We will work with the Charity Commission, MoJ and HM Courts and Tribunals Service (HMCTS) to explore the detail of what this might look like, how it might be achieved and the impact it would have on the charities and the Charity tribunals. Any proposal would need to be made through primary legislation and would be subject to a full public consultation, accompanied by an impact assessment and a detailed cost/benefit analysis. Any legislative change would be subject to parliamentary timetabling.

The Charity Commission's administrative decisions can already be challenged by way of Judicial Review in the Upper Tribunal.

52. The Charity Commission and Tribunal should work together to produce and agree guidance as to the scope of the Tribunal's jurisdiction and when a claim can be brought (including interventions by interested parties in reference cases). (Chapter 7, recommendation 5)

The Government supports the need to set simple and clear guidance for users in this and all jurisdictions. The Charity Tribunal is an independent judicial body. Any guidance setting out who may appeal, and the process for doing so, is for HMCTS.

The guidance on the Tribunal recently produced by the charity sector (NCVO) is to be welcomed.

The Charities Act 2011 allows the Attorney General (or the Charity Commission with the Attorney General's consent) to "refer" certain questions of charity law to the Tribunal for a ruling. "Charity law" is defined in section 331 of the 2011 Act for these purposes. "References" are therefore a different type of case for the Tribunal. They differ from an Appeal or an Application for Review (which are usually brought by a charity or a trustee or a beneficiary of a charity) in that they involve general questions of charity law rather than the consideration of a specific decision direction or order made by the Charity Commission.

It is for the Charity Commission to decide whether there needs to be further guidance for the initial decision making process.

53. The time limit for bringing a Tribunal case should be extended to four months. (Chapter 7, recommendation 6)

The Tribunal already has power to extend the time for making an application to it if there is a good reason for doing so.

Under the Tribunals Courts and Enforcement Act 2007, the Tribunal Procedure Committee is responsible for making and amending rules of procedure in the First-tier and Upper Tribunals. Before doing so, it must consult who it considers appropriate, and it has a statutory duty to consult with the Chamber Presidents. The Government has drawn this recommendation to the attention of the Tribunal Procedure Committee.

As part of its charity project, the Law Commission is considering whether the Tribunal should have the power to suspend the effect of a decision of the Charity Commission pending the determination of an appeal to the Tribunal. A longer time limit for lodging an appeal may impact upon this proposal.

54. Responsibility for making decisions on appropriate use of funds in specific litigation should be transferred to the Tribunal. (Chapter 7, recommendation 7)

The Government has asked the Law Commission to consider this recommendation as part of its Charity Project.

55. The Charity Commission should be given the power to make references to the Tribunal without the need for the Attorney General's permission, provided they notify the Attorney of any references they make and the Attorney retains the right to become a party to the case. (Chapter 7, recommendation 8)

The Government has asked the Law Commission to consider this recommendation as part of its Charity Project.

56. The Tribunal should consider whether there are any further ways in which it could use its caseload management powers to simplify proceedings, make them less adversarial and dispose of cases rapidly. Parties should be encouraged to deal with cases without an oral hearing where appropriate. (Chapter 7, recommendation 9)

Currently, under the tribunal procedure rules an appeal cannot be determined by a paper hearing unless all the parties consent and the Tribunal is satisfied that it can properly determine the issues without an oral hearing. The Government has drawn this recommendation to the attention of the Tribunal Procedure Committee.

57. The Tribunal should consider the value of including in each of its judgments a plain English summary of the key points and decisions, to aid understanding of the law. (Chapter 7, recommendation 10)

The Government recognises that this is a matter for the judiciary and has drawn this recommendation to the attention of the Senior President of Tribunals. The practice in charity cases so far has been to publish summaries of Upper Tribunal decisions, which set precedent, but not of First-tier cases, which turn on their own facts only and are of limited value to the wider charity sector.

58. The Government should consider ways in which the Tribunal could be empowered to take account of changing social and economic circumstances as well as case law precedents. (Chapter 7, recommendation 11)

Whilst empowering the Tribunal to consider cases in light of changed social and economic circumstances might initially appear attractive, it is difficult to see how such a change would work in practice, and to understand the extent of what it means. The law is already flexible to change in a number of areas, for example the recognition of new charitable purposes by analogy to existing charitable purposes. We do not believe that such a change could be made without creating significant problems for the Tribunal and uncertainty in the law.

59. The FRSB and sector umbrella bodies, assisted by the Cabinet Office and Charity Commission, need to address the confused self-regulatory landscape, and agree a division of responsibilities which provides clarity

and simplicity to the public, and removes duplication. This is a key challenge for the sector, which within six months of the acceptance of this recommendation should work up and agree firm proposals to deliver the next stage of a sector-funded, public-facing, central self-regulatory body covering all aspects of fundraising. (Chapter 8, recommendation i1)

The Government supports this recommendation. We welcome the initial steps that have been taken by the sector umbrella bodies to rationalise the confusing regulatory landscape, and ensure a clear division of responsibilities. The Cabinet Office is funding some work by the main sector bodies involved in self-regulation to explore in more detail the opportunities for further rationalisation.

60. The Charity Commission should do more to support self-regulation - for example including the FRSB tick logo on member charities' public register pages, asking at registration whether organisations are members of the FRSB, promoting the FRSB in communications to charities, and publicising for the public the FRSB as the complaints handler in relation to fundraising. (Chapter 8, recommendation i2)

The Charity Commission has said that it supports this recommendation in principle and has already strengthened its relationship with the FRSB through a new Memorandum of Understanding. Further work is underway to assess the potential for promoting FRSB membership and including reference to FRSB membership on the Register of Charities.

61. The FRSB tick logo and branding should be retained. Members of the self-regulatory scheme must use the 'tick' logo on fundraising materials – there should be a "comply or explain" approach to this. Sector umbrella bodies also need to do much more to support and promote the FRSB and self-regulation among their membership. (Chapter 8, recommendation i3)

The Government supports this recommendation. The tick logo is increasingly recognised by the public as a sign of a commitment to best practice in fundraising, and should be more widely used and promoted by charities and sector umbrella bodies.

62. **Government, the regulator, umbrella bodies and the FRSB should work together on levers that would promote membership of the FRSB. For example:**
a) Explore the potential for waivers from certain regulatory requirements on the grounds that FRSB members are following best practice and are properly self-regulated.
b) Encourage grant funders to consider membership of the FRSB as a sign the organisation is committed to best practice and good complaints handling, and include it in their risk indicators or funding criteria. (Chapter 8, recommendation i4)

The Government accepts this recommendation and is working with sector umbrella bodies to explore levers that would promote greater sector commitment to the self-regulatory scheme.

63. **More should be done to promote the rulings of the FRSB in relation to both members and non-members. Where members persistently fail to meet the standards they should be ejected from the scheme. Where non-members persistently follow poor or illegal practices, the FRSB should develop formal referral mechanisms to the relevant statutory regulators or enforcement agencies including a commitment to take action on such referrals. (Chapter 8, recommendation i5)**

The Government supports this recommendation and will work with the self-regulatory scheme to provide appropriate assistance.

64. **As it grows, the FRSB should audit its members' compliance, moving away from a system that relies on self-certification. New members should be given a transitional or probationary period during which they can develop their compliance with the Codes, but could have complaints judged solely against the Fundraising Promise. Likewise the FRSB should consider how to regulate fundraising by small (<£25,000) member charities, who may struggle to meet all aspects of the IOF's Codes. Instead, small charities should have their complaints assessed only against the Fundraising Promise. (Chapter 8, recommendation i6)**

The Government supports this recommendation. The FRSB announced that it will begin piloting compliance audits of members in summer 2013.

65. **Membership of the FRSB should not be compulsory at this stage - neither the sector nor the FRSB would be ready for such a significant shift. Instead, there should be an initial 'expectation' that all fundraising charities with an income over £1 million ('large' charities) should be members of the FRSB. Over time this expectation should expand to capture more charities. (Chapter 8, recommendation i7)**

The Government supports this recommendation.

66. Government should review the progress of the FRSB in another five years' time to determine whether it has made the step change required in terms of coverage, and public awareness. The reserve power for Government to regulate or require membership of the self-regulatory scheme should remain a serious option if self-regulation stalls or fails to make sufficient progress. Chapter 8, recommendation i8)

The Government accepts this recommendation. We will formally review the fundraising self-regulation scheme in 2017, and will report to Parliament.

67. Government should work with the Institute of Fundraising, FRSB and other specialists to produce simple guidance on solicitation statements for professional fundraisers and commercial participators. Chapter 8, recommendation i9)

The Government accepts this recommendation and will work with the charity sector and other partners to develop simple guidance on solicitation statements.

68. The following key changes need to be made to the rules for licensing public charitable collections, either under existing legislation or new legislation:

- **a) National guidelines or model regulations should be developed covering (a) eligibility criteria for organisations wishing to apply for a licence, (b) accountability and transparency of collections, (c) the balance between different types and scale of collection, (d) frequency of collections, and (e) conduct of collections;**
- **b) Within this national framework, local authorities should have a significant degree of freedom in determining the frequency and extent of different types of collections, but should not be able to ban a particular fundraising method that is accepted nationally.**
- **c) Local licensing authorities should be able to opt to delegate the management of different types of collections (taking licensing back in-house if problems arose), or continue to manage licensing directly themselves.**
- **d) Face to face collections should be brought into the licensing regime. However, local licensing authorities should be encouraged to rely on self-regulation of these types of collection by the PFRA.**
- **e) Collections on private property should remain, as at present, at the discretion of the owner/occupier.**
- **f) The Government should explore the appetite and options for licensing all types of house to house textile collections to equalise the position between commercial and charitable collections.**
- **g) National Exemption Orders should be abolished, though provision must be made to allow for collections on recognised 'flag days' and urgent (e.g. disaster) appeals, and thought given on how to minimise the regulatory burden for existing exemption order holders before implementation.**

h) **There should be a right of appeal against the refusal of any type of licence to the Charity Tribunal.**
i) **In London, consideration should be given to transferring licensing responsibility from the Metropolitan Police to local licensing authorities if there is demand for such a change. (Chapter 8, recommendation ii1)**

The Government accepts the need to reform the licensing system for public charitable collections and supports most of these recommendations. We recognise that the existing rules for licensing charity collections are outdated. The Government is working with the charity fundraising sector and other stakeholders to explore options for change. Any proposals for change must be affordable and proportionate, and balance the interests of different stakeholders including the general public.

The Government does not propose to abolish National Exemption Orders for house to house collections, as to do so would result in significant new regulatory burdens on the large charities that rely on them. However, there is a need to strengthen the system to ensure that the interests of small charities and local licensing authorities are not ignored. The Government will work with the sector and other stakeholders to explore the options for change.

In relation to face-to-face fundraising, the Government supports the recommendation that stronger self-regulation should be the first resort, before statutory regulation is considered. We will continue to encourage local licensing authorities to work with the PFRA to adopt local site agreements that will better control this type of fundraising.

69. A standing committee should be formed to drive forward these changes and monitor progress. Initially this should be chaired by the Cabinet Office and its core membership should include the Charity Commission, FRSB, and Institute of Fundraising. Wider membership should be brought in for public charitable collections. (Chapter 8, recommendation iii1)

The Government accepts this recommendation. The first meeting of the Steering Group to discuss the future of fundraising self-regulation took place in early 2013 and the next meeting is scheduled for September 2013. Further meetings will take place as sector umbrella bodies develop their plans for the future of self-regulation and they, along with other stakeholders, bring forward proposals for the regulation of public charitable collections.

70. The rules governing investment by charities should be amended to the following effect:
a) **As the primary duty on charity trustees is to further the purposes of their charity, trustees are entitled to consider the totality of benefit that an investment is expected to provide, in terms of both financial and social benefit, when making investment decisions;**
b) **The term 'investment,' for these purposes, includes any outlay of money where the charity expects some form of financial return, whether or not that is the primary motive for making the outlay;**

c) The other existing principles governing investment in the Trustee Act 2000 should continue to apply. (Chapter 9, recommendation 1)

Mixed purpose investment is already an option for charities, as the Charity Commission's well-regarded recent guidance on investment for charities (CC14) makes clear. Charity trustees must consider the totality of the benefit that such an investment will provide, both in terms of furthering the charity's purposes and in relation to an anticipated financial return.

The Government does not believe that amending trustees' statutory duties would be the right first step. But we recognise that mixed purpose social investment does not easily fit within the current legal framework. Therefore the Cabinet Office and Law Commission are in discussions on whether the Law Commission could undertake a review of the issues relating to social investment by charity trustees. An announcement is expected shortly.

71. The Government should also consider an amendment to the Trustee Act 2000 to draw attention to the distinct responsibilities imposed on the trustees of charitable trusts as opposed to private trusts (i.e. the need to further charitable purposes rather than simply preserve capital). (Chapter 9, recommendation 2)

As above, we do not believe that amending trustees' statutory duties would be the right first step.

The Cabinet Office and Law Commission are in discussions on whether the Law Commission could undertake a review of the issues relating to social investment by charity trustees. An announcement is expected shortly.

72. The Government should introduce a legal power for non-functional permanent endowment to be invested in mixed purpose investments, with the requirement that capital levels must be restored within a reasonable period. (Chapter 9, recommendation 3)

The Government welcomes this innovative recommendation. The Cabinet Office and Law Commission are in discussions on whether the Law Commission could undertake a review of the issues relating to social investment by charity trustees. An announcement is expected shortly.

73. The Government should work to develop a standard social investment vehicle to allow funding from different sources to be invested, and maintained separately, in the same product. (Chapter 9, recommendation 4)

The Government accepts this recommendation. The Cabinet Office is working to scope the potential for a pilot social investment fund, designed to be easy, replicable and as low cost as possible.

74. The private benefit requirement in relation to investment should be reworded to "necessary and proportionate", although the Charity Commission should produce clear guidance on this change to ensure it does not undermine the wider public benefit principle. (Chapter 9, recommendation 5)

Both the Government and the Charity Commission do not accept this recommendation, as it could increase rather than reduce uncertainty and it relies heavily on guidance which can only reflect underlying law. The impact on public benefit of this proposed change could risk undermining charitable status.

75. The charities SORP should be revised to facilitate the appropriate reporting of social investments. As part of this, the professional accountancy bodies should identify a standard system for valuing social investments; one possibility might be that trustees' valuation is used until a reasonable period of operation has elapsed to allow investments time to demonstrate their merits. The approaches followed in the early years of the private equity industry, which faced similar challenges, might usefully be considered. (Chapter 9, recommendation 7)

The Charity Commission has said that it supports this recommendation in principle. The Charities' SORP Committee has given careful consideration to the presentation and measurement of social investments in charity accounts. A new module addressing accounting and reporting of social investments will be included in the next Charities SORP. The text of the new SORP was published for consultation in July.

76. The Government should consider amendment to the Financial Services Bill to provide a statutory and regulatory underpinning to social investment. (Chapter 9, recommendation 8)

The Government made amendments to the Financial Services Bill (now the Financial Services Act 2012) to ensure that the regulatory approach takes into account that consumers can have non-financial goals – for example, social goals.

77. Charities should be able to apply to HMRC for a prior clearance on tax treatment ahead of the making of an investment; in time, as the market matures, HMRC should provide clear guidance on the tax treatment of different types of social investment. HMRC should also consider establishing a specialist unit for handling social investment issues. (Chapter 9, recommendation 9)

HMRC has said that it will explore this recommendation further with charity stakeholders.

78. The Government should consider ways of revising financial promotion rules to allow social investment advice to be given. Proportionate approaches to promotions requirements for low-value deals should also be investigated in order to free up the lower end of the investment market without undermining important consumer protections. (Chapter 9, recommendation 10)

We are working within Government to scope the potential benefits and structure of a 'social investor' exemption from Financial Promotions rules.

79. The FSA should consider establishing a specialist unit to deal with the challenges of social investment – for both the investor and the investee. (Chapter 9, recommendation 11)

The Financial Services Authority (now the Financial Conduct Authority) provided a named contact to industry and other interested parties on matters relating to social investment.

80. The name of the term 'mixed motive investment' should be replaced with 'mixed purpose investment' to provide the general public with a clearer understanding. (Chapter 9, recommendation 12)

There is no unanimity on terminology – although according to the Charity Commission, feedback on its investment guidance consultation suggested "mixed motive" was preferred. As the investment guidance is only one year old, we believe it is too early for change in terminology. At present the proposal would not have sufficient impact to outweigh the risk of confusion.

81. Modify the merger provisions to provide that all bequests shall be treated as a gift to the new, merged or incorporated charity where a Will may otherwise cause a gift to fail if the original charity has ceased to exist. This should include safeguards around the relevance of the new charity's objects to ensure that the intentions of the testator are respectfully considered. (Chapter 10, Mergers, etc, recommendation 1)

The Government recognises the failure of a gift can result where charities have merged or restructured, resulting in the administratively burdensome maintenance of dormant "shell" charities. We have asked the Law Commission to consider this recommendation as part of its Charity Project.

82. Professional advisers should work to identify a standard form of wording for a charitable bequest that can be used easily by Will drafters and members of the public. (Chapter 10, Mergers, etc recommendation 2)

The Government supports this recommendation and will work with the Law Society, the Institute of Professional Will Writers, the Society of Will Writers and the Institute of Legacy Management to scope the potential for improving the drafting of wills.

83. The Charity Commission and HMRC should revise registration practices to allow newly-incorporated organisations to continue to be registered under their original charity number where there has not been a material change to the organisation's objects. (Chapter 10, Mergers, etc, recommendation 3)

The Charity Commission and HMRC have said that they will explore this recommendation further with charity stakeholders. However, there are a number of practical reasons why this approach may not prove possible or proportionate.

84. The banking industry should allow charitable organisations that have incorporated or merged to maintain and rename their existing accounts in the name of the new body. (Chapter 10, Mergers etc, recommendation 4)

The Government will draw this recommendation to the attention of the British Banking Association.

85. Disposals of and mortgages and other charges over charity land should be deregulated and rely on the charity trustees acting under their duty of care following Charity Commission guidance. (Chapter 10, Land disposals etc, recommendation 1)

The Government has asked the Law Commission to consider options for de-regulation of land transactions as part of its Charity Project.

86. The Charity Commission should work with relevant professional bodies to develop this guidance and include specific types of common transaction – including acquisitions as well as disposals. (Chapter 10, Land disposals etc, recommendation 2)

The Charity Commission will consider this recommendation in light of any change proposed by the Law Commission.

87. Charitable IPS should be required to either register with the Charity Commission or resign their charitable status. (Chapter 10, Organisational forms, etc, recommendation 1)

The Government will consider the possibility of appointing a principal regulator for charitable industrial and provident societies (IPS), and the alternative of requiring larger IPS to register with the Charity Commission. Relinquishing charitable status is not an option without relinquishing all assets so that they can be applied for similar charitable purposes.

88. The application of IFRS to charitable organisations should be proportionate and should add no additional burdens to these organisations; the Financial Reporting Council should work with the Charity Commission before and during implementation to ensure this. (Chapter 10, Organisational forms, etc, recommendation 2)

The Government welcomes the Financial Reporting Council's consultative approach to implementing new Financial Reporting Standards for charities as part of the implementation of International Financial Reporting Standards (IFRS). The publication in March 2013 of "FRS 102 The Financial Reporting Standard applicable in the UK and Republic of Ireland" showed specific recognition of the reporting needs of charities.

89. The impact of CIOs should be assessed three years after implementation. (Chapter 10, Organisational forms, etc, recommendation 3)

The Government accepts this recommendation.

90. Regulations to allow charitable companies, IPS and Community Interest Companies to covert to CIOs should be expanded to include enabling CIOs to convert into charitable companies. (Chapter 10, Organisational forms, etc, recommendation 4)

The Government supports this recommendation in principle, but notes that Primary legislation would be required to make this change, which will therefore be dependent on identifying a suitable legislative vehicle.

4. Recommendations made by Lord Hodgson which do not require any action

1. **No change should be made to the list of charitable purposes. (Chapter 4, recommendation 3)**

The Government accepts this recommendation.

2. **For the time being, the recommendation of the Calman report that a UK-wide definition of charity be introduced should not be implemented. However, the harmonisation of the definition across the UK remains desirable in the longer term, and this issue should be revisited at a later date. (Chapter 4, recommendation 6)**

The Government accepts the recommendation of not implementing a UK-wide definition of a charity as recommended by the Calman report.

3. **The Charity Commission should remain as a Non-Ministerial Department, with its independence protected in statute. (Chapter 5, recommendation 1)**

The Government accepts this recommendation.

4. **The Commission should prioritise its core functions: registering charities (and maintaining an accurate register); identifying, deterring, and tackling misconduct and abuse of charitable status; and providing the public with information (in a relevant form which is easily understood by the public) about charities, and charities with information about charity law. (Chapter 5, recommendation 2)**

The Government supports this recommendation. The Charity Commission has already implemented these changes following its Strategic Review.

5. **To minimise the impact on the Charity Commission, deregistration of those outside the new limits [for registration as a charity] should be upon request only. (Chapter 5, recommendation 10)**

The Government accepts this recommendation, which reflects current practice.

6. **The Charity Commission should remain the main regulator of charities in England and Wales. (Chapter 6, recommendation 1)**

The Government accepts that the Charity Commission should continue to be the main regulator of charities in England and Wales, whilst recognising the limitations of

the Charity Commission's role. Other regulators have important roles, in particular the police, in relation to the investigation of criminal offences by charities, and HMRC in relation to charity and donor tax exemptions and reliefs. Where charities provide specific services, other regulators also have an important role (for example the Care Quality Commission in relation to healthcare services provided by charities).

7. **A new Charities Ombudsman, or expansion of an existing Ombudsman to cover charities, would offer little additional value and is not recommended. (Chapter 7, recommendation 1)**

The Government accepts this recommendation.

8. **Membership of the FRSB should not be compulsory at this stage - neither the sector nor the FRSB would be ready for such a significant shift. Instead, there should be an initial 'expectation' that all fundraising charities with an income over £1 million ('large' charities) should be members of the FRSB. Over time this expectation should expand to capture more charities. (Chapter 8, recommendation 7)**

The Government accepts this recommendation.

9. **Development of social impact measurement should not be added to the existing statutory list of charitable purposes at this time. (Chapter 9, recommendation 6)**

The Government accepts this recommendation, and notes that social impact measurement is already recognised as charitable by analogy.

10. **The Charity Commission should still approve disposals [of land] to "connected persons," [e.g. a trustee of the charity] plus mortgages and other charges granted to connected persons. (Chapter 10, Land disposals etc, recommendation 3)**

The Government supports this recommendation, which will be considered as part of the Law Commission's charities project as part of the potential reforms to charity land transactions that the Law Commission is considering.

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