



## **Consultation response**

### **Annual return for 2018 - information collected from charities**

#### **Introduction**

On 1 September 2017 we published a consultation about the annual return and the significant changes we propose to make to it when we release the next version, the annual return for 2018, which will apply to charities' financial years ending on or after 1 January 2018.

In the consultation we explained that we proposed to change how we gather key information from charities:

- Changes to registered details will no longer be included in the annual return. Instead charities will need to use the new Update Charity Details service to update this information throughout the year as part of the registered particulars so that the register remains accurate.
- The annual return will in future be limited to gathering financial and regulatory information that is relevant to each charity.

This approach will enable us to make the annual return more proportionate and to remove regulatory burden where we are able to do so.

We asked for views on changes to the content and structure of the annual return for charities.

Read the full [consultation](#).

#### **The consultation**

The consultation was open for 12 weeks and closed on 24 November 2017. We received a total of 287 responses, 246 through the online survey and 41 by email from a range of charities, umbrella bodies and individuals. We also:

- met with a number of key sector bodies and charities to discuss the proposals in the consultation, and
- carried out user testing of the annual return with 69 people representing 86 charities of varying size and type, broadly representative of the charities which will have to complete the annual return.

In [Annex A](#) you can see a list of respondents together with details of the organisations we met and information about the user testing we carried out.

In [Annex B](#) you can see a table of the responses made to the consultation questions through the online survey.

We have read and considered all of the responses and together with what we have learnt through other meetings with stakeholders this has:

- helped us to test our understanding about the likely impact on the charity sector of the proposed changes, and
- enabled us to make decisions on the questions we will ask, how the questions should be worded and the guidance which is needed to help charities understand what information we are asking for.

### **Our approach to the consultation and to the responses we received**

As we set out in the consultation document, for each of the proposed new questions we considered and had regard to matters including:

- how the information will help further our statutory objectives, functions and duties,
- the principles of best regulatory practice,
- the overall regulatory burden including considering whether the data can be obtained more easily from other sources, and
- whether the information each charity provides in its annual return should be published on the register.

When considering the responses we received to the consultation we took the same approach to reviewing the proposed questions in the light of the feedback we received. The outcome is that we have:

- maintained 4 of the proposed question sets,
- amended 4 proposed question sets, including making some of the information voluntary for the annual return for 2018, and
- decided not to proceed this year with two proposed question sets.

We will also improve the guidance and definitions of the data required for each of the questions.

There were some common themes which emerged from the feedback.

### **How will the Commission use the information obtained?**

We will only ask for information that we will use. Broadly, there are three main ways in which we will use the information.

1. We will use the information to increase knowledge about the sector, how it operates and the risks it faces by:

- publishing information on the charity's register page or collectively about the register with the aim of:
  - supporting public engagement and understanding of charities, and
  - increasing transparency and accountability

- assessing levels of risk across the sector, in subsectors or at an individual level through analysis of particular subject areas. For example:
  - the numbers of charities operating in particular countries and overall levels of compliance with legal requirements, and
  - the number of charities having a written agreement with a professional fundraiser
- using this information to inform the Commission’s priorities and approach including publishing findings on trends and risks to inform the sector’s own understanding of the issues and support it in mitigating risks,
- identifying charities to invite to consultation events to further explore specific subjects, and
- analysing data to better understand the impact of policy proposals or implementation.

2. We will use the information to promote compliance by trustees with their legal duties and good practice by:

- identifying charities with certain characteristics that indicate a risk so that we can send information about appropriate regulatory advice and guidance, send alerts, issue warnings or invite to outreach events, and
- producing reports which focus on good and poor practice to inform the wider sector.

3. We will use the information to help us assess risk in the decisions we make to take action relating to particular charities, either to provide guidance and support, or to intervene where we need to protect the charity or its assets.

**Why are we asking for information which can be found in the report and accounts?**

We have considered the possibility of collecting information from charity accounts and reports, but there are several reasons why this is not currently possible:

- Fewer than a third of charities (just over 40,000 of 168,000) are required to complete accounts and reports that contain the information we are seeking.
- In addition, information in these charities’ accounts and reports is in a form that is not easy to identify and analyse for regulatory purposes. The only alternative to asking for this information in the annual return would be to inspect and analyse all accounts and reports manually, which is not possible. We will continue to explore options that would allow us to analyse data from charities’ accounts using technology and software in future.

By collecting information through the annual return we are able to publish some of it on a charity’s register page. The register of charities is the main source of basic data about charities and this information is more easily accessible to beneficiaries, donors and funders than looking at an individual charity’s accounts and annual report.

## **Aren't you increasing the regulatory burden?**

We always consider proportionality and balance the importance of any new information we ask for against the potential additional burden on charities that are required to complete the annual return.

Our proposals to reduce the amount of information that some charities have to provide in the annual return and to target more detailed questions to charities only where they are relevant, will help to reduce the burden on charities overall.

However, we recognise that for some charities the new questions will create an additional burden and to help keep the burden to a minimum we will:

- modify some of the questions,
- provide clearer guidance on what information we are asking for,
- introduce some thresholds,
- make some of the questions voluntary for the annual return for 2018 to give charities time to put in place systems to collect the information more easily with less burden for the annual return for 2019.

We have decided, on balance, not to include some of the questions we had originally proposed and, where appropriate, attempt other ways of obtaining the information.

You can see details of our assessment of the effect of introducing the proposed new questions in our impact assessment.

We will monitor and review the questions we ask in the annual return to ensure that the questions are providing us with information that helps us carry out our regulatory role, increases transparency or improves public trust and confidence in the charity sector.

## **Proposed question sets**

Details of how we have responded to the feedback from the consultation are given below.

### **Fundraising**

Question set proposed in the consultation

If the answer to **Question A – Does the charity raise funds from the public?** – is 'Yes' the charity will be asked two sets of further questions on commercial participators and professional fundraisers. Questions A.2 and A.2.2 are new and were consulted on.

**Question A.1 – Does the charity work with a commercial participator? – Yes/No**

If the answer to Question A.1 is 'Yes' the charity will be asked:

**Question A.1.2 – Does the charity have a signed contract with the commercial participator? – Yes/No**

## **Question A.2 – Does the charity work with a professional fundraiser? – Yes/No**

If the answer to Question A.2 is 'Yes' the charity will be asked:

### **Question A.2.2 – Does the charity have a signed contract with the professional fundraiser? – Yes/No**

#### **What you said**

- Terms such as “professional fundraiser”, “commercial participator”, “written agreement” and “signed contract” must be clearly defined,
- Making the information public risks it being misused by the media and causing negative public perception,
- Will information be shared with the Fundraising Regulator?
- Will the Commission engage in work which is for the Fundraising Regulator or create a way in which the Commission regulates professional fundraisers?
- Will the information risk claims for breach of contract if details of agreements are disclosed?
- Responses to the consultation were supportive of this question set being introduced and to it being published.

#### **What we have done**

This is a minor extension to the existing question which focused on commercial participators and will provide more meaningful information for the Commission and the public.

We will provide new definitions of some of the technical terms used and clearer guidance in line with feedback received. We will use the term “written agreement” rather than “signed contract” consistent with our published guidance, [Charity fundraising: a guide to trustee duties \(CC20\)](#), and the [Fundraising Regulator’s Code of Fundraising Practice](#).

The comments received during the progress of the consultation highlighted that there was confusion about what was meant by the terms “professional fundraiser” and “commercial participator”. So we tested different wording as part of the user testing which we found was clearer and better understood by charities. By improving definitions and providing links to relevant guidance we will also promote greater understanding by charities of the legal requirements relating to arrangements with both commercial participators and professional fundraisers.

Our casework research shows that newer and medium sized charities are likely to have weaknesses in their oversight of fundraising, often with no basic agreement in place with professional fundraisers and sometimes no systems to ensure that the charity receives all of the funds raised. We have identified that this is an area of risk where, with better information, we can target charities at risk with guidance and support so trustees are better able to meet their legal obligations. In future our

systems will enable us to identify such charities and to trigger either direct communication to the charity with alerts and guidance, or to refer charities to our operational teams for further consideration.

Registration with the Fundraising Regulator is voluntary and, although it is intended to regulate all fundraising charities, currently only about 2,400 charities are registered. This is a small proportion of the number of charities engaged in fundraising. They are therefore not in a position to collect the data about working with third parties which we are seeking and have no statutory power to mandate it.

We have a [Memorandum of Understanding](#) with the Fundraising Regulator and we will share relevant information from this question under the terms of our Memorandum of Understanding.

**We will ask this question set** and will publish the information provided on the charity's public register page.

## **Income from central and local government**

Question set proposed in the consultation

If the answer to **Question B – During the financial period for this annual return, did the charity receive income from contracts from central or local government?** is Yes the charity will be asked two further questions. Question B.2 is not new. We did not consult on it but it is included for completeness.

**Question B.1 – How many contracts did the charity receive from central or local government?**

**Question B.2 – What was the total value of the contracts received from central or local government?**

Similarly, if the answer to **Question C – During the financial period for this annual return, did the charity receive income from grants from central or local government?** -is Yes the charity will be asked two further questions. Question C.2 is not new. We did not consult on it but it is included for completeness.

**Question C.1 – How many grants did the charity receive from central and local government?**

**Question C.2 – What was the total value of the grants received from central and local government?**

## **What you said**

- If the purpose of the questions is to find out about charities reliant on a single source of funding, then the answers will not provide the information we are looking for.
- Single source funding is the usual form of funding for some types of charity such as care homes.
- It can be difficult to distinguish between grants and contracts because of the conditions which are often included.
- Charities which do not produce SORP compliant accounts will have an additional burden.
- The questions should mirror the requirements under SORP.
- Definitions of what is meant by local and central government are needed.
- There was strong support for making the information received public.
- Information about grants and contracts is collected elsewhere by government.
- Responses to the online survey were supportive of introducing the additional questions and to it being published.

## **What we have done**

Following feedback we will provide updated guidance to help charities understand what is needed. We acknowledge that this question set focuses on funding from local and central government and does not look for information about other types of funding on which a charity may be solely or primarily reliant. However, our research and case work experience show that reliance on single or primary source public funding is a common factor for charities in financial distress and so this is a risk factor. The new questions are a sensible development of existing questions which will provide useful regulatory information.

We have not identified another source that would give us the information that we are looking for.

The information from this question set will be used to target advice and guidance to charities which we identify as being at risk. We considered the regulatory burden for charities which are not required to provide some of this already in line with the SORP and concluded that this was justified.

We will provide clear guidance on:

- what is meant by local and central government, and
- how grants/contracts across multiple years should be treated.

We will also provide guidance on the approach to accounting for income from grants and contracts in line with SORP to ensure the consistency of the information provided.

We will monitor the extent to which the information from this question set enables us to target advice and support both to individual charities and to the sector more widely.

**We will ask this question set** and will publish the information provided on the charity's public register page.

## **Gift Aid**

Question set proposed in the consultation

**Question D – During the financial period for this Annual Return how much Gift Aid did the charity claim?**

### **What you said**

- Information is already held by HMRC and charities should not have to report to the Commission on information held by another government department.
- As Gift Aid is the responsibility of HMRC it was questioned why the Commission was concerned about this.
- The Commission already asks if the charity is registered with HMRC for Gift Aid, but it is not clear why the Commission needs this information.
- Charities should be asked for the amounts of Gift Aid received rather than claimed as Gift Aid is paid in different accounting periods.
- Gift Aid arrangements are complex. Claims can be made across a number of years and accounting periods vary. This means that the question is difficult to answer and the information may not be useful.

### **What we have done**

Some respondents questioned why we could not obtain information on the amount of Gift Aid claimed by a charity from HMRC, which is the government department responsible for administering Gift Aid. Whilst some of the information we were proposing to ask for is also collected by HMRC, it is not done on the annual cycle required by the Commission, nor is it currently collected or held by HMRC in a format that enables the Commission to easily data match. Obtaining the information directly would simplify our work.

However, on balance, we accept that the questions are asking for information supplied to another government department and we will not ask this question.

Through the Update Charity Details service we will continue to ask charities whether they are recognised by HMRC. Charities will also need to provide their HMRC reference number. From annual return 2018 onwards this information does not form part of the annual return.

Knowing the HMRC reference number is critical for effective data matching so the Commission and HMRC can work together more effectively. Information about Gift Aid helps the Commission to identify poor administrative practice where trustees have failed to comply with their trustee duties or where there could be abuse or mismanagement. Alongside the annual return 2018, we will carry out a census of the information held as part of the basic information held on charities and managed



through Update Charity Details. This census will ensure that the information held, which is compulsory as part of the register details, is provided and up to date.

We will explore further with HMRC how bulk data relating to Gift Aid can be provided.

### **We will not ask this question**

### **Income received from outside the United Kingdom**

Question set proposed in the consultation

#### **Question E – During the financial period for this annual return, did the charity receive income from outside of the UK? - Yes/No**

If the answer is yes the following two questions will be asked

**Question E.1 – Select countries the charity received income from during the financial period for this annual return or select ‘unknown/don’t know – a drop down list will be shown**

**Question E.2 – What is the value of income by country? For each country specify the source and amount of income from the options:**

- a) Overseas Governments or quasi government bodies;**
- b) Overseas Charities, NGOs or NPOs**
- c) Other overseas institutions**
- d) Individual donors resident overseas**
- e) Unknown/don't know**

### **What you said**

- Concern about the regulatory burden of reporting against:
  - each country,
  - individual donors, and
  - steps in the chain from donor to end use.
- A number of umbrella bodies responded that this information is complicated and would be hard to provide and likely to be costly to collect. In contrast some large and medium sized charities told us that they held the information and that it would be straightforward to report. Other respondents said that, although they have the information, it would take time and a lot of effort to set up systems to collect the information more easily.
- Although many charities which commonly receive income from outside the UK will have to keep records for this, it is held in a form which cannot easily be used to answer the questions.
- Concern that the reporting requirements may validate or encourage charity regulators in other jurisdictions to collect this information, and potentially use it to suppress civil society groups.

- It implies that income from within the UK is safe but that income received from outside it is not.
- We should consider:
  - raising the annual income threshold so that only larger charities are asked to provide this information,
  - introducing a threshold for the size of donation which would be reported on for some/all sub categories
  - only collect it for high risk countries
- Concerns about confidentiality of individual donors and private foundations and on how certain types of funding, including consortium funding would be counted.

### **What we have done**

It is important that we have a better understanding of the income sources of the charity sector including a more complete picture of the flow of funding into and out of the UK, and the provenance and volume of donations and income from outside the UK. As with the information provided by charities on their total expenditure by country, information on income from outside the UK enables the Commission, as regulator, to assess the source and volume of charitable income, including from jurisdictions subject to higher levels of risk for charities. It will also be used for identifying charities that are financially dependent on primary sources of funding from outside the UK and for verification, due to the source of the funds, that they have been lawfully and properly transferred (for example because of restrictions due to international sanctions).

The Commission will use the information to assess the risk for the charity sector and for charities individually; systematically taking a risk-based approach to monitoring the flow and nature of charitable donations and income from sources outside the UK. Specifically we will be able to:

- produce a macro picture of the flow of charitable funds into the UK and their volume and provenance, which we may make available publically as a total sector figure,
- identify charities that would benefit from targeted alerts and regulatory advice and guidance, and
- use risk indicators to identify charities, where there are potential concerns, for possible proactive engagement.

The information will identify income sourced from government and quasi – government bodies, including information about which charities and how many are reliant on European and/or EU funding, and will enable us to monitor where there may be a loss of European and/or EU funding following Brexit.

We are concerned to ensure that trustees have sufficient awareness of issues such as money laundering, criminal and other abuse and that they take steps to safeguard their charity from such abuse and meet their legal obligations. They need to be

aware of the possible impact of international and UK financial sanctions regimes, which affect income from certain countries and sources.

Charity trustees must ensure that accounting records are kept in respect of the charity which are sufficient to show and explain all the charity's transactions. Charities should already hold information about the source of the income they receive. As part of their legal duties charity trustees are also required to undertake reasonable, appropriate, due diligence relative to the risks. Some larger charities disclose details of large grants in their accounts already.

The Commission is not suggesting income received from outside the UK or from certain countries is necessarily tainted, wrong or unsafe, but for some sources there are greater risks that need to be managed. Those risks are constantly changing, so it is not possible to identify a fixed set of countries or sources of higher risk. Nor is the Commission seeking to suppress the space in which civil society operates. The identity of donors is not being sought. The Commission is independent of Ministerial control and is accountable to the Courts for its decisions. The information being sought by the Commission could not be used as a means of political control or restriction in the manner suggested by some respondents.

The Commission has a statutory objective to increase public trust and confidence in charities, and a general function to identify and investigate apparent misconduct or mismanagement of charities, and to take remedial or protective action. By protecting charities in this way it also preserves their freedom to act in furtherance of their charitable objectives and serves to protect civil society.

Some respondents were concerned that the question set required charities to provide a level of detail which will identify individual donors or private institutions and this could cause difficulties with confidentiality and publicity that might have a direct impact on donations. The question does not require this level of detail and we have noted that clearer guidance will be needed so that this is better understood.

In order to minimise the burden on charities and ensure the request is proportionate, we have revised the question set in so far as it relates to income from institutions outside the UK (other than charities, NGOs and NPOs) and from individual donors. For these sub categories we will introduce a threshold so that:

(a) charities with an income of £25,000 or less will only be asked to report individual payments from individual donors or institutions outside the UK (other than charities, NGOs and NPOs) if those payments are 80% or more of the charity's gross income for the financial year; and

(b) charities with an income of more than £25,000 will only be asked to give the total value of all of the individual payments from individual donors or institutions outside the UK (other than charities, NGOs and NPOs), which are more than £25,000.

For smaller charities the threshold of an individual payment being 80% or more of gross income will mean that they will only be required to report an individual payment when it is very large.

For the larger charities the level of individual payments is set at £25,000 in line with the Commission's regime for reporting serious incidents which requires charities to report to the Commission if they receive sums over £25,000 from unknown, unverified or suspicious sources.

This is the first time we have asked for information about income from outside the United Kingdom. Following the consultation we recognise that some charities will need to make changes to their financial systems to collect and sort the information required more easily and that it will take time to implement new processes. For example this means that income from other sources such as individual donations, will need to be systematically examined and managed, in the same way that charities already examine and manage income received through grants or contracts from other charities or governments. For this reason, we have made those parts of the question set relating to other private institutions outside the UK (other than charities, NGOs and NPOs) and individual donors outside the UK voluntary for annual return 2018. They will be mandatory from annual return 2019 onwards.

In the consultation we asked for views about whether there should be an option to state the total amount in US Dollars instead of Pounds Sterling. The responses we received supported asking for the total amount in Pounds Sterling. They did not strongly support providing an option to report in US Dollars. We also received written comments which supported the view that it was appropriate for charities to report only in Pounds Sterling. As a result we will not provide an option to report in US Dollars. We also asked for views on whether there should be an option to report in US Dollars in relation to the question about expenditure in countries outside England and Wales. The feedback was similar and again we will not provide this option.

**We will ask this question set** but with amendments to address the issues raised with us during the consultation. As confirmed in the consultation, and for the reasons referred to above, we will not publish on the register individual charities responses to this question.

## **Employees' salaries**

Question set proposed in the consultation

**Question F – During the financial period for this annual return, did any of your charity's staff receive a salary of £60,000 or more? Yes/No**

If the answer to Question F is Yes the charity will be asked for further information in the two questions below

**Question F.1 – Enter the number of staff for each of the following salary bands (a drop down list will be shown):**

**£60,000 to £70,000**  
**£70,001 to £80,000**

**£80,001 to £90,000**  
**£90,001 to £100,000**  
**£100,001 to £110,000**  
**£110,001 to £120,000**  
**£120,001 to £130,000**  
**£130,001 to £140,000**  
**£140,001 to £150,000**  
**Over £150,001**

## **Question F.2 – How much is the CEO paid?**

### **What you said**

- The information should be about the total remuneration package including other benefits and not only the salary.
- Clarify what is meant by employee – does it include contractors?
- Information about the CEO salary should also be in bands and not the exact amount.
- Exact information should be asked about the highest paid employee who may not be the CEO.
- Publishing the CEO's exact salary identifies them which cuts across data protection requirements and human rights.
- Providing information in some cases may be a breach of contract.
- The information should not be published because it will be read out of context without understanding the reasons for the levels of pay.
- For charities which produce SORP compliant accounts this information, in banded form, will be in their accounts and the public should look there.
- Responses to the survey showed strong support for this question and for making the information public.

### **What we have done**

Our research into public trust and confidence in charities shows that the public is concerned about high levels of pay in charities. We believe that charities should provide more information about this and that it should be easily accessible on the public register of charities to increase the accountability of charities to the public.

The Commission has a regulatory interest in information which relates to whether the charity is carrying out its purposes for the public benefit. This includes ensuring that any personal benefit is “incidental” where (having regard both to its nature and to its amount) it is a necessary result or by-product of carrying out its purpose.

The definition of total employee benefits will be in line with the definition used in the SORP. We will provide guidance which explains what we mean by the terms “employee” and “total employee benefits”.

The question set will be amended to:

- ask for information about the total employee benefits rather than the salary. Total employee benefits will be explained in the guidance and will include salary, bonuses, pension contributions, private health care and other benefits in kind, and
- ask for the total employee benefits of the highest paid employee rather than the CEO.

The income bands between £60,000 and £150,000 will be £10,000 in line with the SORP but for amounts over £150,000 the bands will be £50,000 up to £500,000. There will be a final band of over £500,000.

**We will ask this question set** but with amendments in response to the concerns raised with us. The information about the employee benefits of the highest paid employee will not be published but the numbers of staff receiving remuneration in excess of £60,000 will be published in income bands.

### **Payments to trustees**

Question set proposed in the consultation

**Question G – During the financial period for this annual return, were any of the trustees paid:**

- a) for being a trustee**
- b) for providing professional advice e.g. accountancy or legal advice**
- c) in receipt of other benefits e.g. renting property from the charity below market value?**

**Question G1 – During the financial period for this annual return, were any employees formerly trustees of the charity?**

### **What you said**

- This is a valid question which should be asked
- You should also ask about any benefits in kind which are given to trustees and provide guidance about what this means
- If the Commission is looking for information about unauthorised trustee benefits it should explain why this is important
- The types of specialist advice should include veterinary, medical and research
- Responses to the survey indicated broad support for the questions and for publication of the information

### **What we have done**

Unauthorised payment to trustees is a serious breach of trustee duties. The information which charities give us will provide a fuller picture of the extent, and nature, of trustee payments. We will use this to inform work which we do to raise awareness of when payments can be made to trustees and to highlight the

importance of only making such payments when authorised. It will also enable us to identify charities which should be given targeted advice and guidance.

The term “benefit” will be defined to include a direct or indirect benefit of any nature. The question will be amended to ask about any services provided to the charity and will not be restricted to any particular services or professional advice.

Publishing the information creates greater transparency to inform donors, funders and trustees.

**We will ask this question set** and will publish the information provided on the charity’s public register page.

### **Expenditure in countries outside England and Wales**

Question set proposed in the consultation

If the answer to **Question H – Did your charity operate outside England and Wales during the financial period covered by this annual return** - is Yes the charity will be asked the following questions. We already ask questions H1 and H2 and we did not consult on them but have included them for completeness.

**Question H.1 – Select countries the charity operated in during the financial period covered by this annual return – a drop down list will be shown**

**Question H.2 – Record the total expenditure by country**

**Question H.3 – When spending money outside England and Wales, did your charity transfer money outside of the regulated banking system? Yes/No**

If the answer to Question H.3 is Yes the charity will be asked

**Question H.4 – What methods to transfer money did the charity use and what was the value? – a drop down list will be shown**

- a) Cash courier
- b) Other charities or NGOs/NPOs
- c) Money Service Business (MSB)
- d) Informal Money Transfer Systems
- e) Online payment methods e.g. PayPal
- f) Other

**Question H.5 – Does the charity have monitoring controls in place to monitor overseas expenditure? Yes/No**

**Question H.6 – Are the trustees satisfied that the charity’s risk management policy and procedures adequately address the risks to the charity arising from its activities and/or where it operates? Yes/No**

**What you said**

- The questions give the incorrect impression that money transfers outside the regulated banking system are illegal.
- We should be explicit about which part of the money journey we are interested in.
- If the major concern is about the use of cash couriers then the questions should focus solely on this.
- More information is needed about our reasons for wanting this information and how it will be used.
- Will the information lead directly to the opening of an investigation?
- This could have a negative effect on the work charities do overseas and draw attention to specific projects, putting staff in danger.
- Why is information requested for other countries within the United Kingdom?

**What we have done**

This question set builds on existing questions about whether the charity operates overseas, the countries it operates in and the total expenditure by country. The information from the proposed additional questions will give the Commission a broader knowledge and understanding of the ways in which charities transfer money outside England and Wales, including the volume and proportion of charity funds which are transferred in this way.

We are interested in the extent to which charities use higher risk methods of transferring money outside England and Wales. The information will allow us to assess and produce a more complete picture of operating risks across the sector arising from money transfer arrangements. It will allow us to identify charities that would benefit from targeted regulatory advice and guidance, prioritise charities to proactively engage with and identify, which charities are low risk.

Chapter 4 of our Compliance Toolkit makes clear that the Commission’s view is that, where regulated banking services are available, trustees should use them to ensure that the charity’s funds are secure. This is because money transfers outside the regulated banking system do give rise to higher risks that need to be managed. The National Risk Assessment 2017 included an assessment of the risk to charities, relating to terrorist financing and money laundering, of using cash and Money Service Businesses. Charities which operate outside England and Wales must be aware of rules relating to money laundering and terrorist financing, the sanctions regime – both in the UK and in those countries in which they operate - and about border controls for cash carried. These rules already give charities duties of due diligence and monitoring. Because of this they should already have accounting records which will support the provision of this information.



We will provide guidance with this question set to explain what is covered by the descriptions of money transfer processes and what part of the money transfer we are concerned with.

All money transfer processes bear risks and it is important that charities take appropriate steps to manage these risks. We recognise that some charities will need to make changes to their record keeping in order to answer parts of this question. For this reason the questions relating to methods of transferring money outside the regulated banking system, and about monitoring controls and risk management, will be voluntary for annual return 2018. They will be mandatory for the annual return 2019 onwards.

The first three questions are about whether the charity operates outside England and Wales, the countries it operates in and the total expenditure by country are existing questions.

We have a general interest in the extent to which charities operate in those parts of the UK which are outside the charity jurisdiction of England and Wales. For this reason the questions apply to these countries.

**We will ask this question set** but parts of it will be voluntary for annual return 2018. All parts of the question will be mandatory for subsequent annual returns. We do not intend to publish the information provided on the charity's public register page.

## **Managing charity assets – land and buildings**

Question set proposed in the consultation

### **Question 1 – Does the charity get rate relief on the premises?**

#### **What you said**

- This information is not useful for the Commission
- Explanation is needed about the difference between mandatory and discretionary rate relief
- The information could be obtained from local authorities
- As local authorities regulate this area the Commission does not have a role

#### **What we have done**

The intention of this question was to obtain a complete picture of all rate relief claimed by charities. This would help us understand the impact on the sector of any future proposals to change rate relief arrangements and to better understand funding vulnerabilities in individual charities.

Each individual local authority is responsible for granting rate relief. There are over 300 tax collecting local authorities in England and Wales. To obtain information from them all in the same format and time periods would be lengthy and require significant taxpayer resources. In addition, local authority records are not necessarily sorted in a way which identifies charities registered with the Commission. Collecting it through

the annual return would be a proportionate, and more efficient, use of taxpayer funded resources.

Initial research on the use of rate relief indicates that there is some abuse of this relief. However, we accept that the question in its current form does not provide information to enable us to address possible abuse of charitable status. We will continue to explore this issue as it has the potential to create concern about the benefits which charities receive.

**We will not ask this question in annual return 2018.**

## **Trading subsidiaries**

Question set proposed in the consultation

**Question J – How many trustees are also Directors of the subsidiary?**

### **What you said**

- This information can be obtained from Companies House.
- It is unclear how this question fits with advice given in Commission guidance about when there should be a crossover of people acting as both a trustee and a Director of a subsidiary trading company.

### **What we have done**

The information will increase transparency, including to the public, about how the charity operates. Whilst the information could be found through examining material held at Companies House, providing it on the register is more directly accessible and helps charities to be more accountable.

The information obtained through this question will enable the Commission to develop its risk framework to identify charities where there is potential for financial abuse and poor decision making, including unmanaged conflicts of interest. Whilst information can be obtained in specific cases from Companies House it is not in a form which will enable us to use the data we hold to look at trends and to identify risks affecting the sector.

We have decided that the question proposed in the consultation would not work for charities with more than one subsidiary. Because of this, the question will be modified to ask if any of the charity trustees are also directors of any of the charity's subsidiaries.

**We will ask this question** in an amended form and will publish the information provided on the charity's public register page.

## Safeguarding

Question set proposed in the consultation

### **Question K – Do any trustees, staff or volunteers work directly with vulnerable beneficiaries? Yes/No**

If the answer to Question K is Yes the charity will be asked

### **Question K.1 – Have DBS checks been carried out on these individuals?**

## What you said

- DBS checks are only relevant if someone is caring for a vulnerable beneficiary on their own
- DBS checks do not apply for work overseas
- DBS checks are only part of a good safeguarding regime

## What we have done

We will only ask charities to provide information on DBS checks if they do not provide it to another regulator (other than the Disclosure and Barring Service).

The consultation demonstrated support for these questions.

The information will enable the Commission to have a greater understanding of the extent to which charities are aware of, and are managing their safeguarding responsibilities, and to target relevant charities with guidance.

In response to the comments we received, we will ask for the information covered by the proposed question, but expressed differently, to be clearer about when a DBS check is relevant and we will provide guidance about what is meant by a vulnerable beneficiary.

**We will ask this question** but with amendments. We have decided not to make the information which we collect public at present. Instead we will monitor how this question is answered to ensure that the question is properly understood by charities. We will then consider whether it will be helpful to publish information on the charity's page on the register to promote accountability and transparency.

## Conclusion

We are grateful to all those who took the time to respond to the consultation, to meet with us and to carry out user testing.

The feedback which we have received has informed our decisions about the annual return for 2018. It has helped us to consider how best to express the questions in order that charities will be able to accurately give us the information we seek and to balance the need to obtain information against the burden on charities.

We are now developing the digital return service for 2018 and will continue to test the online return to ensure that it is user friendly. This user testing may result in some alterations to the wording of the questions to make them clearer, but will not result in any changes to the meaning or intent of the questions.