

Summary: Intervention & Options

ANNEX B

Department /Agency: Office of the Third Sector, Cabinet Office	Title: Impact Assessment on extending the definition of "qualified surveyor" in section 36(4) of the Charities Act 1993	
Stage: Consultation	Version: 1.0	Date: ## ####### 2010
Related Publications: Office of the Third Sector (OTS) consultation paper "Making it easier for charities to sell land "		

Available to view or download at:

http://www.cabinet-office.gov.uk/third_sector

Contact for enquiries: David Hale

Telephone: 020 7276 6027

What is the problem under consideration? Why is government intervention necessary?

Before trustees of charities in England and Wales dispose of charity land they must normally get a written report from a professional adviser who is a "qualified surveyor" within the meaning of section 36(4) of the Charities Act 1993. The definition is narrow and the 2005 Report "Better Regulation for Civil Society" [link] urged that it should be extended.

The Charities Act 1993 enables the definition to be amended by statutory instrument.

What are the policy objectives and the intended effects?

The change will allow trustees to access to a broader pool of professional expertise when seeking the required advice. This will in many cases:

- increase trustees' choice about who they can consult; and
- make it quicker, easier and often less expensive to get the information they need to enable them to make decisions about disposals and follow the statutory procedures.

What policy options have been considered? Please justify any preferred option.

1. Extending the definition to include Fellows of the NAEA.
2. No change

The intended effects of option 1 will increase charity trustees' choice when choosing a qualified surveyor and consequently increase competition for this work. The increase in choice may also benefit charities in rural areas where it can be difficult to find "qualified surveyors" that meet the current definition. Option 2 will leave the current situation unaltered.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

A selective consultation including responders to the current consultation and other interested parties will be carried out two years after implementation

Ministerial Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:



Date: 24/2/10

Summary: Analysis & Evidence

Policy Option: 1

Description: Extending the definition of "qualified surveyor" in section 36(4) of the Charities Act 1993 to include people who are Fellows of the National Association of Estate Agents

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups'
	One-off (Transition)	Yrs	
	£ N/A		
	Average Annual Cost (excluding one-off)		
N/A		Total Cost (PV)	£ 0
Other key non-monetised costs by 'main affected groups' 0			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'
	One-off	Yrs	
	£ N/A		This change will provide a wider range of choice of "qualified surveyors" for 10,800 charity land disposals a year. This should increase competition for the work and result in a consequent lowering of the average cost per transaction.
	Average Annual Benefit (excluding one-off)		
£ 2.4 million		Total Benefit	£2.4 million
Other key non-monetised benefits by 'main affected groups'			
The greater range of choice should make it easier for charity trustees to find suitable professional advice when disposing of land or interests in land.			

Key Assumptions/Sensitivities/Risks

The saving is based on an estimate that includes 2,700 of these transactions saving 50% of the cost of obtaining the required advice and a further 2,700 saving 25% of that cost and overall savings.

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £

What is the geographic coverage of the policy/option?	England and Wales
On what date will the policy be implemented?	Subject to consultation
Which organisation(s) will enforce the policy?	Charity Commission
What is the total annual cost of enforcement for these organisations?	N/A
Does enforcement comply with Hampton principles?	Yes
Will implementation go beyond minimum EU requirements?	N/A
What is the value of the proposed offsetting measure per year?	N/A
What is the value of changes in greenhouse gas emissions?	N/A
Will the proposal have a significant impact on competition?	Yes
Annual cost (£-£) per organisation (excluding one-off)	Micro Small Medium Large
Are any of these organisations exempt?	N/A N/A N/A N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)	
Increase of £0	Decrease of £2.4 million	Net Impact	-£2.4 million

Key:

Annual costs and benefits: Constant Prices

(Net) Present Value

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Note on costs

Disposals of charity land in England and Wales are already largely deregulated. The only occasions when they come to the Charity Commission's attention is:

- if there is something unusual that requires the Commission's approval, such as a disposal to a trustee of the charity concerned, or
- if the Commission receives an allegation that there is something irregular about a disposal, such as a deliberate undervaluing of the property.

Cases where the Commission has to contact charities about disposals where there is an allegation that the legal requirements, which are set out in section 36 the Charities Act 1993 (section 36), have not been met are rare.

Only option 1 has cost implications for charities. The annual cost of preparing the surveyors reports required by section 36 has been calculated as being £8.9 million⁶.

There are around 10,400 charity land disposals a year that are subject to the requirement that the trustees have to obtain a report from a "qualified surveyor", resulting in an average cost of £850 per transaction. It is further estimated that widening the definition of "qualified surveyor" will reduce costs by 50% in 2,700 transactions and 25% in 2,700 transactions resulting in savings of £2.4 million. OTS anticipates that firmer evidence of the cost savings will be provided in the responders answers to the questions in the consultations.

Current position

Before disposing of charity land and interests in such land, such as rights of way, charity trustees must normally get a written report from someone who is a "qualified surveyor". The definition "qualified surveyor" is contained in section 36(4) of the Charities Act 1993 (the section 36 definition) which states:

A person is a qualified surveyor if-

- they are a fellow or professional associate of the Royal Institution of Chartered Surveyors or of the Incorporated Society of Valuers and Auctioneers⁷ or satisfies such other requirements as may be prescribed by regulations made by the Minister; and
- they are reasonably believed by the charity trustees to have ability in, and experience of, the valuation of land of the particular kind, and in the particular area, in question".

Reason for change

While we have included a "no change" option, we suggest that the current section 36 definition is not necessarily right in every case and does not allow charity trustees the flexibility to take into consideration the experience and qualifications of the professional adviser in a way that is proportionate to the nature and type of disposal. For example, an estate agent with relevant experience and qualifications could advise on sales of residential property, but is prevented from doing so by the definition. However the inclusion of the option does allow for arguments against change to be made in responses to the consultation.

⁶ In the 2006 Administrative Burdens Measurement exercise [link]

⁷ The Incorporated Society of Valuers and Auctioneers merged with the Royal Institution of Chartered Surveyors in 2000.

Option 1 will enable Fellows of the National Association of Estate Agents (NAEA) to advise on disposing of land, provided they are qualified to do so.

Fellows of the NAEA must:

- hold the National Federation of Property Professionals (NFOPP) Diploma in Residential Estate Agency (a level 5 qualification on the National Qualifications Framework, equivalent to an HND or a pass at foundation degree level) or a comparable, nationally recognised, qualification approved by the NAEA for membership; and
- have at least 5 years experience in estate agency and be able to provide details of that experience.

In addition, the change will not alter the essential requirement in the section 36 definition that trustees must satisfy themselves that the person they instruct has the “ability in, and experience of, the valuation of land of the particular kind, and in the particular area, in question”.

Trustees will still have to comply with all the other requirements set out in section 36 including:

- advertising the disposal following advice from their surveyor; and
- deciding that they are satisfied that, having considered the surveyor’s report, that the terms that have been achieved are the best that can reasonably be obtained for the charity.

Competition assessment

The change will widen the definition of “qualified surveyor” and should allow charity trustees access to a broader pool of professional expertise in preparing the requisite report, increasing competition for this work. There is also anecdotal evidence that in some rural areas charity trustee can experience difficulty in finding “qualified surveyors”. Consequently, option 1 should enable charity trustees to obtain a suitable report more easily, more quickly and at a lower cost and no competition assessment is required.