

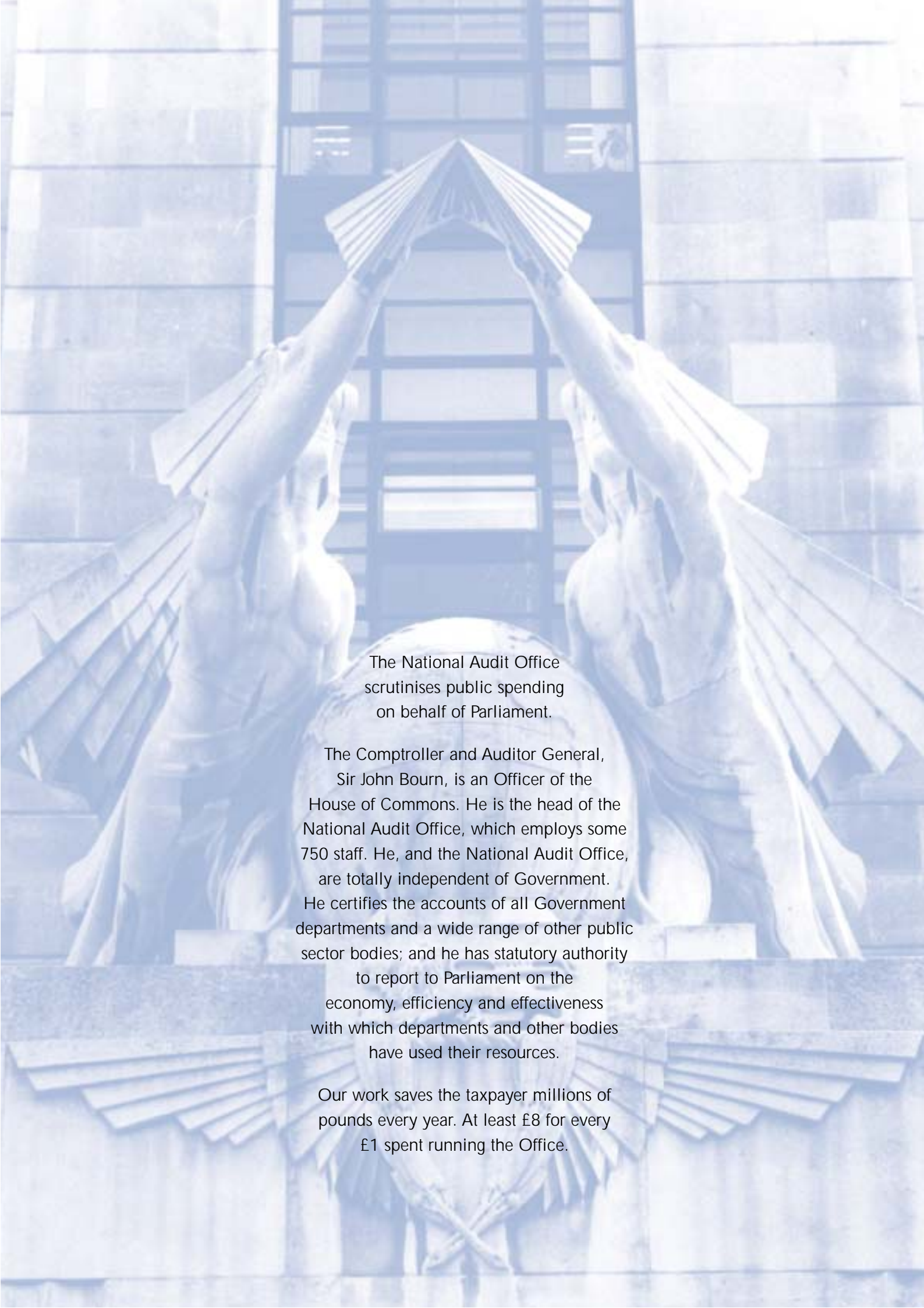
Charity Commission

Giving confidently:

The role of the Charity Commission in regulating charities

REPORT BY THE COMPTROLLER AND AUDITOR GENERAL
HC 234 Session 2001-2002: 25 October 2001





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Contents

Executive Summary	1
--------------------------	----------

Part 1	9
---------------	----------

Introduction	9
---------------------	----------

Context	9
Regulating charities	11
What previous examinations have there been of the Commission?	12
What issues did we examine?	13

Part 2	15
---------------	-----------

Investigating and remedying serious weaknesses in charities	15
--	-----------

Introduction	15
Whether the Commission investigates and remedies serious weaknesses in charities effectively	15

Part 3	23
---------------	-----------

Registering and supporting charities	23
---	-----------

Introduction	23
Whether charities are being properly scrutinised prior to registration	23
Whether checks are being undertaken to ensure that disqualified people do not become trustees	24
Whether requests for advice are being promptly and effectively handled	25

This report has been prepared under Section 6 of the National Audit Act 1983 for presentation to the House of Commons in accordance with Section 9 of the Act.

John Bourn National Audit Office
Comptroller and Auditor General 21 September 2001

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Part 4 29

Making charities transparent and accountable 29

Introduction	29
Whether the Commission maintains accessible, accurate and up to date information on charities	29
Whether the Commission has effective mechanisms for scrutinising the performance of charities	32

Appendices

1. The charities which must register with the Charity Commission	36
2. Issues raised by the Committee of Public Accounts in their 1998 report: <i>Charity Commission: Regulation and Support of Charities</i>	37
3. Charity Commission reported performance 2000-2001	39
4. Study methodology	41
5. The criteria for what counts as an active website - National Audit Office Report: Government on the Web (HC 87,1999-2000)	42
6. Charity accounting and reporting requirements	43

executive summary

Giving confidently: The role of the Charity Commission in regulating charities

- 1 Charities play a major role in the social and economic well being of our society and in one way or another touch the lives of most people. They range from small playgroups to major foundations allocating massive budgets to medical research. In 2000-01, the 185,000 or so registered charitable organisations had an estimated gross income of £25 billion, and net assets of some £70 billion.
- 2 Registered charities are publicly accountable to their donors and beneficiaries through, for example, their annual reports and accounts. However, oversight of the charitable sector depends primarily on the expertise and time contributed by several million trustees who sit on the boards of charitable bodies. For the vast majority of charities, therefore, effective oversight starts within the charity itself, through its trustees and the quality of information it makes available to the public.



- 3 The Charity Commission for England and Wales [the Commission] has statutory responsibility for promoting the effective use of charity resources and has set itself the aim of maintaining public confidence in the integrity of charity. In 2000-01, it had an annual budget of some £21 million which has remained constant in cash terms since 1996-97. It employs 547 staff in three offices, London, Taunton and Liverpool.
- 4 The Committee of Public Accounts has taken evidence from the Commission on three occasions, in 1988, 1991 and 1998. On each occasion it was critical of the Commission's performance and, in its 1998 report, the Committee made recommendations for improvements in: management effectiveness; the accuracy of the Register of Charities; submission of accounts and monitoring of charities; and support and investigation of charities.
- 5 We found that the Commission had made welcome progress in addressing the concerns raised in previous reports including: meeting more of its key business targets; reducing the number of inactive charities on its Register of Charities; and improving the accuracy of the Register. However, weaknesses remain, particularly in the Commission's investigation work, a fact recognised by the Commission itself.

Key findings

- Compared to the size of the charitable sector, proven cases of maladministration or abuse amongst registered charities are rare. Investigations are being completed more quickly but our examination identified weaknesses in the Commission's approach to deciding the scope of investigations, in its approach to monitoring the progress of investigation cases and in its arrangements for ensuring that effective remedial action is taken by the charities. In October 2000, the Commission produced a new Investigations Manual which seeks to address these issues. In 2002-03, the Commission plans to spend an additional £1 million on investigative work, an increase for this work of 31 per cent on its 2001-02 budget of £3 million.
- The Commission is scrutinising applications for registration for charitable status more rigorously. As a result, the percentage of applications which progress to full registration has fallen. The Commission has also improved its procedures for checking whether prospective trustees of new charities are disqualified from acting as trustees, for example because they are undischarged bankrupts or disqualified directors. However, the Commission has no equivalent procedures for checking trustees appointed to existing charities.
- The Commission has faced an increasing volume of requests for advice and support from charities - up from nearly 26,000 in 1996-97 to over 35,000 in 2000-01, a rise of 35 per cent. A survey of charities on behalf of the Commission in March 2000 found that 83 per cent of respondents were satisfied with the assistance given. Difficulties in dealing with this increase has meant that the number of cases carried forward from one year to the next has risen from 4,500 in 1996-97 to 8,900 in 2000-01. The difficulties have been compounded by staffing shortages, particularly in the Commission's London office. As at October 2000, the office was 13 per cent below complement and half of its staff had less than two years' experience. The Commission told us it is addressing these staffing difficulties in a variety of ways, including training, mentoring and management support. Unless it is successful in this, it may find it difficult to reduce the backlog of cases and sustain year on year increases in case numbers.
- Following recommendations by the Committee of Public Accounts in their last report, the Commission has made a significant effort to improve the quality and timeliness of the annual information it collects from the charitable sector. And the Register of Charities is now accessible via the Commission's website. The design of the website compares well with practice elsewhere in government and the site currently receives up to eight million hits a year. The Commission has strengthened its arrangements for monitoring the financial performance of charities and examining whether charitable funds are being properly used, for example by focusing greater attention on the five per cent of charities which account for some 90 per cent of the charitable sector's income. However, the Commission needs to develop further its monitoring procedures to collect indicators of possible weaknesses in the governance of charities and encourage charities to do more to demonstrate that they are using charitable funds efficiently and effectively.

The detailed findings and conclusions from the study are set out below. A summary of the actions taken by the Commission to follow-up the Committee of Public Accounts previous recommendations is at Appendix 2.

On investigating and remedying serious weaknesses in charities

- 6 In 1998, the Committee of Public Accounts expressed concern that the Commission was not devoting enough attention to investigation work. Since then, the number of formal inquiries it has carried out into charities has declined from 272 in 1997-98 to 212 in 2000-01. However, the proportion of inquiries resulting in substantiated weaknesses increased from 76 per cent to 90 per cent. This rise reflects, in part, the increased emphasis the Commission now places on evaluating cases before deciding to proceed with a formal inquiry. In the four years between 1997-98 and 2000-01, the number of cases subject to evaluation rose from 1,067 to 1,152, an increase of eight per cent. In 2000-01, maladministration accounted for the majority of substantiated weaknesses amongst charities (41 per cent) followed by malpractice (22 per cent) and fundraising problems (21 per cent). More investigations are now being undertaken because of causes for concern identified by the Commission itself rather than by others.
- 7 The Commission generally acts quickly when someone brings a potential cause for concern to its attention. It is completing investigations more quickly, and between January 2000 and January 2001 made significant progress in reducing its backlog of inquiry cases. However, there is scope for improved monitoring of the time taken to complete individual cases.
- 8 We found that the scope of an inquiry was usually driven by the original cause for concern and that the Commission did not always carry out an appraisal of the potential risks to identify if a broader examination was needed. Practices in closing inquiries varied across the Commission. While some caseworkers kept cases open until it was evident that problems had been resolved, others closed cases before this position was reached but did not carry out any follow-up to confirm the weaknesses were addressed. In general, we found that inquiries carried out by more experienced staff were better planned, scoped and documented. The Commission's new Investigations Manual aims to strengthen investigations, for example, by the better use of risk analysis. The Commission now also puts the outcome of inquiries on its website so that charities can learn from the problems of others.

Recommendations

- The Commission should ensure that all inquiries have a written plan setting out the scope and objectives of the investigation based on a formal assessment of the risks to be tackled. All inquiry plans should be reviewed by experienced caseworkers at the start of the inquiry and at regular intervals during its progress.
- The Commission should follow-up all inquiry cases which identify serious weaknesses to ensure that remedial action has been taken. This follow-up might involve trustees reporting back on progress against an agreed action plan at specified intervals.
- The Commission should ensure that less experienced investigation staff receive adequate supervision and training from more experienced colleagues to ensure that investigations are appropriately scoped, properly carried out and fully documented. It might, for example, consider assigning experienced staff as mentors to newer staff to help provide advice and guidance.
- The Commission should draw upon the results of its inquiries to alert charities and their trustees to the key risks that might typically affect their organisations and how these might be managed.

On registering and supporting charities

- 9 Following the Committee of Public Accounts' concerns, the Commission has introduced more stringent checks of applications from organisations seeking to register as charities. As a result, the proportion of applications which progress to full registration fell from 88 per cent in 1996-97 to 73 per cent in 2000-01. The Commission received applications from some 8,000 organisations in 2000-01 and registered around 6,000. The quality of registration work varies considerably in the Commission. In 2000-01, for example, its internal quality reviews assessed 79 per cent of cases handled by the Taunton office as acceptable or better compared with 66 per cent in the Liverpool office.
- 10 When a charity seeks registration, the Commission checks whether the proposed trustees are disqualified from acting as trustees because, for example, they are undischarged bankrupts. The Commission does not check trustees appointed by charities that are already registered. This would be a significant task as there are close to two million trustees of registered charities. In June 2001, the Commission issued a consultation document inviting views on what information it should collect on trustees preparatory to deciding how best to tackle this issue.
- 11 Charities contact the Commission requesting advice and assistance on a wide range of sometimes complex legal and other issues, for example, changes to a charity's constitution. The Commission does not charge charities for these services. Due to the large rise in the volume of such requests the number being carried forward from one year to the next is increasing. And the average time to clear individual cases has increased from 80 days in 1996-97 to 112 days in 2000-01. Nevertheless, 83 per cent of charities remain satisfied with the services provided. The Commission is considering, however, what action it can take to influence and control the demand upon it for support, including the possibility of closer co-operation with charities' representative bodies.
- 12 The Commission has taken steps to strengthen its complaints mechanisms. Between April 2000 and March 2001, the Commission investigated 121 complaints concerned with all aspects of its business. 22 per cent were upheld, most on the basis that the Commission had failed to meet its target response time. The Commission has not fully analysed these complaints to identify lessons which could be learned for the future. Since January 2000, complainants who are not satisfied with the outcome of the Commission's internal review procedures have had the option of asking an Independent Complaints Reviewer to consider their case. In 2000, the Independent Complaints Reviewer investigated eight complaints and upheld one.



Recommendations

- The Commission should investigate the difference in the quality of registration work in its Taunton and Liverpool offices and issue good practice guidance as appropriate.
- To help protect the interests of donors and beneficiaries, the Commission should, in close consultation with charities:
 - Issue guidance to trustees on good practice in identifying, recruiting and appointing new trustees, including checking eligibility to act as a trustee; and
 - Establish arrangements for ensuring that these practices are followed, for example by annually checking the eligibility of a sample of newly appointed trustees, and checking during visits that charities are carrying out appropriate checks on prospective trustees.
- The Commission should further review its arrangements for providing advice and support to charities to determine how rising demand can best be managed and organised, for example, by closer co-operation with charities' representatives and umbrella bodies so that charities can learn from their peers.
- The Commission should fully analyse complaints from charities and others to see if there are any lessons to be learnt for the future.

On making charities transparent and accountable

On collecting information from registered charities

- 13 The Commission has a statutory responsibility to keep a Register of Charities and this can be viewed at the Commission's three regional offices or on its website. The Commission has improved the accuracy and coverage of the Register since the Committee of Public Accounts' last examination in 1998. Each year charities are expected to make a return to the Commission updating information kept on the Register. Whilst there is no statutory deadline, the proportion of charities submitting updated information within 10 months of the end of their financial year rose from 49 per cent in 1997-98 to 66 per cent in 2000-01.
- 14 The Commission pursues outstanding update forms and by June 2001 had obtained 85 per cent of all forms. While this was up from 79 per cent at 31 March 1998, around 500 charities with income and expenditure of £250,000 or more had not provided information to update their entries on the Register.
- 15 In September 1999, the Commission estimated that some 18,800 charities out of a total of 185,000, had been out of contact with the Commission for over four years at which point they are referred to a specialist monitoring team. By March 2001, the Commission had re-established contact, or removed from the Register, all but some 700 of these charities. At present, the website version of the Register of Charities does not record when individual charities last updated their entry.

- 16 Since 1997, the Commission had also required all charities with an annual income or expenditure over £10,000 to submit annual returns, along with their annual accounts and reports. In 2000-01, the Commission obtained 62 per cent of annual returns by the due date but some charities remain slow in submitting the required information. As at March 2001, the Commission had obtained returns from 96 per cent of charities with an annual income or expenditure greater than £250,000, leaving 339 still being pursued. The Commission has established an Enforcement Unit to chase up the late returns from larger charities.

Recommendations

- Now that the backlog of charities failing to update their entry on the Register of Charities is being reduced, the Commission should take earlier action to pursue those charities failing to provide updated information on time.
- The Commission should explore other options for encouraging charities to submit their annual returns on time, for example, by identifying defaulting charities on the Commission's website, so that this information is available to local authorities responsible for granting charities licences to carry out street collections and others.
- The Commission should measure its performance against the number of charities that submit their returns by the due date, as well as the number that finally make a return.

On scrutinising the performance of charities

- 17 Effective scrutiny of charity performance depends, in the first instance on the ability of trustees, donors, beneficiaries and others to scrutinise how well charitable funds are being used. In October 2000, the Charity Commission published a revised Statement of Recommended Practice (SORP) on the way in which charities should report annually on their stewardship of charitable funds. This Statement strengthens earlier guidance issued in 1995 and was effective from 1 January 2001.
- 18 The SORP recommends that the reports and accounts of charities should enable the reader to understand the charity's objectives, structure, activity and achievements. Such transparency was not always present amongst the annual reports and accounts of charities examined by us, although there were some examples of good practice where the activities funded by charitable income were described and quantified.
- 19 The Commission has strengthened its arrangements for monitoring the performance of charities by, for example targeting areas of known risk, such as fundraising and by more detailed scrutiny of larger charities. Information collected from charities is analysed and potential causes for concern followed up. The Commission is examining the scope for developing financial measures from data in a charity's accounts, which may prove helpful in comparing the performance of different charities, for example the ratio of management expenditure to expenditure on direct charitable activities.

- 20 The information received and analysed by the Commission from charities focuses primarily on financial issues, including fundraising, trading activities and trustee benefits. While the Commission has issued guidance on good governance, it does not collect information that might point to governance risks within individual charities, for example a high turnover of trustees might be indicative of internal disputes and a higher risk of maladministration.
- 21 Since 1997, the Commission has carried out visits to a sample of the 16,000 charities with an annual income of over £100,000. Currently some 300 charities a year are visited. The Commission's review of the visits' programme has identified the need for it to be more focused on risk and more rigorous. Our examination corroborated the Commission's findings. It also highlighted other areas where improvements could be made including using the visits to validate information appearing in a charity's annual returns, establishing clearer protocols on what charities could expect from visits and liaising with other regulators. With the additional funding available to it from April 2002, the Commission plans to double the number of visits and adopt a more structured and forensic approach.

Recommendations

- The Commission should monitor the compliance of charities with the revised Statement of Recommended Practice. In particular, it should encourage larger charities to provide in their annual reports more information on the efficiency and effectiveness with which they have used charitable funds; making it clear what was achieved against what was planned and explaining any significant variance.
- Now that the Commission is obtaining financial information from charities in a standardised form, it should analyse the financial performance of similar groups of charities, using agreed financial ratios, for example, the ratio of fundraising costs to funds raised, and make the results of these analyses publicly available. This would enable individual charities to compare their performance against other similar groups of charities.
- The Commission should monitor closely the risks to good governance by requiring charities to include in their annual returns information on the turnover of trustees, the number of full trustee meetings, the average attendance at meetings and the number of inquorate meetings.
- The Commission should ensure that its programme of visits to charities is focused on those where the risk to charitable funds and beneficiaries is greatest, ensuring a lighter touch for those with a history of compliance in providing, for example, annual returns and accounts. Where appropriate, the Commission should consult with other inspection and regulatory bodies before carrying out visits.
- The Commission should develop service standards for informing charities what they can expect from a visit and disseminate evidence of good practice and lessons learned.

Part 1

Introduction

Context

What is the charity sector?

- 1.1 Charities play a major role in the social and economic well being of our society and in one way or other touch the lives of most people. They range from small play groups operating out of rented rooms in parish halls to major foundations allocating massive budgets to medical research. Some are household names, while many others are known only to small groups of local volunteers and beneficiaries.
- 1.2 In March 2001, there were some 185,000 charitable organisations registered with the Charity Commission for England and Wales (the Commission), the overwhelming majority with an annual income of £10,000 or less a year (Figure 1). Charities employ an estimated 500,000 paid workers and draw on the goodwill and voluntary efforts of huge numbers of people. An estimated two million unpaid trustees serve on the governing bodies of charities and many millions of others help deliver services, serve in charitable shops or rattle tins on street corners. In 2000-01, the sector had an estimated gross income of some £25 billion (around 3 per cent of UK Gross Domestic Product) and net assets of some £70 billion.
- 1.3 In recent years, the sector has continued to grow; between 1996 and 2001 the annual income of registered charities rose by a third. While still reliant on donations and legacies, the sector has expanded the sale of goods and services, entered into contracts with local and national governments to deliver a wide range of public services, and obtained grants from different funding sources including the European Union and the National Lottery.

What is the role of the Charity Commission?

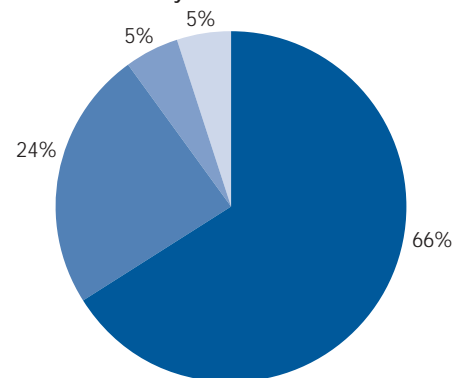
- 1.4 The Commission is a non-ministerial government department, accountable to the Home Secretary for its efficiency and to the Courts for its decisions. It was established in 1853 but its current functions, powers and duties are set out in the Charities Act of 1993.

This Act introduced measures aimed at making charities more publicly accountable and provided for the Commission to play an increasingly active supervisory role, in particular, setting a clear framework for monitoring charities.

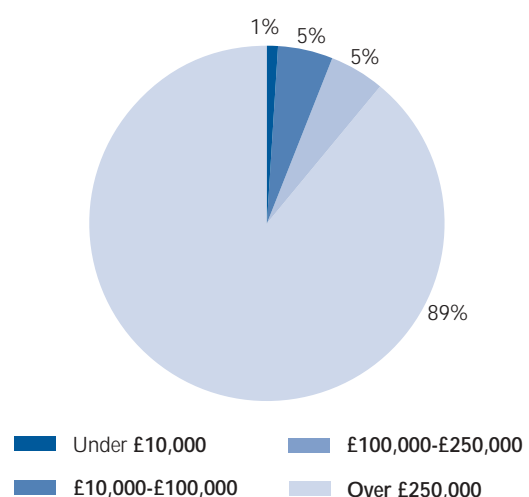
1 The charity sector in England and Wales: numbers and income

Some five per cent of charities account for 89 per cent of the sector's annual income.

Number of charities by income band



Share of total sector income of charities in each income band



Source: Charity Commission 2000-2001

1.5 The Commission's aim is to give the public confidence in the integrity of charity. The Commission's key objectives are to:

- ensure that charities are able to operate with an effective legal, accounting and governance framework;
- improve the governance, accountability, efficiency and effectiveness of charities; and
- identify and deal with abuse and poor practices.

1.6 The Commission's specific statutory functions include maintaining a Register of Charities, obtaining accounts and reports from larger charities and making them available for public inspection, authorising changes to the powers and constitutions of individual charities, and oversight of controls which apply to charities' assets, investments and land. It has a general statutory responsibility to promote the effective use of charitable resources by encouraging better administration, providing information and advice to trustees and investigating abuses. The 1993 Charities Act introduced new reporting and accounting requirements, and provided the Commission with new powers to investigate charities and to safeguard charitable resources. Where, for example, there is evidence of abuse or maladministration, the Commission has powers to require the release of documents, freeze bank accounts and appoint receiver managers. Legislation precludes the Commission from acting in the administration of charities.

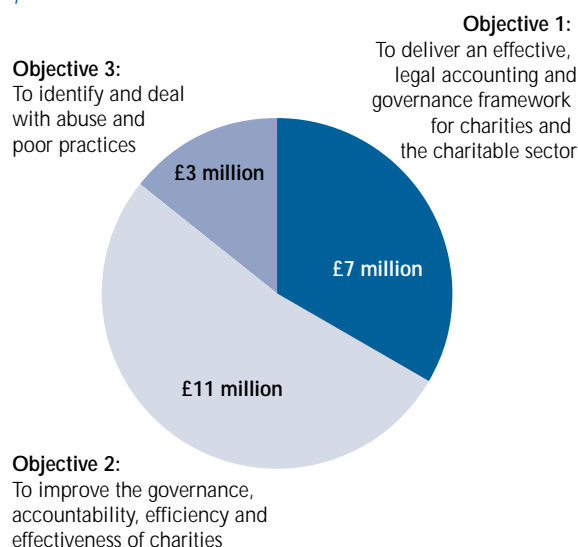
How is the Commission managed?

1.7 The Commission is managed by a salaried board, comprising a full-time Chief Commissioner, a full-time legal commissioner, three non-executive commissioners, all appointed by the Home Secretary, and three senior directors. It operates through three regional offices, Taunton, Liverpool and London with most central functions divided between Taunton and London. Between 1996-97 and 2000-01, the Commission's annual budget has remained at £21 million (Figure 2), a reduction in real terms of 11 per cent, and staff numbers have fallen over the same period from 583 to 547. However, following the government's spending review announced in July 2000, the Commission's budget is set to increase by some 20 per cent from April 2002 to £25 million a year.

1.8 The Commission's increased budget is intended to enable it to: redevelop and expand its programme of regulatory visits to charities; update its IT strategy to enable charities to send electronic returns to the Commission; devote an additional £1 million a year to investigations; and develop thematic studies of key regulatory issues to help strengthen the charitable sector.

2 The Commission's expenditure on each of its key objectives 2000-01

The Commission spends two-thirds of its budget on improving the governance, accountability, efficiency and effectiveness of charities and identifying and dealing with abuses and poor practices.



Source: Charity Commission

What are registered charities?

1.9 Registered charities are one part of the voluntary or non-government sector. To be considered for registration as a charity an organisation must be non-profit distributing (any surpluses should be retained and used for charitable purposes) and must be set up entirely for wider public benefit, and not for personal benefit. The courts in the nineteenth century classified charitable purposes as the relief of poverty or sickness, the advancement of religion, the advancement of education (where in all areas the courts held public benefit to be assumed, unless it could be demonstrated otherwise), and other areas of public benefit. Thus political organisations, trade unions, some sports clubs and campaigning bodies may be part of the voluntary sector but are ineligible to register as charities. The criteria for determining charitable status are complex and based on case law, and periodically the Commission has to redefine what types of purposes are deemed charitable. Any organisation with charitable purposes that meets the criteria indicated in Appendix 1 must register with the Commission unless it is statutorily exempted or excepted from registration.

1.10 Registration brings a range of tax benefits not available to commercial organisations. Registered charities have certain relief from income and corporation tax and business rates, and can usually claim back the basic rate tax paid on donors' incomes where gifts are made by deed of covenant or under the government's gift aid schemes. The Inland Revenue and HM Customs and

Excise estimated that in 1999-2000 the total annual value of tax relief was some £2 billion, comprising £1.3 billion of direct taxes, about £200 million in VAT relief and some £600 million in business rate relief. Registration also brings certain duties including meeting the Commission's requests for information.

Regulating charities

Why are charities regulated?

1.11 Each charity has a governing document which sets out, among other things, the charitable objects that it exists to pursue. Donors, large and small, are entitled to the assurance that charities actually pursue these objects, that they do not spend charitable funds in ways that the objects do not authorise, that charities operate for public rather than private benefit, and that any private benefit that does arise is purely incidental and kept to a minimum. The Charity Commission exists to monitor, and where necessary to ensure, that the charities' trustees meet these requirements, and to promote the effective use of charitable resources by various means, including making advice and information about charities widely available.

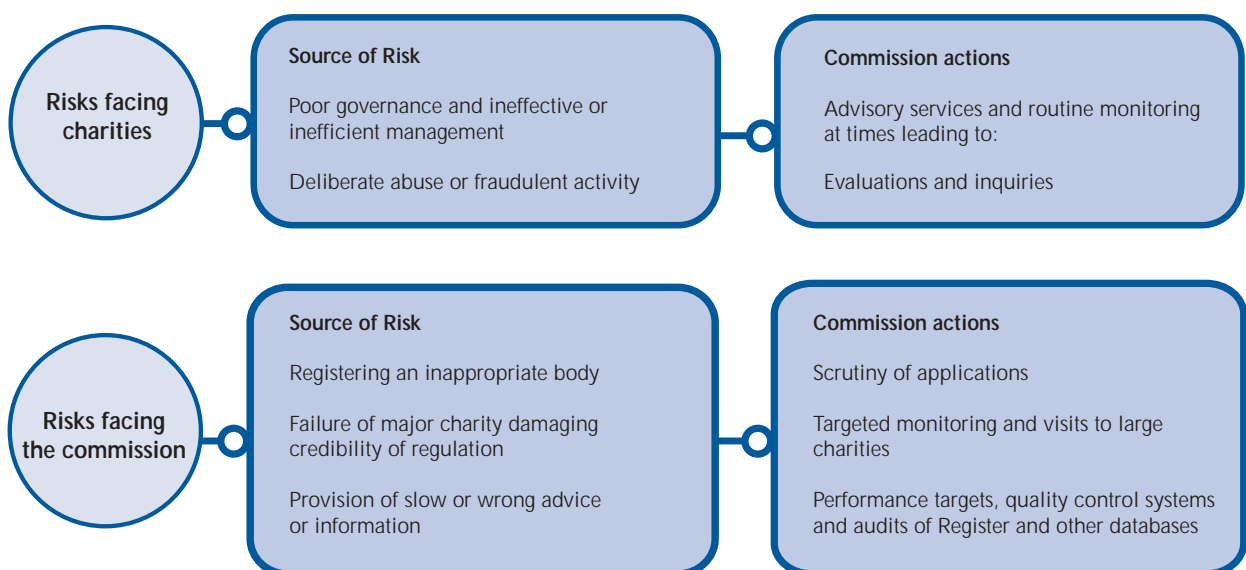
1.12 Registered charities receive public support in many ways through donations, the time and effort of volunteers, funding from governments and charitable foundations, and through the tax system. In February 1999, MORI

surveyed some 1,600 adults in England and Wales, on behalf of the Commission, and found that 92 per cent had donated money or time to charities in the preceding two years. While responsibility for ensuring that charities are well run resides primarily with trustees, the complexity of the sector and the rapid growth of some charities has made it more difficult for voluntary trustees to exercise full control. Individual donors and volunteers are not always in a position to judge the quality of charities which approach them for donations or for their time, and vulnerable people may not be able to question the adequacy of the services they are being offered.

1.13 As the sector has grown and diversified, it has become exposed to a wider range of risk. While there is a lack of quantified evidence on the extent of the risks, those we interviewed from the charity sector believe that risks are increasing. The National Council for Voluntary Organisations told us, for example, that whilst the future looks buoyant, with more outsourcing of public services and the favourable tax regime, *"this brings with it greater risk of fraud, contract problems, cash flow difficulties and growth issues"*. **Figure 3** summarises some of the major risks facing the charitable sector and the ways in which the Commission's advisory and regulatory activities address these risks.

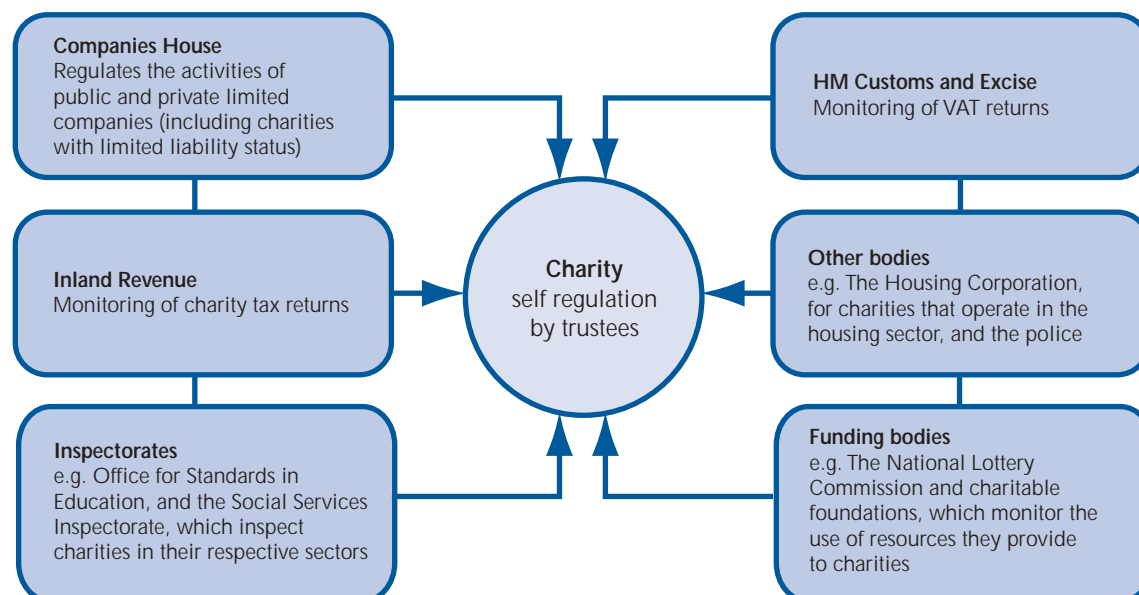
3 The Commission's role in addressing some of the major risks facing the charitable sector

The Commission's advisory and regulatory activities seek to address many of the key risks facing the charitable sector.



4 Other bodies regulating charities

Charities are regulated by many different regulatory bodies.



Source: National Audit Office

Who else regulates charities?

1.14 While the Commission is the main body responsible for ensuring that charities comply with their charitable objectives, charities are also subject to regulation by other bodies and the Commission seeks to work closely with them (Figure 4). Our report, *Charitable Funds Associated with NHS Bodies* (HC 516) published in June 2000, concluded that the NHS Executive and the Charity Commission had worked closely together to ensure that there was no significant duplication of effort and to avoid imposing additional burdens on trustees.

What does the Charity Commission do?

1.15 The Commission seeks to work with charities to prevent problems emerging, and to detect problems before they become serious. When problems are identified, the Commission acts to protect the charity's assets and provide for its future administration. The Commission's main operational divisions involved in regulation and their key activities are shown in Figure 5.

What previous examinations have there been of the Commission?

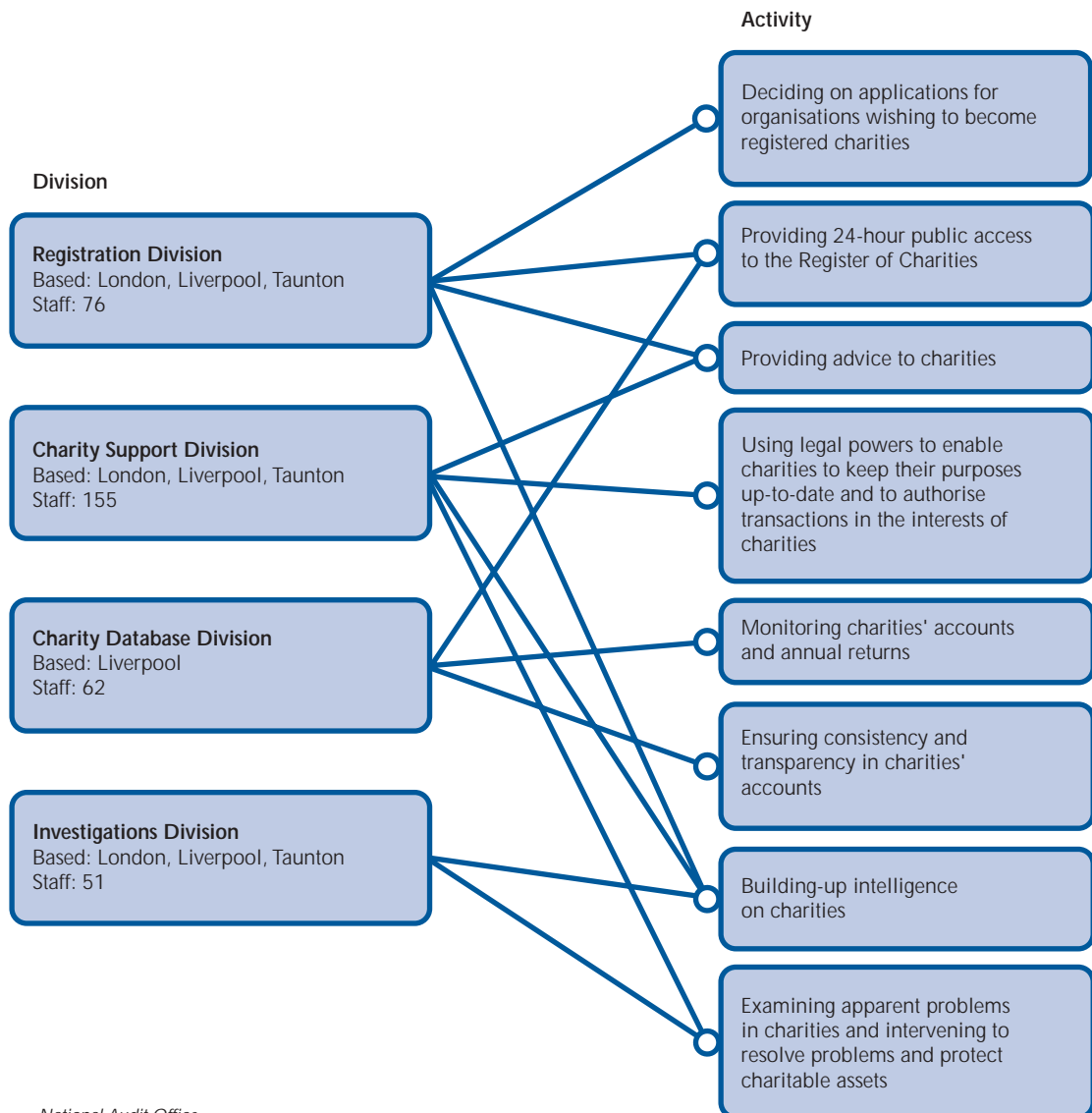
1.16 The Committee of Public Accounts (PAC) has taken evidence from the Commission on three occasions, in 1988 (HC116), 1991 (HC85) and 1998 (HC28). All three reports were critical and in its 1998 report the Committee made recommendations for improvement in the following areas:

- management effectiveness;
- the accuracy of the Register of Charities;
- the submission of accounts and the monitoring of charities; and
- the support and investigation of charities.

The recommendations made by the Committee of Public Accounts in its 1998 report are detailed in Appendix 2 and the Commission's reported progress against its performance targets are contained in Appendix 3.

5 The Commission's key regulatory activities

The Commission's main regulatory activities are carried out by four operational divisions.



Source: National Audit Office

What issues did we examine?

1.17 Our report examines the progress made by the Commission since the Committee of Public Accounts' 1998 report and considers, in particular, the arrangements for:

- investigating and remedying serious weaknesses in charities;
- registering and supporting charities; and
- making charities transparent and accountable.

1.18 The study involved an analysis of management data kept by the Commission on its operations over the past five years and an examination of Commission files on 50 charities. We held interviews with a cross section of Commission staff, staff from key government departments in regular contact with the Commission and 12 national organisations involved in the charity sector. We drew on two surveys commissioned by the Commission, a NOP survey of 600 charities in January 2000, which sought charities' views on the Commission's performance, and a MORI poll of some 1,600 adults in February 1999 on public attitudes to charities and the Commission. In examining the Commission's internal systems for regulating charities we placed reliance on the work of the Commission's internal auditors, Bentley Jennison. Appendix 4 outlines the study methodology in more detail.

Part 2

Investigating and remedying serious weaknesses in charities

Introduction

2.1 In 1998, the Committee of Public Accounts expressed concern that the Commission was not devoting sufficient attention to its investigation work. This part of the Report examines whether the Commission has addressed the Committee's concerns and is investigating and remedying serious weaknesses in charities effectively.

Whether the Commission investigates and remedies serious weaknesses in charities effectively

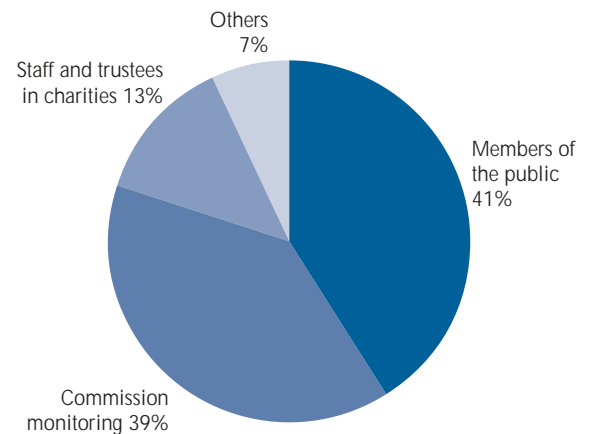
In recent years, the number of formal inquiries has declined but the proportion of substantiated cases has increased. More investigations are now being identified by the Commission itself.

2.2 When the Commission has concerns about a charity, its Investigations Division carries out a preliminary evaluation. This may be sufficient to resolve matters, identify that the charity needs advice from elsewhere in the Commission or clarify that there is no weakness to resolve. However, when the evaluation points to a substantial weakness or problem then the Commission will launch a full inquiry.

2.3 The evaluations and inquiries handled by the Investigations Division originate from a wide variety of sources (**Figure 6**). In 2000-01, complaints from members of the public account for the largest proportion of cases (41 per cent), but since it introduced a computerised monitoring system in 1998, an increasing proportion of cases are identified by the Commission itself, up from 22 per cent in 1998 to 39 per cent currently. The Commissioners are also prescribed persons under the Public Interest Disclosure Act 1998 which established a new framework of statutory protection for employees making disclosures relating to defined instances of malpractice in the work place. Whistle-blowers, as defined by the 1998 Act, accounted for seven investigation cases in 2000-01.

6 Evaluations and inquiries may be prompted from a number of sources

Information from the public, charities and the Commission's own analysis of data may prompt an evaluation and possibly an inquiry.



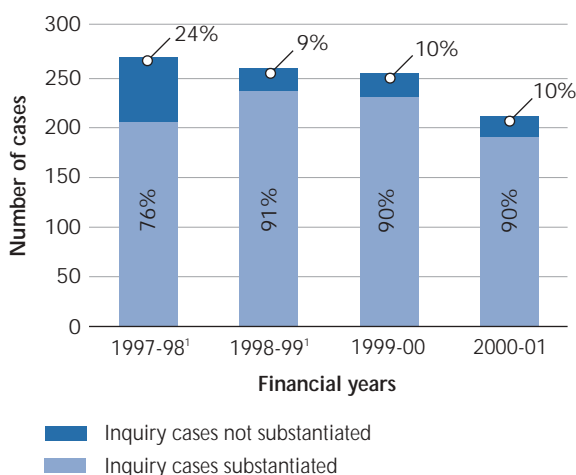
Source: Charity Commission 2000-2001

2.4 Compared to the size of the sector, proven cases of maladministration or abuse amongst registered charities are rare. In the four years from 1997-98 to 2000-01, the number of evaluations carried out by Investigations Division rose from 1,067 to 1,152, an increase of eight per cent. The number of formal inquiries declined from 272 to 212. However, the proportion of inquiries where weaknesses were substantiated increased from an estimated 76 per cent of cases to 90 per cent (**Figure 7**). In part, the increase in the number of substantiated cases reflected the Commission's efforts to ensure that, before an inquiry was launched, a thorough evaluation was carried out first. Maladministration accounts for the largest proportion of substantiated inquiries rather than deliberate malpractice (**Figure 8**). The largest charities account for a high proportion of investigations. In 2000-01, the five per cent of charities with annual incomes over £250,000 accounted for 22 per cent of the Commission's investigations.

7 Trends in the number of inquiry cases - 1997-98 to 2000-01

Between 1997-98 and 2000-01, there has been a decrease in the number of inquiry cases but an increase in the proportion where causes for concern were substantiated.

Inquiry cases

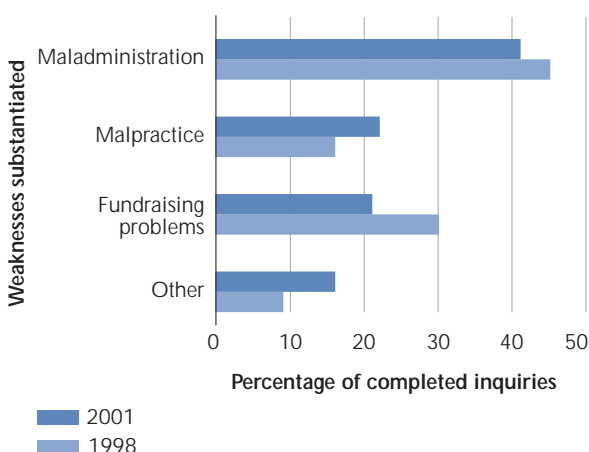


Note: 1. Until April 1999, the Commission did not systematically record the outcome of inquiries. These percentages are estimates derived from data used to produce annual reports and data maintained by some of the regions.

Source: Charity Commission

8 A comparison of the main weaknesses substantiated by inquiries in 1998 and 2001

Poor administration accounts for the largest proportion of substantiated inquiries rather than deliberate malpractice or fundraising problems.



Source: Charity Commission

The Commission is completing investigations more quickly but there is scope for improved monitoring of the cumulative time taken to complete individual cases.

2.5 The Commission acts quickly to open an investigation when a member of the public or someone involved in a charity brings a potential cause for concern to its attention. While it was not always possible to identify the precise date when a complaint had been made, particularly for older cases, in 13 out of the 15 investigations we examined, where the complaint date was evident cases were opened and complainants written to within two weeks.

2.6 The Commission is completing a higher proportion of its evaluation and inquiry cases on time. In 2000-01, it just missed its target that 80 per cent of evaluations should be completed in two months, achieving a figure of 77 per cent compared with 69 per cent in 1996-97. In 1998-99, it set a target that 75 per cent of inquiries should be completed in 12 months and met this for the first time in 2000-01. In January 2001, the Commission accepted the recommendations of an internal review to strengthen the effectiveness of its investigations, including the need for a sharper focus on completing inquiries. The review recognised that cases needed to be more actively managed and, in this respect, the Commission told us it plans to make direct contact with charities at an earlier stage in the investigation, rather than allowing time to be lost waiting for documents to be sent.

2.7 The Commission has also made progress in reducing its backlog of inquiry cases. Between April 2000 and March 2001, the number of cases which had been open for more than 18 months fell by 23 per cent from 52 to 40. During the same period, the number of these cases which had been open for more than three years fell by six per cent from 17 to 16.

2.8 While the Commission has overall targets for the completion of cases, it does not set deadlines for the completion of individual cases as they arise. Such targets might be very tentative initially and require adjustment as the case unfolds but they would provide a focus for internal monitoring and reviewing progress. The duration of the 20 inquiry cases we examined ranged from one week, for enforcement officers to chase missing annual returns, to almost seven years for an inquiry that resulted in the recovery of more than £250,000 for a charity. In this case, the inquiry concluded after two years, but it took another four and half years to take the principals to court for restitution, underlying the fact that the final resolution of cases can lie outside the Commission's control (**Case 1**).

Case 1

Lengthy case which resulted in the protection of substantial charitable resources

Background

A very old charity, with assets of approximately £30 million, whose main activities are the provision of a care home and sheltered accommodation for the elderly. Although the governing body consists of 14 Governors, the Chairman of the Governors and the Master of the charity dominated the administration of the charity for a period of 10 years until there was a rift between them in 1992.

Key dates	Major activities
May 1993	The Commission opens an inquiry because of allegations of theft from the charity. The causes for concern were: misuse of charity funds by the Chairman of Governors; diversion of funds to commercial companies; charity funds used to purchase property abroad; and police inquiries taking place on all of the above.
November 1993	A further cause for concern emerges - the improper establishment of an executive pension scheme for an employee.
May 1993 to August 1995	In the course of the inquiry a number of restraining orders are made, access sought to bank accounts into which charity funds seem to have been applied and orders and directions served on various individuals to compel them to provide documents or to give evidence.
August 1995	<p>The Commission concludes the inquiry, revealing that conflicts of interest, patronage and nepotism had developed over a period of years. The inquiry:</p> <ul style="list-style-type: none"> ■ concludes that the Chairman of the Governors of the charity and the Master of the charity had used their positions to obtain benefits from the charity's funds for themselves and their wives; ■ recommends that Charity Support Division should take forward the establishment of a new scheme reconstituting the governing body of the charity; and ■ recommends that the Governors should consider taking legal advice with a view to their seeking restitution from the Chairman of Governors and the Master for the benefits they and their wives had obtained from the charity.
March 1996	Solicitors acting for the Governors of the charity seek permission from the Commission to take proceedings against the Chairman and Master.
May 1997	The Commission informs the charity's solicitors that permission is refused and that the Commission, with the approval of the Attorney-General, is going to take proceedings against the trustees instead.
August 1998	The commission approves a scheme to re-structure the charity's governing body.
June 1997 to December 1999	Commission prepares case for trial.
January 2000	High Court hearing agrees out of court settlement with defendants exceeding £250,000. Case closed.

Commentary

This was a thorough, well run investigation which amassed a substantial body of evidence and resulted in the restitution of significant funds to the charity. However, there was significant delay in deciding who should take the case to court, including considerations of likely cost of legal proceedings and the likelihood of recovering money from the defendants. The charity complained that the Commission should have consulted the Governors about the decision to settle outside court, and the size of the settlement agreed.

Case 2

Poor scoping and planning resulting in a failure to carry out a thorough investigation of a charity's fundraising.

Background

A regionally based charity founded in the 1980s to provide services to people with a physical disability. From a small beginning it grew rapidly, mainly through its fundraising efforts, and by the late 1990s had a turnover over £700,000. The charity had a history of complaints, particularly in respect of unauthorised street collections, dating back to the early 1990s and was the subject of a Commission inquiry in 1993.

Key dates	Major activities
October 1996	The Commission carries out an evaluation of the charity following a series of complaints by police, local authorities and the public of unauthorised street collections.
June 1997	After initial correspondence and telephone conversations with the charity, the Commission visits the charity to talk to the Chief Executive. Following the meeting an inquiry is opened. The Commission uses its statutory powers to restrict the use of a post office box by a person suspected of defrauding the charity.
August 1997	Restrictions on use of the post office box lifted when the Commission's lawyers consider that the restriction may have been unlawful.
September 1998	Following intermittent investigations, telephone and fax contacts with the local authorities, complainants and the charity, a second meeting is arranged with the charity.
July 1999	The charity's annual return shows high fundraising costs. Monitoring staff do not follow up because they believe that these concerns are being examined as part of the inquiry.
August 1999 to September 1999	<p>The Commission apologises to the charity because it had not informed the charity that an inquiry had been opened and closes the case indicating that it is satisfied with the explanations provided by the charity.</p> <p>Within ten days of the case closure, a Commission staff member is approached by a collector claiming to be collecting for the charity. Subsequent checks reveal that no collection licence had been granted to the charity for that day.</p>

Commentary

This case ran for nearly three years without clear objectives and planning. Given that the causes for concern related to street collections, there was a risk of fraud and yet no detailed accounts work was undertaken to compare expected cash receipts from street collections with actual receipts nor to check that controls were operating as intended. From the charity's annual report, it was not possible to gain a clear impression of the charity's work but no contact was made with beneficiaries and other local organisations involved with people with disability. The Commission relied, almost exclusively, on the word of the Chief Executive, and did not meet with trustees and other key stakeholders. When the Commission used its statutory powers, the caseworker did not seek proper legal advice and subsequently had to rescind the order. The case was closed by the caseworker without being counter-signed by senior management. Since our examination, the Commission has decided to conduct a follow-up review of the case.

2.9 Although the Commission checks the amount of time cases spend in its different divisions, it did not review the cumulative time taken to resolve cases, nor the cumulative cost of cases. For example, in one case we examined where the Commission had concerns about trustees benefiting financially from a charity, internal case records showed that staff monitoring of the case was completed in two weeks, evaluation in four months and an inquiry in four and a half months. No composite report was produced showing that the total time it took the Commission to resolve the case was nearly nine months. Since our examination, the format of investigation reports placed on the Commission's website makes the duration of cases - from the time a cause for concern is identified through to resolution - clearer.

The Commission does not systematically review the scope of inquiries before launching an inquiry.

2.10 We examined 10 evaluation cases and 20 inquiry cases which had been closed between April 1999 and December 2000 and which involved charities with an annual income ranging from £35,000 to £4.8 million. We found that the scope of inquiries was largely determined by the original cause for concern and that the Commission did not always carry out an appraisal of the potential risks to identify the need for a broader

examination. In **Case 2**, for example, the Commission's staff followed up a series of fundraising problems as they arose but did not consider the risk that they might be symptomatic of wider, more significant weaknesses in the charity.

2.11 In general, we found that inquiries carried out by more experienced staff were better planned, scoped and documented and that there was a need for closer supervision of the less experienced staff. This view was supported by the Association for Charities who told us that *"Investigations needed to be staffed with people with greater experience - possibly through more secondments from the sector"*. Arising from the Commission's internal review into its investigations (paragraph 2.6) it has issued a new Investigations Manual with the aim of providing staff with clearer guidance on planning and monitoring of investigations. The Commission has recognised the need to improve its approach to assessing and managing risk and the Manual includes key criteria to be used in assessing risks (**Figure 9**). Initial decisions on the priority and handling of cases will be based on this risk assessment and there will be monthly case reviews by line management.

9 Commission's risk assessment criteria and sources of information

The Commission has access to a variety of information sources to help assess risk.

Risk assessment criteria	Indicator of risk	Sources of information
Money	Level of funds involved	Annual accounts
Beneficiaries	Direct risk to vulnerable people	Registration documents and annual reports
Complexity	Number of issues and level of difficulty	Original cause for concern and professional judgement
Profile	Likely level of external interest	Expertise of Commission staff
History	Prior problems with the charity	Commission databases of past cases or failure to provide annual returns on time
Concerns about trustees	Degree to which it is suspected that the trustees are implicated	Nature of accusations, annual reports showing either a very high turnover of trustees or a small group of trustees with no changes

Source: Charity Commission and National Audit Office

The Commission's inquiries rely heavily on the submission of written evidence by charities, meetings with their officials and telephone interviews. Few inquiries involve systems checks within charities or detailed financial examinations.

2.12 Commission staff are expected to establish the aims of an inquiry before it is approved. Until October 2000, they were not required to develop a detailed plan or specify what methods they will use or who they expect to contact. Our case examination found that the majority of inquiries were conducted through correspondence, telephone calls and meetings with officials of the charities concerned. When inquiries included visits to charities, they were generally confined to meetings with trustees and other key personnel and in only a very small proportion of cases did they also carry out checks of control systems and file searches. For example, in **Case 2** Commission staff did not examine the charity's records even though the causes for concern pointed to a possible problem with records of cash receipts.

2.13 When conducting inquiries, Commission staff make contact with a wide variety of external local and national bodies, including others with a regulatory role. The Housing Corporation, Companies House, Inland Revenue and HM Customs and Excise told us that liaison arrangements were working well and that they were satisfied with the Commission's approach to seeking and sharing information. However, the Commission does not routinely notify other key regulators when it launches an inquiry into a charity.

The Commission's use of its statutory powers has continued to decline.

2.14 In 1998, the Committee of Public Accounts expressed concern that the Commission was not using fully its powers under the 1993 Charities Act to speed up case resolution. Since then, the Commission's overall use of its statutory powers has further declined, although the use of some individual powers increased in 2000-01. For example, in that year the Commission appointed seven receiver managers to charities to carry out tasks, such as winding up the charity, which the trustees were unwilling or unable to undertake. This was more than it had done in the previous three years combined (**Figure 10**). Our examination identified instances where the Commission had used its powers to good effect, as in **Case 3** where they were used to remove an individual from the position of trustee. And in **Case 1**, where they were used to obtain access to bank accounts and compel individuals to provide documents or give evidence.

2.15 The Commission has not used some of its statutory powers at all, for example, to appoint an external auditor, to recover charitable trust assets from debarred trustees, or to prosecute for failure to provide information. Given that weaknesses were substantiated

10 The Commission's use of inquiry powers 1996-2001¹

With few exceptions, the Commission's use of its statutory powers has declined in recent years.

Powers	1996	1997	1998	1999 ²	2000 -01
Receiver manager appointed ³	9	1	3	2	7
Trustees removed	9	26 ⁴	9	4	4
Trustees prevented from acting	89	50	34	26	21
Trustees appointed	19	24	5	4	8
Bank accounts frozen	58	41	37	31	39
Orders and directions requiring information or presence at a meeting	238	248	201	186	171
Other orders	Not collected	11	18	7	1

Notes: 1. These figures show the number of times the statutory powers have been used not the number of cases in which powers have been used - since several powers can be used on one inquiry.

2. In 2000, the Commission moved from reporting on a calendar year to a year beginning in April - so for this reporting period published statistics cover a 15 month period. The figures in this column are an estimate for the 12 month period.

3. The Commission will appoint a receiver manager to a charity to carry out specific tasks, including winding up the charity, which the trustees are unable or unwilling to do.

4. Eight discharged at own request

Source: Charity Commission

in 191 inquiries in 2000-01 and that 53 took more than 12 months to resolve a more assertive use of powers might have been expected. The Commission told us that quite often the threat of using its powers is sufficient to gain co-operation from previously unco-operative trustees but that it intends using its powers more extensively in future to speed up closure of inquiry cases. The Commission also considers that now that it publishes the results of its inquiries on its website, charities will have the opportunity of learning from the mistakes of others. The use of the website in this way is an important development. The Institute of Charity Fundraising Managers, for example, told us that it was "important that the Commission demonstrates what controls are in place against fraud, dubious street collectors and rose sellers and that it is seen to be policing newer ways of collecting funds, for example, from young people or via websites".

Case 3**Disqualifying a trustee**

The Inland Revenue contacted the Commission following a court case in which they had sought back tax from a trading subsidiary of a charity. An outcome of the case was that one of the directors was disqualified, making him ineligible to serve as a trustee of a charity. The Commission checked its database and found that this director was a trustee on 10 other charities. All these charities were notified that the individual concerned was no longer eligible to act as a trustee for their charity and he was removed.

Case 4**Good follow up action on an inquiry**

This charity was referred to Investigations Division after routine monitoring by the Commission had picked out some cause for concern. The caseworker visited the charity to discuss the issues causing concern and significant progress was made during the course of the inquiry in rectifying the problems, many of which stemmed from the poor service provided by their previous auditors.

When closing the case in March 2000, the caseworker recommended that the case should be reviewed in six month's time to ensure that the charity's planned fundraising activities, together with the associated forecasted costs were acceptable.

At the time that the National Audit Office reviewed the case in October 2000, a new evaluation had recently been opened, and the Commission was waiting for information they had requested from the charity.

Case 5**Failure to check whether a charity had followed through required actions**

Background

This charity, with an annual income of over £700,000, is concerned with educating children.

Key dates**Major activities****August 1999**

The Commission opens an evaluation case after the chair of the charity's trustees writes seeking advice on how to deal with allegations that the school's headmaster has misappropriated school funds. The Commission is concerned at the laxity of the trustees' administration and their unwillingness to involve the police. It advises the charity to go directly to the police and to consult a solicitor.

September 1999

After seeking legal advice, the charity dismisses the headmaster, withholding a lump sum, due as part of his terms and conditions of employment and recovering his car, saving around £50,000. The Commission closes the case.

December 1999

The trustees write to the Commission confirming that they have withheld the headmaster's severance pay, car and pension and are waiting on a decision by the police to investigate.

Commentary

It was not clear from the case file just how much money was misappropriated and, therefore, when the £50,000 is taken into account, how much money had been lost. The caseworker closed the case following assurances from trustees that internal auditors had been consulted about strengthening financial controls. The case, however, was not noted for follow-up action after the completion of police inquiries and to monitor progress in implementing revised controls.

The Commission does not always check that charities have successfully carried out agreed actions aimed at remedying weaknesses.

2.16 We found that in some instances the Commission was following up its investigations to establish that charities were implementing agreed improvements (Case 4) and in some instances it was not (Case 5). Of the 30 evaluation and inquiry cases we examined follow-up had not been carried out in seven of the 12 cases where this would have been necessary for the Commission to be certain that agreed actions had been implemented. We also found that the point at which inquiry cases were closed varied across the Commission, with some staff closing them as soon as an action plan had been agreed with the charity and others waiting until they had evidence that promised actions had been completed. The Commission has now laid down a standard approach to the closure of cases in its new Investigations Manual and provided further guidance on the follow-up of cases.

2.17 We also found that it was not always possible to identify clearly from case files what actions a charity was expected to carry out to rectify weaknesses. In September 2000, an internal audit report identified similar weaknesses and recommended that investigation staff should produce a final report containing: a summary of the work undertaken; the outcome of the case; an action plan setting out what the charity had agreed to do by when; and what follow up work the Commission might need to do. The Commission has incorporated these recommendations in its new Investigations Manual.

Part 3

Registering and supporting charities

Introduction

3.1 This part of the report examines the adequacy of the Commission's arrangements for registering and supporting charities, in particular:

- whether charities are being properly scrutinised prior to registration;
- whether checks are being undertaken to ensure that unsuitable people do not become trustees; and
- whether requests for advice are being promptly and effectively handled.

Whether charities are being properly scrutinised prior to registration

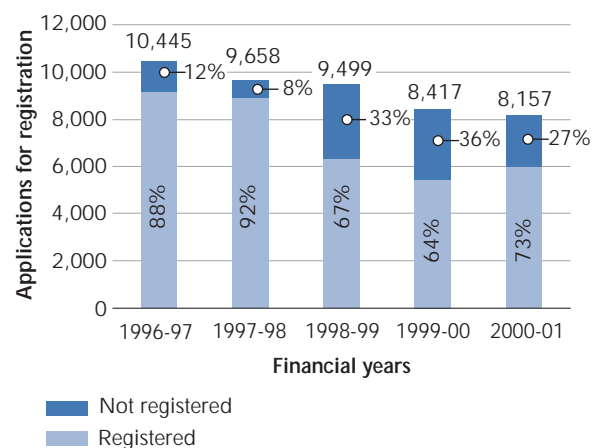
The Commission is scrutinising applications for registration more rigorously and fewer applications are progressing to full registration.

3.2 Applicants to register a new charity must provide the Commission with details of the proposed charity including: governing documents setting out the charity's purposes and how it is to be run; a list of trustees, with their signatures; and other supporting information which explains the charity's objectives and how it expects to be able to finance its activities. Before registering a charity, the Commission checks that its objectives are charitable (paragraph 1.8), and that proposed trustees are not disqualified. The Charities Act 1993 obliges the Commission to register charities which have charitable status in law and it cannot withhold registration, for example, because of any doubts it might have about the likely effectiveness of a charity in meeting its aims. However, the Commission carries out checks on the trustees, on the charity's proposed activities and on the feasibility of delivering the stated objectives to ensure the charity can realistically do what it intends. These checks will help to establish whether a charity is established for the benefit of the public and is eligible to register as a charity. The Commission also considers whether the organisation's name is too similar to that of a charity that is already registered, or is in some other way unsuitable.

3.3 In 2000-01, the Commission processed applications from over 8,000 prospective charities and registered under 6,000, of which some 1,200 were charities working with children. The figure of 8,000 compares with over 10,000 applications processed in 1996-97, a fall of 22 per cent (**Figure 11**). The reasons for this fall are not known. It is likely, however, to reflect, in part, the Commission's efforts to deter fruitless applications by, for example, providing potential applicants with information to help them determine their own eligibility. The percentage of applications which progressed to full registration has also fallen, from 88 per cent in 1996-97 to 73 per cent in 2000-01. Since our last report in 1997, the Commission has introduced more rigorous procedures for scrutinising applications, including checks to ensure that organisations working directly with children recognise the need to have a child protection policy in place.

11 Comparison between the number of organisations seeking to register as a charity and the number registered 1996-97 to 2000-01

There has been a reduction in the number of applications and the proportion which progress to full registration over the five years from 1996-97 to 2000-01.



Source: Charity Commission

- 3.4 When an application does not proceed to registration, the Commission does not record whether the case was discontinued on a voluntary basis or whether it is formally refused registration. The Commission considers that the majority of cases were discontinued on a voluntary basis but is now planning to investigate the reasons through a customer survey. In 2000-01, the Commission dealt with 45 appeals against its refusal to register and rejected 38.
- 3.5 While the Commission has progressively sought to improve its handling of registration cases, there is still scope for further improvements. As part of the Commission's annual quality review arrangements, five per cent of cases are reviewed by Commission staff independent of the registration process for compliance with internal procedures. These reviews show that the quality of registration work in the Commission varies considerably. For example, whereas in 2000-01, 79 per cent of cases handled by the Taunton office were considered acceptable or better the figure for the Liverpool office was 66 per cent. The Commission has not fully investigated the reasons for these regional differences in quality scores. In September 1998, the Commission's internal auditors highlighted significant weaknesses in the registration process including the need for more active case management, better operational guidance, and better recording of decisions. In 1999, the Commission drew up an action plan to implement the recommendations from this report.

Whether checks are being undertaken to ensure that disqualified people do not become trustees

The Commission has improved its procedures for checking prospective trustees of new charities. It is consulting on how to strengthen arrangements for checking the suitability of trustees appointed to existing charities.

- 3.6 One way the Commission aims to maintain public confidence in charities is by checking that the prospective trustees of a charity seeking registration are not disqualified. In 1998, the Committee of Public Accounts expressed concern that the Commission was not doing enough to establish the suitability of trustees, including making checks with relevant third parties.
- 3.7 We found that, in response to the Committee's concerns, the Commission had strengthened its internal checking systems, forged links with a wider range of external organisations and provided additional staff training. Commission staff are expected to check the names, addresses and phone numbers of applicants and trustees, check that they are not undischarged bankrupts, have not previously been removed as a trustee of a charity by the Commission and have not

been disqualified under the Company Directors Disqualification Act 1986. For charities working in high risk areas there are more intensive checks including checking the lists of people barred from working with children, maintained by the Department for Education and Skills.

- 3.8 People who have committed serious offences, particularly against children, are banned from serving as trustees and others who have been convicted of an offence involving deception or dishonesty are ineligible to serve as trustees unless their conviction is spent. The Commission will be able to make checks on individuals working with children or vulnerable adults through the Criminal Records Bureau when it begins operations. However, this will only be possible for the small number of trustees appointed directly by the Commission. In all other circumstances information held by the Criminal Records Bureau will only be available to the charity making the appointment. The Commission is also continuing to seek access to the Police National Computer to check whether individuals are disqualified by their criminal records.
- 3.9 Our case examinations identified examples of the Commission checking applications, and, as a result, rejecting applications from doubtful sources ([Case 6](#)). We also found evidence that registration staff were using external sources to check potential trustees, for example, a check with the Insolvency Service revealed that a care body was proposing to include among its trustees an undischarged bankrupt. The Commission

Case 6 Checking trustees of new charities

In late 1999, the Commission received an application to register a charity offering adventure holidays overseas. The charity's aims were ill defined and the Commission felt uncomfortable. Checks revealed that the trustees were not on the electoral rolls and the company registration details were wrong. A check of the Commission's internal database showed that the promoter had previously tried to register another charity the previous year and had been rejected. In March 2000, this new application was similarly rejected and all new names associated with the application were added to the Commission's database for future reference.

informed the applicants that this person was ineligible to serve as a trustee, the person withdrew, a replacement was found and the charity duly registered.

3.10 Following registration, a charity must notify the Commission of any changes in trustees. The appointment of new trustees, however, is not subject to checking by the Commission, for example, to establish whether they are disqualified from acting as trustees. To do so would be a significant task. It is estimated that there are approximately two million trustees of registered charities and while there are no reliable figures on the annual turnover of trustees, even if it was as low as ten per cent, this would require the Commission to run checks on another 200,000 people every year, compared with around 24,000 currently.

3.11 The Commission expects the charities themselves to operate checks and standards to ensure that all new appointees are suitable to act as trustees, particularly where they may be in contact with vulnerable people, but has not yet issued guidance on the subject. The Commission plans to do so once it has finished consulting on what information it should gather on individual trustees, what should be done with that information and how much of it should be made publicly available. The Association of Chief Executives of Voluntary Organisations acknowledged to us that checking new trustees was difficult, given the numbers involved, but considered that *"the Commission could do more to build quality into the processes charities use to recruit and select trustees"*.

Whether requests for advice are being promptly and effectively handled

In the past four years, there has been an increase in the number of requests from charities for advice and the average duration of cases is increasing.

3.12 Some 155 Commission staff are involved in the provision of advice and assistance to charities. This involves, in particular, making orders or schemes to allow charities to do things not covered by their governing articles. When it registers a charity, the Commission tries to ensure that it has relevant and workable governing articles. However, the passage of time can reduce their relevance. The Commission can use its statutory powers to facilitate changes to articles thereby allowing the charity's funds to be applied more effectively (Case 7). The Commission is also asked to authorise one-off transactions which the trustees judge to be in the charity's interests. Such assistance can have major financial implications for a charity, for example, enabling resources to be used for new more productive purposes. Charities are not charged for these services.

3.13 Over the five financial years 1996-2001, the Commission has faced a 42 per cent increase in requests from charities for advice and support, up from nearly 26,000 in 1996-97 to over 36,000 in 2000-01 (Figure 12). As the number of staff involved in this work has remained at around 155, their caseload has increased from an average of 168 cases in 1996-97 to 226 cases in 2000-01. Difficulties in dealing with this

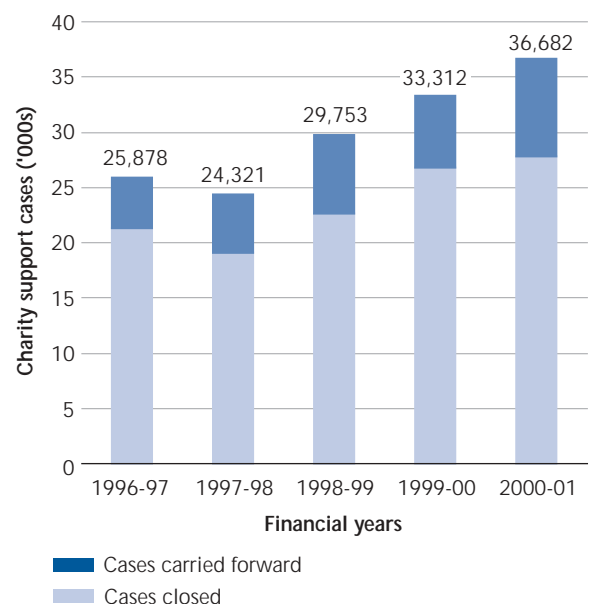
Case 7

Helping a charity update its governing instruments and use previously unproductive resources

This case concerns a charity, comprising eleven separate charities which dates back to 1840. The charity's object was to maintain almshouses for the benefit of the poor. However, the charity's almshouse was demolished in 1959 and when it sold its land in 1992 it was advised by the Commission that it would need to legally alter its objects in order to become a grant-making body for the relief of those in need. After several years of discussion with the trustees, the Commission used its legal powers to: amalgamate the eleven separate charities, so reducing the requirement to account separately; amend the charity's objects to modernise its purpose; and change the charity's name to reflect its revised objects.

12 Growth in charity support cases 1996-97 to 2000-01

Between 1996-97 and 2000-01 there was a 42 per cent increase in the number of charity support cases.



Source: Charity Commission

increase have meant that the number of cases carried forward from one year to the next has risen from some 4,500 in 1996-97 to 9,200 in 2000-01, whilst the average time taken to clear cases has increased from 80 days to 112 days (Figure 13) (Case 8). There are also substantial regional differences, with the Liverpool office taking an average of 146 days to clear a case but in the London office it took 89 days. Our analysis indicates that around 37 per cent of requests for advice and assistance come from charities with an annual income below £10,000 and 18 per cent from the five per cent of charities with incomes over £250,000.

3.14 The Commission has been able to manage the increase in support cases without any drop in service standards or a rise in complaints from charities. The Commission's survey of charities in March 2000, for example, showed that 83 per cent of respondents were satisfied with the help they had received and only two per cent dissatisfied. This performance has been achieved despite staffing difficulties, particularly in the Commission's London office. In October 2000, the office was 13 per cent below complement and half of its staff had less than two years experience. For the Commission as a whole, the comparative figures were around four per cent and 25 per cent respectively.

3.15 The Commission is addressing staffing issues, partly through a new pay system introduced from October 2000. It is also considering other options, such as the reorganisation of work between offices. Over time, however, the Commission may find it difficult to sustain year on year increases in case numbers, given current staffing levels and the complexity of the issues on which advice is sought. It is difficult to predict what the likely demand for the Commission's advisory services will be in the future. Nevertheless, the expanded use of the web,

the growth in internal referrals arising from the increased monitoring of annual returns and accounts, and the impact of greater regulation are likely to fuel demand.

The Commission's support work is often able to detect and remedy problems.

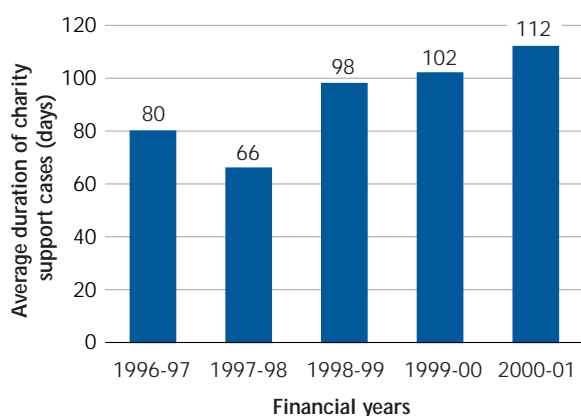
3.16 The Commission considers that its charity support function serves an important preventative role. For example, the Commission may advise trustees when they need to get legal or accounting advice of their own to resolve disputes, make their accounts compliant with the Commission's Statement of Recommended Practice or verify the legitimacy of certain actions or expenditure. In addition, while responding to requests for assistance or advice, the Commission may identify a problem, or potential problem, which a charity has not recognised. It will then help the charity resolve the matter without the need to mount a formal investigation (Case 9). The Commission collects data on support cases which show that in 2000-01 it provided advice on governance or administration at its own instigation in 2,700 cases and on legal matters in 400 cases.

The Commission makes a wide range of information available to charities through its publications and website. Users comment favourably on these services and the website broadly complies with current best practice.

3.17 The Commission has produced over seventy publications to help charities and these can be viewed and printed on the Commission's website or sent on request. The website includes details of Commission events around the country, how it can be contacted including maps showing the locations of its offices, and links with other government departments and charitable organisations. The website also provides guidelines on topics such as registration, investigations and trustees' responsibilities, and contains a section on questions commonly raised about registration, taxation, accounts, data update forms, annual returns and trustee payments.

13 Average duration of charity support cases 1996-97 to 2000-01

Between 1996-97 and 2000-01 there was a 40 per cent increase in the average duration of cases.



Source: Charity Commission

3.18 The website receives up to eight million hits a year, including some one million to view the Register of Charities. The NOP survey (paragraph 1.18) showed that 65 per cent of those surveyed had used a Commission publication and 20 per cent had visited the website. Of those who had used these services, well over 80 per cent considered them to be good or very good. The Commission's website broadly meets the good practice criteria detailed in our report *Government on the Web (HC 87, 1999-2000)* (Appendix 5). The website is currently undergoing a major re-design to incorporate government website standards and will be re-launched later in 2001.

Case 8

Complex charity support case taking ten months to resolve

Background

When the Commission received the charity's annual return for 1996-97, it revealed that separate accounts had not been compiled for the charity since 1991. Instead, the Trust set up by this charity was shown as part of the endowment of a branch of another charity. Whilst this is allowed in certain circumstances, it can only be done with the Commission's agreement and once a direction has been issued. The case was passed to Charity Support Division to consider whether the charity was eligible for such a direction.

Key dates	Cumulative time	Major activities
August 1998	0 weeks	Case opened - referral from the Commission's monitoring team.
September 1998	2.5 weeks	Caseworker wrote to charity explaining the need for separate accounts for the charity concerned and asking for an explanation why they had not been produced.
September 1998	3 weeks	Charity's solicitor phoned asking for clarification.
October 1998	5 weeks	Letter from solicitor - some progress has been made but further clarification needed.
November 1998	10 weeks	Caseworker responds to solicitor's letter providing some clarification and asking for further information.
December 1998	14.5 weeks	Incoming letter from charity.
December 1998	17 weeks	Incoming fax asking whether to classify proceeds of sale of land as restricted or unrestricted funds.
January 1999	20 weeks	Caseworker informs solicitor that the case is to be referred to accounts and legal section for advice.
February 1999	23 weeks	Case referred for internal legal advice.
April 1999	33 weeks	Advice received.
May 1999	36 weeks	Caseworker writes to solicitor to pass on advice received.
May 1999	38 weeks	Solicitor writes in with additional queries.
June 1999	42 weeks	Caseworker refers case internally to seek approval for direction to be issued.
June 1999	43 weeks	Go ahead given for direction.
June 1999	43 weeks	Caseworker informs solicitor that a direction has been granted.
July 1999	44 weeks	Case closed.

Commentary

There was a regular exchange of correspondence on this case between the caseworker and the charity's solicitor, but the nature of the case was complex, given the fact that the original bequest of land and property had been sold. It required considerable effort to track past events and supporting documentation.

Case 9

New cause for concern identified during charity support casework

In 1989, a charity sold land to a County Council, authorised by a Charity Commission Order. In 1995, the charity asked the Commission's advice about the Council's plans to sell on the land. During the case, the Commission identified that the charity had been accumulating funds rather than spending them. The focus of the case changed to addressing this issue, resulting in the charity making several proposals for expenditure. The case ended with the Commission offering the charity a Scheme that would remove the need for the Commission's approval for future charitable expenditure.

The Commission receives few complaints and complainants have access to both internal as well as external complaints procedures.

3.19 Charities or individuals who are dissatisfied with the service provided by the Commission or its decisions can invoke the Commission's complaints and review procedures. In 2000-01, the Commission investigated 121 complaints, of which 22 per cent were upheld, most on the basis that the Commission had failed to meet its target response time. The Commission has not yet fully analysed these complaints so that lessons can be identified and passed on to staff for the future. The Commission also received 45 letters of compliment in 2000-01.

3.20 Since January 2000, complainants who are not satisfied with the outcome of the internal review procedures have had the option of asking an Independent Complaints Reviewer to consider their case. In 2000, the Independent Complaints Reviewer received 43 complaints. Of the eight complaints that were formally investigated that year, the Reviewer partly upheld one, did not uphold five and found two to be outside her terms of reference. The Reviewer considers that the Commission *"now has better systems, it investigates complaints more thoroughly and there is less fear about dealing with complaints"*. The Parliamentary Ombudsman received 14 complaints against the Commission in 2000. He decided that three needed to be investigated. One complaint was partly upheld and the other two investigations are still underway.

Part 4

Making charities transparent and accountable

Introduction

- 4.1 The Commission seeks to increase the transparency and accountability of the charitable sector by making core information on all registered charities publicly available, by collecting and analysing annual returns, annual accounts and annual reports from the larger charities, and through targeted visits. This part examines:
- whether the Commission maintains accessible, accurate and up to date information on charities; and
 - whether the Commission has effective mechanisms for scrutinising the performance of charities.
- 4.2 Each year all registered charities are expected to provide the Commission with information to help update the Register of Charities. In addition, those with an annual income or expenditure over £10,000 must complete an annual return and provide the Commission with a copy of their annual accounts and annual report (Figure 14).

Whether the Commission maintains accessible, accurate and up to date information on charities

The Commission has made substantial progress in improving the accuracy of its Register of Charities and is pursuing those charities which fail to provide it with timely information to update their entries on the Register.

- 4.3 The Commission has a statutory responsibility to keep a Register of Charities. The Register provides a list of registered charities, their registration number, date of registration, name and working name, description of objectives, name and contact details of correspondent, date of last accounts received and annual income from last accounts. The Register is used by the Inland Revenue when checking whether an organisation is entitled to tax benefits as a registered charity, local authorities when charities apply for permission to carry out street collections, and individuals looking for key

14 Annual information that registered charities have to provide to the Charity Commission

All charities are expected to submit promptly an annual record update form, whilst larger charities must also submit an annual return, annual accounts and annual report within 10 months of the end of their financial year.

Type of form	Purpose	Coverage	Follow-up
Record update form	To update core information on charities, including contact details and details of trustees	All registered charities	If fail to submit for four consecutive years referred to a specialist team to check if the charity is still active
Annual return, annual accounts and annual report	To collect and put in the public domain information on aspects of charitable operations, including key sector risks, e.g. fundraising, trustee benefits, trading companies	All registered charities with an annual income or expenditure greater than £10,000 ¹	For charities with an annual income or expenditure over £100,000 if return is more than two months late, referred to an Enforcement Unit for chasing up

Note: 1. See Appendix 6 for details on the reporting and accounting requirements for charities.

Source: National Audit Office

information on charities. The Register can be viewed at the Commission's three regional offices or, in an abridged format, on the Commission's website.

- 4.4 In 1998, the Committee of Public Accounts (HC 28) was critical of the accuracy of the Register. Our 1998 examination had found, for example, that the date the charity was registered was correctly recorded in only 83 per cent of cases and the date the last accounts were received was correct in only 84 per cent of cases. By 2000, the Commission had improved accuracy levels in these areas to 99 per cent and 94 per cent respectively.
- 4.5 To ensure that the Register is kept up to date, charities are invited - but not required by statute - to send the Commission a record update form within 10 months of the end of their financial year. In comparison, Companies House requires a similar return within 28 days of the anniversary of a company's incorporation. The proportion of charities submitting updated information promptly has increased from 49 per cent in 1997-98 to 66 per cent in 2000-01.
- 4.6 The Commission pursues outstanding update forms and by June 2001 had obtained 85 per cent of all forms. Whilst this was up from 80 per cent at 31 March 1998, around 285 charities with income of £250,000 or more had not yet provided information to update their entries on the Register. Charities which fail to send in a record update form for four consecutive years are referred to a specialist monitoring team to check whether the charities are still active. In September 1999, when the team was established, there were some 18,800 charities to check. By March 2001, the Commission had established contact with, or removed from the Register, all but some 700 of these charities. At present, the website version of the Register of Charities does not show when individual charities last updated their entry and provided their annual reports.

More large charities are submitting their annual returns, annual accounts and annual reports on time and a specialised enforcement team has been established to chase up late responses.

- 4.7 Charities with an annual income or expenditure of £10,000 or above are legally obliged to provide the Commission with annual returns and annual accounts. In 1998, the Committee of Public Accounts was critical of the Commission's failure to meet its target to obtain 90 per cent of charity accounts; the Commission only collecting some 62 per cent. The Commission told the Committee of Public Accounts that it would set more demanding targets for larger charities including a 100 per cent target for charities with an annual income of £250,000 or more. Since our report there has been some progress across all income bands. For charities whose financial years ended between March 1998 and February 1999, 89 per cent of annual returns were



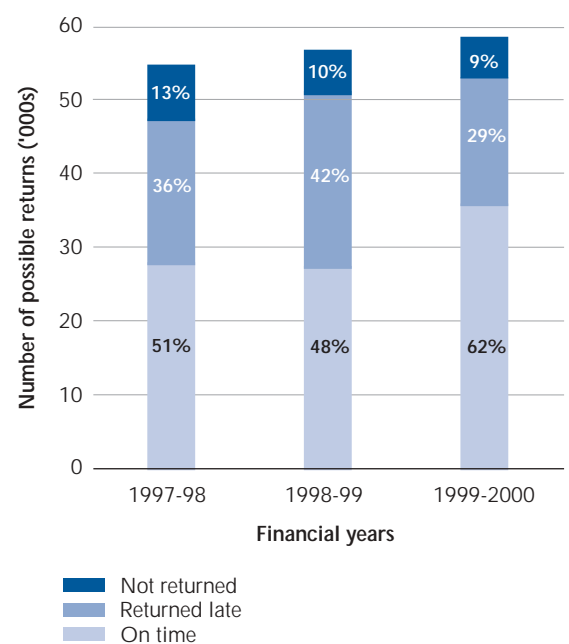
submitted by June 2001. Returns were obtained from 96 per cent of the 9,283 largest charities, leaving 339 still being pursued.

4.8 While there has also been some improvement in the timeliness of submissions, for charities whose financial years ended between March 1999 and February 2000, only 62 per cent of the annual returns were submitted on time (Figure 15). Unlike Companies House, where 88 per cent of annual reports are provided on time, the Commission does not have the power to fine charities for late submission of documents. However, if its own enforcement action proves unsuccessful, it can refer cases to the police who will decide whether or not to ask the Crown Prosecution Service to prosecute. In 2000-01, for the first time, the Commission referred two cases to the Crown Prosecution Service and these are currently being followed up as test cases.

4.9 The Commission has recognised the need to improve submission rates further and has put several strategies in place to achieve this, particularly for the larger charities. In 1998, it established an Enforcement Unit to chase up all returns, accounts and reports over two months late from charities with an annual income or expenditure over £100,000. The Commission originally focused most of its efforts on chasing up those charities which had failed to submit their returns for three or more

15 Proportion of annual returns which arrived on time 1997-98 to 1999-2000

Although there has been an improvement in the number of charities submitting their annual returns on time, the proportion failing to comply is still high.



Source: Charity Commission

years (Case 10). In October 2000, there were 70 charities with income over £100,000 in this category and in February 2001, when the Commission published the names of defaulting charities on its website, there were only six outstanding. During our examination, we raised the possibility of cases being referred to the Unit at a much earlier stage to prevent the build up of large numbers of outstanding returns and statements. The Commission said that it planned to do so.

The Commission has produced guidance to encourage greater consistency in the way charities report annually but there is scope to improve the ways in which charities report on their performance.

4.10 To encourage greater consistency in the way charities report, the Commission has produced a Statement of Recommended Practice (SORP) which recommends how charities should report annually on the resources entrusted to them and the activities they undertake. The first Statement of Recommended Practice was published in October 1995 and it was revised in October 2000.

4.11 Among the changes the revised SORP seeks to achieve is the creation of a clearer relationship between costs incurred to generate income and the income raised. Charities have some discretion about how they record fundraising costs and income, so trustees are expected to include in their annual reports a narrative on the effectiveness of fundraising activities undertaken during the year. This should make accounts more transparent though the Commission may need to make clearer what should be included in the narrative, for example, if the ratio of fundraising costs to funds raised is high, whether the charity considers this acceptable and if not what actions it proposes to reduce the ratio. The Directory of Social Change, an organisation set up to provide information and training to voluntary organisations, told us that *"the new SORP should make fundraising costs more transparent but guidance on what should be included in the narrative report appears in several places and may not be accessible to busy trustees"*.

4.12 Now that the annual accounts of charities are being produced in a more consistent form, it should become easier for the Commission to compare performance over time within individual charities or among similar groups of charities and charities of similar size. In line with our own findings, the Wales Council for Voluntary Action told us that the Commission needed to become a more intelligent user of data - *"now that it collects it, it needs to analyse it better and supplement it with data from other sources"*. The Commission is examining the scope for developing financial measures, from data in a charity's account, which may prove helpful in interpreting the financial performance of a charity, for example the ratio of management expenditure to expenditure on direct charitable activities. Other ratios which could be usefully examined include the ratio of

spending on fundraising compared to cash reserves, although, given the diverse nature of the charity sector, such analysis will have to be treated with some caution and used only as an indicator.

4.13 For all accounting periods beginning on or after 1 January 2001, the SORP recommends, amongst other things, that charities' reports and accounts should enable the reader to understand their objectives, structure, activities and achievements. The annual reports of the charities we examined underlined the need for this recommendation. While some reports informed the reader of what was achieved (Case 11) others were much less helpful in this respect (Case 12), and it was not always possible to compare planned performance with actual performance or to compare performance over time. Some information may be commercially sensitive and therefore cannot be published. However, compliance with the SORP's recommendations will be a key issue for the Commission in the future.

Whether the Commission has effective mechanisms for scrutinising the performance of charities

The Commission has strengthened its arrangements for scrutinising the performance of charities including an electronic assessment of all returns and regulatory visits to a sample of larger charities.

4.14 A key objective of the Commission is to improve the governance, accountability, efficiency and effectiveness of charities. To achieve this objective, the Commission monitors the performance of all charities with an annual income or expenditure over £10,000 by obtaining and examining their annual returns. It also carries out visits to a sample of those charities with an annual income over £100,000.

4.15 Information from the charities' annual returns is stored on computer and compared with some 50 predetermined thresholds or responses (Case 13). When one of these thresholds is exceeded, or responses activated, a report is produced showing which area, or areas, of the charity's operations may give cause for concern. All charities whose returns generate such reports are then scrutinised by the Commission's monitoring staff in Liverpool. In addition, Commission staff monitor a stratified random sample of the charities which do not generate reports - examining all charities with annual incomes over £250,000 and smaller samples of those with incomes below £250,000. When scrutinising the annual returns, monitoring staff also examine annual accounts and annual reports. The financial documents of large and complex charities are examined by the Commission's accountants to ensure that accounts are consistent with the Commission's

Case 10

Enforcement action resulting in removal from the Register

In 1999, monitoring staff referred this charity to the Investigations Division as the annual return had been returned uncompleted. The charity had been set up in 1996 to assist people with disabilities, but had never submitted any accounts. The caseworker tried to re-establish contact with the charity but phone checks were not able to locate any of the trustees at the addresses provided in the initial registration documents nor at any other addresses over the region. At the time the charity was registered, Commission checks were rudimentary and no checks were made on the trustees. The caseworker tried other contacts as well as a local disability information service. They had never heard of the charity and pointed out to the Commission that the registered address of the charity did not exist. No checks were made with the police.

Having failed to locate the charity, it was then de-registered. The names of the trustees were not checked to see if they were trustees of other charities, nor were they added to the Commission's Local Information Index as a precaution should the individuals concerned try to register another charity in the future. The Commission did not specifically notify the Inland Revenue of the circumstances surrounding the charity's removal from the Register so that it could investigate whether the charity had been receiving tax concessions to which it was not entitled. The Commission pointed out, however, that changes to the Register are passed to the Inland Revenue at regular intervals.

Case 11

Transparent and publicly accountable annual report

The annual report of a children's charity with an annual income of some £330,000 provided a useful overview of the charity's achievements during the year. Key activities were briefly described and quantified where practical. The reader was informed of the number of self-help groups formed, the number of monthly calls to the help-line and of plans for the future. The report could have been further strengthened with the inclusion of performance measures and historical data enabling the reader to compare easily what was promised with the charity's achievements and making it easier to assess the feasibility of future plans.

Case 12

Failure to state publicly what has been achieved

The annual report of a charity providing assistance to handicapped children provides a three-line description of the charity's activities. The report states only that:

During the year, applications for help were received from hospitals, homes, special schools and from families and social workers on behalf of individual children. Appeals are investigated and once validity is established and approval given by the committee, money is allocated to purchase requirements.

The charity has an annual income of some £300,000 but it is not possible from the annual report to obtain any sense of what the charity sought to achieve, what it actually achieved or what it expects to achieve in the future.

Case 13

Monitoring a charity's annual return identifies weaknesses

When the annual return of a large regional arts charity was computer analysed, it generated a report highlighting three causes for concern:

- fundraising and publicity expenditure was more than £10,000 and greater than 40 per cent of the amount received from fundraising;
- total unrestricted funds were negative; and
- current assets plus investments were less than liabilities.

Monitoring staff carried out a preliminary review of the charity's annual accounts and sought internal accountancy advice. This examination confirmed that the charity was facing serious solvency issues. The case was referred to the Charity Support Division, with the recommendation that a visit be carried out. Assurances were provided during the visit that a wealthy benefactor was planning to wipe out much of the charity's debt and continue underwriting the charity and the case was closed.

Statement of Recommended Practice and that the charity is financially solvent and viable. The Association of Charitable Foundations told us that the Commission had *"the basis for a sound regulatory system but could make more use of statistical and aggregate information from the returns to present an overview of charity finance and practice"*.

4.16 For annual returns for the period March 1998 to February 1999, the most recent period for which all monitoring has been completed, some 12,000 charities triggered some 22,000 possible causes for concern. Where monitoring staff encounter a serious cause for concern, this is referred elsewhere in the Commission. However, the vast majority of cases (91 per cent in 1999-2000) are resolved by some 25 monitoring staff. The three main reasons for referral related to concerns over fundraising, trustee benefits and trading companies. Once referred, cases are not always pursued vigorously, for example some 37 per cent of referrals relating to the financial year ended March 1998 had not been resolved by August 2000. By June 2001 five per cent of these referrals were still unresolved.

4.17 The Commission has collected data on the proportion of referral cases where causes for concern are substantiated. These data show substantial variations between different categories of referrals, for example, for the financial year ended in March 1999, 48 per cent of the Commission's concerns relating to trustee benefits were substantiated compared with 60 per cent of concerns about trading companies. The Commission has not determined the reasons for these variations. With one in five charities failing at least one trigger, examining every apparent failing generates a substantial workload for the Commission. Although the Commission estimates that each examination costs only some £13, the numbers involved mean that even a modest reduction in the volume of unsubstantiated cases could produce worthwhile financial savings.

The Commission's monitoring focuses on financial issues but does not yet cover governance issues.

4.18 Good governance is the first line of defence against problems emerging in charities and the Commission has done much to help charities strengthen the way in which trustees operate. The Commission supports networking among trustees via the Charity Trustee Networks, makes guidance on governance issues readily available through its website and publications and provides advice through its website, helplines and charity support staff.

4.19 The annual return asks charities questions which focus primarily on financial matters and the Commission currently gathers little information on governance issues. Making firm judgements about the quality of a charity's governing body is likely to require a mixture of measures. However, there are quantitative indicators that may help identify possible governance problems including: an unusually high turnover of trustees; few full board meetings in a year; low average attendance at board meetings; or a pattern of inquorate meetings.

The Commission is overhauling its visit programme to make it better targeted, more risk focused and more rigorous.

4.20 Another key element of the Commission's strategy for scrutinising charities is its visits programme. This programme was introduced in 1997 and, in general, the Commission has exceeded its target for visiting some of the 16,000 charities with an annual income over £100,000 (Figure 16). The programme is targeted at the larger charities but smaller ones are visited if a specific issue or problem is brought to the Commission's attention.

4.21 The Commission recognised that the visits programme needed to be better targeted, more risk focused and more rigorous, and early in 2000, as part of the Government's Spending Review, it bid successfully for funding to bolster and refocus the programme. Further impetus was given to the need for change by the findings of a critical internal report produced in May 2000.

16 Comparison of planned and actual regulatory visits 1997-98 to 2000-01

The Commission has regularly exceeded its regulatory visit target.

Year	Number of charities with incomes over £100,000	Visit target	Actual visits
1997-98	13,400	150	189
1998-99	14,000	300	320
1999-00	15,800	300	321
2000-01	17,500	330	329 ¹

Note: 1. 14 of these involved piloting the new more intensive visits format.

Source: Charity Commission

4.22 Our examination corroborated the conclusions reached in the Commission's internal report that the visits programme needed to include: a systematic examination of key charity documents, for example, business plans, internal financial audit and value for money reports, external evaluations and trustee minutes; and interviews with, for example, volunteers or beneficiaries. We also found that the visits were not used to validate information appearing in the charity's annual return and there was no standard approach to providing feedback, producing a written report, clearing the report with the charity or developing action plans to implement recommendations (Case 14). No quality standards existed to inform charities about how the visit would be managed, how long they might have to wait for feedback nor what they could do if they were not content with the findings emerging from the visit.

Follow-up was ad hoc and dependent on the actions of the case officer. Although the government has encouraged regulators and inspectors to work more closely together, we found minimal evidence that the Commission had considered the need to involve, or liaise with, others in connection with visits.

4.23 With additional funding from April 2002, the Commission plans to: double the number of visits; adopt a more structured and forensic approach; and focus on charities with an annual income of over £250,000, ensuring that each targeted charity is visited no less than once in 10 years. Weaknesses identified in the current visits programme are being addressed during 2001-02 as part of a pilot to ensure that the new visits programme provides an effective regulatory tool.

Case 14

Failure to properly document visit and findings

A Christian mission society was visited as part of the Commission's regulatory visit programme. Preparations began well but the visit's execution and follow-up were not well documented. The visit was intended to examine quickly governance, financial and administrative issues though there were some specific queries made by the Commission's accountancy staff, following a detailed accounts analysis, and legal staff drawing on past contact with the charity. The visit date was not recorded on the computerised case management system. The case file contained a brief half page of undated visit notes. There is no indication that feedback was provided to the charity nor that any action plan was drawn up for future monitoring by the Commission.

Appendix 1

The charities which must register with the Charity Commission

A charity is required to register, in accordance with Section 3(2) of the Charities Act 1993, if it meets both the following criteria.

1. A charity is subject to the jurisdiction of the High Court. This means that it is established in England and Wales and any one or more of the following applies:
 - all or a majority of the charity trustees are resident in England and Wales;
 - all or most of the assets are held in England and Wales; or
 - if a company, the organisation is incorporated in England and Wales.
2. Any one or more of the following applies:
 - the organisation has permanent endowment (that is, some or all of its assets are required to be held as capital which cannot be spent as though it were income);
 - the organisation has a total income from all sources exceeding £1,000 per year; or
 - the organisation has the rateable use of, or owns or occupies land, including buildings, and is responsible for paying rates to the local authority for that property, even if the local authority has agreed not to charge any rate or to charge a reduced rate.

Some charities (such as charities promoting the efficiency of the armed forces) are excepted from the requirement to register by specific regulations. Others, such as friendly societies and universities, are exempt under Section 2 of the Charities Act 1993, even if they meet the criteria above.

Other charities may register voluntarily despite not meeting the minimum criteria for registration, for example, if it can be shown that substantial funds would be lost if they were not registered.

Source: Charity Commission

Appendix 2

Issues raised by the Committee of Public Accounts in their 1998 report: *Charity Commission: Regulation and Support of Charities*

PAC concern	Treasury Minute response	Commission's progress
<p>Conclusion (i)</p> <p>The Commission's continued failure to meet the majority of its targets shows a lack of management grip, as does its failure to show more drive in exploiting the opportunities for greater effectiveness which the 1993 legislation provides.</p>	<p>The Commission did not accept PAC's conclusion. It reported an achievement of 21 of its 27 key targets in 1997-98 and increased use of its powers in 1997.</p>	<p>The Commission is now meeting a higher proportion of its targets without diminishing the level of the targets. New more outcome focused targets are in place and the Commission is experimenting with impact targets.</p>
<p>Conclusion (ii)</p> <p>The Commission needs to do more to ensure that charities on the Register continue to merit registered status. It should take steps urgently to identify inactive charities and remove them from the register.</p>	<p>The Commission noted PAC's conclusion. It removed 450 inactive charities early in 1997 and launched a review of the Register of Charities in April 1998.</p>	<p>The Commission has made progress in removing inactive charities from the Register. In September 1999, the Commission identified 18,800 possibly inactive charities. By March 2001, the Commission had established contact with, or removed from the Register, all but some 700 of these charities.</p>
<p>Conclusions (iii) and (viii)</p> <p>The large number of charities failing to provide annual returns and accounts and the lack of a Commission policy for dealing with such non co-operation. The Commission should be seeking 100 per cent of accounts from all charities with an annual income of £10,000 or more.</p>	<p>The Commission is focusing efforts on obtaining the statutorily required accounts and returns of charities with an annual income of £10,000 or more. Whilst the Commission notes PAC's wish to see 100 per cent compliance from these charities it considers the practicality and cost of different levels of compliance can only be assessed on the basis of experience of the new arrangements.</p>	<p>The Commission has made some progress receiving over 90 per cent of annual returns and financial statements for charities whose financial years ended between March 1998 and February 1999 by the latest target date of March 2000. However, 35 per cent arrived late. An Enforcement Unit has been established to chase up late or missing returns.</p>
<p>Conclusions (iv) and (v)</p> <p>The lack of accuracy in the Commission's Register of Charities and the lack of an appropriate target for accuracy.</p>	<p>The targets for accuracy of the Register will be set on the basis of experience. The Commission will give priority to registered charities above the £10,000 annual income threshold. Those charities under the threshold will be asked to confirm their details under the second cycle of annual returns and will be checked on a sample basis.</p>	<p>By 2000, audits of the Register showed a marked improvement in accuracy. For example the date the charity was registered was correctly recorded in 99 per cent of cases compared with 83 per cent of cases at the time of the last study and the date the last account was received was correct in 98 per cent of cases compared with 84 per cent previously</p>
<p>Conclusions (vi) and (vii)</p> <p>The Commission needs to make better use of available information at registration stage.</p>	<p>The Commission is setting up a local information index containing information on known trustees with doubtful bonafides. The Commission is also exploring more formal arrangements for obtaining information from the police, Inland Revenue, HM Customs and Excise and the Employment Service and is increasing its checks at registration stage.</p>	<p>The Commission is performing a more systematic series of checks on the prospective trustees of new charities. More formal links have been established with other relevant agencies. The local information index has been established and is being used.</p>
<p>Conclusions (ix) to (xii)</p> <p>The Commission should ensure that arrangements are in place to track potential causes for concern identified through monitoring. Also it should make effective use of its information systems to identify charities at risk and pursue doubtful cases vigorously using where necessary its powers to require charities to respond.</p>	<p>The Commission accepted PAC's recommendations. It promised to provide a note on the progress it expects to make over the next two years in developing an effective monitoring relationship with charities. In following up failures to respond to requests for information the Commission intends to tailor its responses to non-compliance to take account of the relative risk involved.</p>	<p>Arrangements are in place to track monitoring cases referred elsewhere in the Commission. However, cases are taking a long time to resolve. The Commission has started work on risk profiling but it is at a very early stage. There has been no increase in the Commission's use of its statutory powers.</p>

PAC concern	Treasury Minute response	Commission's progress
<p>Conclusions (xiii) to (xvi)</p> <p>There is a need for effective, timely and quality support to charities. Information collected should be used to maximise the impact of the substantial resources used on charity support. The Commission also needs to demonstrate that it is responding to charities' suggestions for improvements in charity support.</p>	<p>Information provided through the Commission's case management system has added to the quality of its interventions and is being used to make decisions about the allocation of work and resources.</p> <p>Cases are scrutinised by managers to ensure none remain unactioned for longer than 30 days. A senior member of staff has been nominated at each site to deal with feedback from charities and the public.</p>	<p>The Commission is handling 29 per cent more cases and polling shows that charities are satisfied with the Commission's advice and support but the average duration of cases has increased from 80 days in 1996-97 to 102 days in 1999-2000.</p>
<p>Conclusion (xvii)</p> <p>The Commission should review the allocation of resources to investigation work urgently in the light of the throughput of investigations and delays, the extra cases which are likely to arise from better monitoring and the public perception that this work is one of the main purposes for which the Commission exists.</p>	<p>The Commission did not accept PAC's conclusion. The Commission considers that all its activities, directly or indirectly, are aimed at supervising and strengthening charities and that investigations using formal inquiry powers are only part of the Commission's oversight to ensure that charities are properly established and run. The Commission undertakes to keep under review the relationship between registration, monitoring, preventive, remedial and investigative work and the organisation of the resources devoted to them.</p>	<p>The Commission has devoted additional resources to the first stage of the regulatory process - monitoring and to the initial phase of investigations - evaluation, where there was a 23 per cent increase in cases in 1999-2000. The number of full inquiry cases has fallen from 272 to 255, although the percentage of inquiries where weaknesses were substantiated has increased from 76 per cent to 91 per cent.</p>

Appendix 3

Charity Commission reported performance 2000-2001

Objective One: to ensure that charities are able to operate for their proper purposes within an effective legal, accounting, and governance framework

	2000-01 result	2000-01 target	Target met Y/N
Percentage of successful applications which were given guidance	53%	58%	N
Turnaround time for determining charitable status	117 days	95 days	N
Percentage of cases where legal authority exercised at Commission's instigation	10%	10%	Y
Number of applications for registration processed	8,157	8,000	Y
Number of applications for registration admitted to register (excluding those registered via bulk registration process)	4,881	5,200	N
Staff cost per application processed	£105.87	£114	Y
Time taken for preliminary assessment of application	9 days	15 days	Y
Number of times legal authority exercised	3,817	4,557	N
Staff cost per exercise of legal authority	£242	£243	Y

Objective Two: to improve the governance, accountability, efficiency, and effectiveness of charities

	2000-01 result	2000-01 target	Target met Y/N
Percentage of cases where guidance given on charity governance or administration arose at our instigation	12%	10%	Y
Percentage of database entries complete and accurate	98%	88%	Y
Percentage of target group monitored	91%	88%	Y
Staff cost per charity monitored	£12.73	£12.46	N
Number of cases leading to guidance being given on charity governance or administration	21,549	20,000	Y
Staff cost per guidance case	£81	£84	Y
Number of visits conducted	329	330	N
Percentage of visits resulting in guidance on governance or administration being given or legal authority exercised	100%	95%	Y
Staff cost per visit	£569	£582	Y
Total number of people attending educational events	5,541	1,080	Y
Staff cost per educational event	£1,096	£1,000	N
Percentage of date update forms obtained before close of return cycle	90%	85%	Y
Accounts examined for basic SORP compliance	20,417	19,500	Y
Number of charities monitored	50,476	48,780	Y

Objective Three: to identify and deal with abuse and poor practices

	2000-01 result	2000-01 target	Target met Y/N
Percentage of investigations completed in 12 months target	75%	75%	Y
Percentage of investigations where irregularity corrected	90%	90%	Y
Staff cost per investigation where irregularity corrected	£4,257	£3,827	N
Percentage of annual returns obtained within 1 month of referral	55%	50%	Y
Percentage of annual returns obtained within 3 months of referral	89%	75%	Y
Number of evaluations completed	1,152	1,130	Y
Percentage of evaluations completed within 2 months target	77%	80%	N
Number of investigations completed	212	225	N
Amount directly protected	£28.47 million	£24 million	Y

Appendix 4

Study methodology

Method	Note																								
Data analysis	Based on a review of data held on the Commission's case management database, mailing and monitoring database, Register of Charities database and other corporate database, we identified a series of analyses to be generated by the Commission's IT staff in Taunton. The reports included, for example, data on the number of investigation cases closed and the time taken to close such cases. Where practical, we examined data over a four-year cycle, comparing these trends with the findings of the last NAO report. Data were analysed on a regional and national basis and by income level of charity.																								
Case studies	<p>To check that Commission guidelines were being followed consistently and that cases were being dealt with promptly, we examined a sample of case files in two of the Commission's three offices:</p> <table><tr><th>Commission business function</th><th>Liverpool</th><th>London</th></tr><tr><td>Registrations</td><td>5</td><td>5</td></tr><tr><td>Monitoring</td><td>5</td><td>5</td></tr><tr><td>Charity support</td><td>5</td><td>5</td></tr><tr><td>Visits</td><td>4</td><td>3</td></tr><tr><td>Evaluations</td><td>5</td><td>5</td></tr><tr><td>Inquiries</td><td>10</td><td>10</td></tr><tr><td>Total</td><td>34</td><td>33</td></tr></table> <p>Where practical, the random sample was stratified to include two cases where a charity had an annual income over £1 million, two between £250,000 and £1 million and one under £250,000. The files sampled were ones closed in the financial year to 31 March 2000. Given the importance of inquiry cases, we took a larger sample of inquiry cases drawing five cases for the financial year ended in March 2000 and five cases for the period up to December 2000. In addition, to check that case actions were being followed up, for each case sampled we examined Commission files on that charity from April 1995. We did not seek to undertake a statistically valid sample of cases, but used the information derived from the case studies to illustrate the issues examined and to corroborate the results of our data analysis.</p>	Commission business function	Liverpool	London	Registrations	5	5	Monitoring	5	5	Charity support	5	5	Visits	4	3	Evaluations	5	5	Inquiries	10	10	Total	34	33
Commission business function	Liverpool	London																							
Registrations	5	5																							
Monitoring	5	5																							
Charity support	5	5																							
Visits	4	3																							
Evaluations	5	5																							
Inquiries	10	10																							
Total	34	33																							
Interviews - external stakeholders	<p>To obtain an external perspective of the Commission's regulatory functions and links with other parties, interviews were conducted with the following third parties:</p> <table><tr><td>Association for Charities</td><td>HM Customs and Excise</td></tr><tr><td>Association of Charitable Foundations</td><td>HM Treasury</td></tr><tr><td>Association of Chief Executives of Voluntary Organisations</td><td>Home Office</td></tr><tr><td>Bentley Jennison</td><td>Housing Corporation</td></tr><tr><td>Charity Check</td><td>Independent Complaints Reviewer</td></tr><tr><td>Charity Finance Director's Group</td><td>Inland Revenue</td></tr><tr><td>Charity Internal Audit Network</td><td>Institute of Charities Fundraising Managers</td></tr><tr><td>Charity Law Association</td><td>Local Government Association</td></tr><tr><td>Charity Trustee Networks</td><td>National Council for Voluntary Organisations</td></tr><tr><td>Companies House</td><td>Office of the Parliamentary and Health Service Ombudsman</td></tr><tr><td>Department of Trade and Industry</td><td>Wales Council for Voluntary Action</td></tr><tr><td>Directory of Social Change</td><td></td></tr></table>	Association for Charities	HM Customs and Excise	Association of Charitable Foundations	HM Treasury	Association of Chief Executives of Voluntary Organisations	Home Office	Bentley Jennison	Housing Corporation	Charity Check	Independent Complaints Reviewer	Charity Finance Director's Group	Inland Revenue	Charity Internal Audit Network	Institute of Charities Fundraising Managers	Charity Law Association	Local Government Association	Charity Trustee Networks	National Council for Voluntary Organisations	Companies House	Office of the Parliamentary and Health Service Ombudsman	Department of Trade and Industry	Wales Council for Voluntary Action	Directory of Social Change	
Association for Charities	HM Customs and Excise																								
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Department of Trade and Industry	Wales Council for Voluntary Action																								
Directory of Social Change																									
Interviews - internal stakeholders	Following the case examinations, Commission staff were interviewed where clarification was needed. Further interview work was carried out at the three regional offices to check, for example, how staff were enforcing responses where charities were not forwarding returns and the types of financial analyses being used by the Commission's accountants when monitoring the accounts of large charities.																								
Secondary analysis	Information produced by independent third parties was used where possible including data derived from: face to face interviews with over 1,600 adults conducted for the Commission by MORI in February 1999; a telephone survey of some 600 charities conducted for the Commission by NOP in February 2000; and the work of the Commission's internal auditors, Bentley Jennison.																								

Appendix 5

The criteria for what counts as an active website - National Audit Office Report: Government on the Web (HC 87,1999-2000)

Criterion	Does the Commission's website meet these criteria?
1. All information provided is up to date, authoritative, accurate and reliable. It may safely be used by citizens and enterprises in guiding their own decision-making.	Yes ¹
2. Static information, and the agency's home page, are regularly reviewed, revised and re-presented once every six months at least.	Yes ²
3. The site gives a good basic picture of the agency's work and scope of responsibilities. It communicates current government objectives and strategies for the agency's policy area.	Yes
4. The site provides a full central contact route for the agency (that is: phone, fax, e-mail and postal addresses). Behind the contact route there is an established procedure for logging, distributing and responding to each contact.	Yes ³
5. The site includes enhanced directory services in some form, to enable citizens or enterprises to find an appropriate phone, fax, and e-mail contact for specific enquiries.	Yes
6. The site provides an immediate e-mail route to the Webmaster for comments about the site itself. These comments or complaints are responded to on a daily or two-daily basis. Complaints about site features not working are tested on external access machines in a variety of configurations, and not just on internal systems.	Yes
7. The site implements 'joined-up government' policies by providing links to related government agencies. The following links are always provided in full: <ul style="list-style-type: none"> ■ who are we accountable to: the 'parent' department or agency; ■ agencies we supervise: any 'children' agencies; and ■ our main partner agencies: other government agencies with which close working relations exist. 	Yes
8. The site has reverse links on all the government sites which it itself links to.	Partly
9. The site provides a links page to selected recognised non-governmental organisations or company partners with which the agency works closely, in accordance with a centrally set government policy on external links.	Yes
10. The site address is included in all letters, correspondence, leaflets and publications of the agency. Agency staff know the site address and can give it accurately and reliably in response to telephone enquiries. Those dealing with enquiries are familiar with the site's layout and can answer questions by phone about the information provided on it. The site address is designed to be memorable or accessible by someone who knows the agency's name. The agency takes all appropriate steps to broadcast and develop knowledge of its site address.	Yes
Notes: 1. While information provided by the Commission is regularly updated, the information on individual charities may not be up to date as the Commission is dependent on the charities keeping the Commission informed of any changes.	
2. The website is currently undergoing a major re-design to incorporate the Government Website standards and will be launched later in 2001.	
3. The Commission is currently reviewing the working practices associated with conducting business via e-mail, and this project will report back later in 2001.	

Appendix 6

Charity accounting and reporting requirements

Income/ Requirement	Less than £1,000	More than £1,000 but less than £10,000	More than £10,000 but less than £100,000	More than £100,000 but less than £250,000	More than £250,000 (in current or previous two years)
need to keep accounting records?	Yes	Yes	Yes	Yes	Yes
need to prepare accounts and make them available to the public on request?	Yes ²	Yes ²	Yes ²	Yes ³	Yes ³
need to submit accounts and reports? ¹	No	No	Yes	Yes	Yes
need to prepare and submit an annual return?	No	Yes ⁴	Yes	Yes	Yes
accounts subject to independent examination or an audit by a registered auditor?	No	No	Yes ⁵	Yes ⁵	Yes ⁶
Notes: 1. If the charity is also a company, it should prepare accounts in accordance with the Companies Acts and file them with Companies House, copied to the Commission if expenditure exceeds £10,000 2. Accounts may be prepared in receipts and payments format 3. Accounts strongly recommended to be prepared in accordance with the Charities Statement of Recommended Practice 2001 4. The annual return to be a simplified version of that required from charities with an income over £10,000; not a statutory requirement 5. The charity may elect to undergo an audit 6. An audit is mandatory					
Source: Charity Commission					

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