

Charity Commission

Giving confidently:

The role of the Charity Commission in regulating charities



REPORT BY THE COMPTROLLER AND AUDITOR GENERAL
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executive summary

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- 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.