House of Commons

Public Administration Select Committee

The role of the Charity Commission and "public benefit": Post–legislative scrutiny of the Charities Act 2006: Charity Commission Response to the Committee's Third Report of Session 2013–14

Fourth Special Report of Session 2013–14

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The Public Administration Select Committee (PASC)

The Public Administration Select Committee is appointed by the House of Commons to examine the reports of the Parliamentary Commissioner for Administration and the Health Service Commissioner for England, which are laid before this House, and matters in connection therewith, and to consider matters relating to the quality and standards of administration provided by civil service departments, and other matters relating to the civil service.

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Fourth Special Report

The Public Administration Select Committee reported to the House on *The role of the Charity Commission and "public benefit": Post-legislative scrutiny of the Charities Act 2006* in its Third Report of the Session 2013-14, published on 6 June 2013. The Government's response was published by the Cabinet Office on 5 September 2013 (Cm 8700). The Charity Commission's response was received on 20 November 2013 and is published in this Report as an Appendix.

Appendix: Charity Commission Response

Letter from William Shawcross, Chairman of the Charity Commission, to Mr Bernard Jenkin MP, Chair of PASC, dated 19 November 2013

You will previously have received our annual report for 2012/13 which was published in July.

Earlier in the year, when your Committee's Report HC 76 on *The role of the Charity Commission and "public benefit": Post-legislative scrutiny of the Charities Act 2006* (the "Report") was published, we said that we would provide a fuller response in due course. I now have pleasure in enclosing our formal response to the recommendations made in the report.

I am also writing to you with some more detailed points which I hope will form the basis for a useful discussion when we appear before your Committee. These comments also take into account the Government's Response to your Report published in September ("GR").

The Regulatory Role of the Commission

Many of your key recommendations properly engage us at Board as well as at the executive level. As Nazo Moosa and I discussed with you at our recent meeting, we are committed to an urgent programme of reform, building on the last Strategic Review and our current strengths. We are developing a programme of change, some of which is being implemented immediately and the remainder of which will be progressed when we have a new CEO in place. The arrangements for recruiting for this role are in hand. Odgers have been retained as our executive search agents. We advertised the post in The Sunday Times on November 3 and we hope to choose a new CEO early in 2014. Sam Younger's contract ends in August 2014.

Paragraphs 3, 4 and 5 of your Report have been broadly supported in the GR, which welcomed the Commission's intention, following its last Strategic Review, to focus on its core regulatory functions. The GR also supports your Committee's view that the high level regulatory functions imposed on the Commission should be re-assessed. We would welcome such a review.

The Cup Trust inquiry illustrated a number of difficulties about the handling of cases involving charity tax matters, including schemes such as these "highly complex novel untested tax avoidance schemes". We note your Committee's views as to the limited extent of the Commission's role in tax matters; nonetheless, as we say in the response to the report, the Commission will consider carefully the recent tribunal judgment which upheld our decision to open a statutory inquiry and appoint an Interim Manager and the judge's comments as to our role in such matters. This will have significant implications for the Commission's regulatory approach, particularly the manner in which we resource our investigations and compliance work and the extra resources required for this and our legal functions. As the GR acknowledges we are, in any event, already working closely with HMRC to tackle the unacceptable abuse of charity for the purpose of tax avoidance.

Public Benefit

Your Committee recognised the impact of changes in the 2006 Act relating to public benefit, which created considerable additional work for the Commission.

The most onerous obligation, highlighted as such by both your Committee and the Government, is the **statutory obligation** imposed on the Commission to issue public benefit guidance. There have now been two Upper Tribunal cases which have significantly clarified the law of public benefit following the Act and the Commission has just re-issued revised public benefit guidance pursuant to its statutory obligation reflecting the judgments in the Upper Tribunal. This revised guidance has been welcomed by charities across the sector. In the light of such developments in the law of public benefit, Parliament may wish to give consideration in due course to the removal of this statutory, and resource intensive, obligation placed upon the Commission, as your Committee has suggested.

The Charity Tribunal

The Commission believes that the Tribunal is an essential part of the architecture of the 2006 Act and that, in view of the specialised and difficult nature of charity law, the Tribunal is a proper forum for hearing certain appeals against the Commission's decisions. The Tribunal, and the courts, enable the law to be determined, achieving a clarification of charity law which the Commission cannot do on its own. The Commission is nonetheless fully aware of the resource and cost implications both for itself as respondent and for appellants. We note that the Tribunal has sought to encourage appellants not to "over-lawyer" cases which go before it; we seek to support this by using our own staff and not instructing external lawyers where applicants appear in person. We have recently met with the Tribunal judges to discuss ways in which procedures can be improved. We will also ensure that our decision review procedures continue to be as simple, accessible and inexpensive as possible to support those who wish to challenge our decisions outside of the Tribunal process.

Accountability by Charities

We welcome your Committee's support for greater transparency by charities and we continue to emphasise this. From 2014, the Annual Return will require charities to disclose if they pay their trustees for acting as trustees, rather than for services provided by them to the charity, and this will appear on the Register. From January 2014, using information from the Fundraising Standards Board, the Commission will publish on the Register whether a charity is a member of the fundraising watchdog. At the same time we are making a number of changes to the online Register, to display this new information, to improve and modernise the online search and display, and to open up the register data in line with the open data agenda.

We agree that your recommendation to help enforce submission of Annual Returns and accounts by fining late filers could be a powerful tool for improving transparency. We welcome the Government's support and we will work with the Cabinet Office to develop a proportionate and flexible system. The Committee may already be aware of the enforcement action we launched in September against charities in serious breach of their reporting requirements. We know that failures in this area are often linked to wider

financial mismanagement. 12 charities initially went into the inquiry and all but 3 have now submitted the relevant documents. A further 12 charities were added to the inquiry last week, 1 of which has since submitted all the relevant documents.

The Commission is determined to strengthen its regulatory role in order to protect both the public's interest in charity and the historic and unique quality of the charitable vocation.

Charity Commission response to the conclusions and recommendations of the report *The role of the Charity Commission and "public benefit": Post-legislative scrutiny of the Charities Act 2006*

PASC Conclusions and Recommendations	Commission Response
The Charity Commission	
1. The core role of the Charity Commission must be the regulation of the charitable sector. The exposé of the scandal of the Cup Trust demonstrates that there are shortcomings in the regime for regulating tax evasion involving charities. The Charity Commission was obliged to register the Cup Trust when it was established, but it does not have the means of investigating potential tax fraud, which must be the role of HMRC. Furthermore, the Commission has complained about limitations on its powers to deregister suspect charities.	We note PASC's confirmation that the investigation of potential tax fraud is a matter for HMRC not the Commission. The Cup Trust case has now been adjudicated on by the First Tier Charity Tribunal. Subject to the implications of any appeal by the trustee of the charity, the Commission will need to consider carefully the recent judgment which upheld our decision to open a statutory inquiry and appoint an Interim Manager and in particular the judge's comments as to our role in such matters which will have significant implications for the Commission's regulatory approach, particularly the extent to which we are resourced to carry out such investigations and compliance work. Given the judge's observations, the current inquiry will of necessity revisit certain aspects of our previous investigation and the extent and utility of our powers in cases of this kind.
2. Charities should not be used as a tax avoidance vehicle. We welcome the Charity Commission's statutory investigation into the Cup Trust. We recommend that the Commission follows this inquiry with a review of lessons learnt from this scandal. The Commission should specifically reconsider the legal advice it received on the status of the Cup Trust, and whether it was right not to take its concerns about the Cup Trust further. Having reviewed this case, if the Commission still feels that it was restricted in its legal abilities to prevent such organisations from obtaining	

charitable status, we would welcome its proposals for a change in the law on the criteria for registering as a charity.	
3. The objectives of the Charity Commission, as set out in the 2006 Act, are far too vague and aspirational in character (an all too frequent shortcoming of modern legislative drafting) to determine what the Charity Commission should do, given the limitations on its resources, to fulfil its statutory objectives. The 2006 Act represented an ambition which the Commission could never fulfil, even before the budget cuts were initiated. 4. The Commission's reduced budget means extra tasks, outside of its statutory objectives, are an unaffordable luxury, particularly as it has to use its precious resources to combat lobbying and legal pressure from some well-resourced organisations. Furthermore, by seeking to be an advice service to charities, the Commission also risks a conflict of interest: it cannot simultaneously maintain public trust in the charitable sector while also acting as a champion of charities and the charitable sector. The latter should be, as the Commission and Lord Hodgson have recommended, a role for the sector's umbrella bodies and not its regulator.	In our submissions to Lord Hodgson we said we "consider the objectives, functions and duties set out in the Act are appropriate and comprehensive" and had played an important part in focussing our role as a modern regulator. Our strategic review had not identified any concerns. That is not to say we think they are perfect. For example, our new strategic focus raised questions about how far the "best use of charitable resources" objective was for us as opposed to others. We would welcome a re-assessment of our statutory functions as proposed in the Government response to your report. We agree with paragraph 4 and our agreement was made explicit in our 2010/11 Strategic Review and reflected in the restructuring and reprioritisation of our work since then.
5. The Cabinet Office must consider how to prioritise what is expected of the Charity Commission, so that it can function with its reduced budget. This must enable it to renew its focus on regulation as its core task. The Commission is not resourced, for example, "to promote the effective use of charitable resources", or for that matter, to oversee a reappraisal of what is meant by "public benefit", nor is it ever likely to be.	On paragraph 5, we would emphasise that our priorities within the existing framework are a matter for the Commission not the Cabinet Office. The allocation of our limited resources is kept under regular review. We are currently considering how best to live with the 6.5% reduction announced for 2015/16.
6. Abuse of charitable status to obtain tax relief is intolerable and should be uncovered by HMRC and the Charity Commission working more closely together. We recommend that the Commission should prioritise the investigation of potential "sham" charities but the obligation to investigate and report tax fraud rests with	We are continuing to develop ways in which we can identify charities which are either a "sham" or where there are indicators that a valid charity is being used to abuse the benefits of charitable status. An external review has been carried out within a counter fraud project which we

HMRC, recognising that the Commission's financial position will limit their own investigation. Ministers must decide whether they think it is necessary to have a proactive regulator of the charitable sector, and if so, the Government must increase the Commission's budget and ask Parliament to clarify their powers. If funding cannot be found for the Commission to carry out such a role, ministers should be explicit that they accept that the regulatory role of the Commission will, by necessity, be limited.	are undertaking jointly with the Cabinet Office Grant Efficiency Team under the Fraud, Error and Debt Programme. The review's recommendations for the management and use of our data on charities are being implemented. Some of this work is already underway and will lead to a series of changes in our ability to identify abuse. Although some of the projects require policy and IT development which will take time to deliver results there are mechanisms which will deliver better information in 2014.
Charges	
7. We do not support Lord Hodgson's recommendation for the introduction of charges for the registration of new charities or the submission of annual returns. To do so would act as a block on the creation of new charities and the dynamism and charitable spirit of the volunteers working hard in their communities. It would be, quite simply, a tax on charities and charitable work. Furthermore, the Commission would also incur substantial administrative cost in a time of austerity, since it does not have the people and systems for invoicing and receiving payments from all 163,000 registered charities once per year. There would be something absurd about a system which would result in the Treasury giving tax relief to charities with one hand, and then clawing back from charities the money to fund the regulator, with the other hand. It is undesirable in principle that a regulatory body should be funded by those that it supervises.	Our concern is that funding should be sustainable and sufficient to allow us to do the job Parliament expects of us. We have outlined possible alternative models for funding including a levy on charities, in our submissions to recent reviews. We did not, therefore, rule out contributions from charities. We note PASC's comments. It is for the Cabinet Office/Government to decide how we should be funded but we will be keen to discuss the range of possibilities should sustainable funding not be centrally provided.
8. There is a case for charging charities for late returns to the Charity Commission. The cost of such a system would be much less than for a full-scale charging system and the income received would not constitute a conflict of interest. The failure to submit annual returns on time is a risk to public trust in the charitable sector and charging will promote increased transparency: members of the public wishing	We support this recommendation and will work with Cabinet Office to develop a suitable system of fines. This will take account of evidence we have that charitable companies are more likely to meet Companies House filing requirements than ours. One obvious possible explanation is the financial

to make a charitable donation should have up-to-date information, proportionate to the size of that organisation, on the charity's income and expenditure, in order to make an informed choice about their donation. 9. We endorse Lord Hodgson's recommendation that the Cabinet Office should work with the Charity Commission to develop a proportionate and flexible system of fines for late returns to the Commission. This is subject to the acceptance of our recommendation on joint registration in paragraph 51.	penalty for late filing with CH.
Registration	
10. In his review of the Charities Act 2006, Lord Hodgson proposed a rise in the threshold for compulsory registration with the Charity Commission to £25,000, to reduce red tape for smaller charities. We do not accept the premise that charity registration itself is a significant regulatory burden on charities, and believe that any benefits of raising the threshold would be outweighed by the potential impact on public trust in charities.	As we said in our response to Lord Hodgson we did not agree with the proposed increase of this threshold to £25,000 expressing concerns about the impact on transparency if it led to a larger number of charities being unregistered.
11. In addition to his proposal to increase the compulsory registration threshold for charities, Lord Hodgson recommended a package of changes to the way charities are registered including the introduction of a voluntary registration with the regulator, for charities of any size. Such a move could foster the development of new charities, which would be boosted by the reputational benefits of registration, but the Charity Commission must carry out a feasibility study of the costs and benefits of such a voluntary registration scheme as the basis for any decision to proceed. Any extra resources required will have to be identified and provided for.	We agree in principle though there are resource implications even for a feasibility study. We will liaise with OCS to explore the best way to implement. Any feasibility study will set parameters for the minimum detail and quality levels of applications submitted by charities applying for voluntary application. Many small and/or new organisations need help to provide the relevant information to enable us to assess charitable status and public benefit.

12. The bureaucratic burden on charities could be more effectively reduced by addressing other issues facing charities rather than increasing the registration threshold, so we reiterate Lord Hodgson's recommendation that charities which are also companies should not be required to file annual returns with both the Charity Commission and Companies House. There should be agreement between the Charity Commission and Companies House about what information is required from registered charitable companies in one place. Ministers should make this a priority, to facilitate cost savings for the Commission and for charities.	The introduction of the CIO by the 2006 Act was partly to address this. The first CIOs were created and registered earlier this year as part of a phased introduction. By the end of October we had registered 829 CIOs. This includes 737 new charities established as CIOs and 92 previously unincorporated charities that reformed as CIOs. Charitable companies will be able to convert to CIOs in 2014. While the current position is clearly not perfect, few charities raise this issue with us. This is consistent with the relatively minor extra burden involved. We are, however, working with Companies House on a project that would resolve the issue. In practice a joint filing system will be based on electronic filing in the iXBRL format. We are exploring options for introducing iXBRL for registered charities and will consult during 2013/14. There are potential regulatory advantages but it would also be a key step towards allowing charities to file with the Commission and Companies House at the same time. We are also working with HMRC on introducing a joint process for applying for registration with us and recognition by HMRC of entitlement to charitable tax relief. This may also consider options for joint accounts submission.
13. We recognise the difficulties faced by charities operating across the separate countries, and charity jurisdictions, of the United Kingdom. While recognising that charity regulation is a devolved matter, we believe there would be benefits for charities in all parts of the country if a passporting system for charity regulation could be developed. The present system wastes the resources of both charities and taxpayers. If this proposals results	We recognise the issue and are happy to encourage discussion with the other UK charity regulators. In particular we will look more closely at the difficulties which cross border charities experience.

in the convergence of conditions for the registration of charities across the UK, this would be welcomed by the sector. We call on the Cabinet Office and the Charity Commission, and the equivalent bodies in Scotland and Northern Ireland, to renew efforts to achieve this. While respecting the UK's different jurisdictions, we expect ministers accountable to PASC to be proactive in this.	
Public Benefit	
14. The legal disputes relating to the Charity Commission's interpretation of "public benefit" and the Charities Act 2006 are complex and touch upon controversial and political questions concerning charitable status. This has also been a considerable financial burden on the Charity Commission and on the charities concerned, which is itself an injustice.	We agree that the 2006 Act created difficulties for the Commission but we believe the issue is better dealt with by the current approach that allows the continuing development of the law rather than a statutory definition. Commission decisions do not determine the law or create legal precedents so development of the law without further legislation requires the continued involvement of the Tribunal or the Court. The Tribunal has made decisions on public benefit which have clarified the law. In view of this there is now scope to simplify the provisions in the Charities Act 2011 which deal with the statutory nature of public benefit guidance and with the "presumption" of public benefit.
Parliament, public benefit and the 2006 Act	
15. We accept the case of the Charity Commission that there is a lack of certainty about religious charities and public benefit in the 2006 Charities Act. This ambiguity suggests that it is reasonable to examine the Official Report for a consideration of the ministerial intent behind the statute.	
The charitable status of the Plymouth Brethren (or Exclusive Brethren)	
16. Parliament should be under no illusion about the scale of the task it presented to the Charity Commission when it passed the Charities Act 2006, which required the Commission to produce public benefit	No comment on Brethren at the moment as case is continuing and may return to the Tribunal.

guidance without specifically defining "public benefit". This has had the effect of inviting the Commission to become involved in matters such as the charitable status of independent schools which has long been a matter of party political controversy.	
17. In our view, it is for Parliament to resolve the issues of the criteria for charitable status and public benefit, not the Charity Commission, which is a branch of the executive. In this respect the Charities Act 2006 has been an administrative and financial disaster for the Charity Commission and for the charities involved, absorbing vast amounts of energy and commitment, as well as money.	On 17: see our comments on Paragraphs 14 and 15 above.
18. We are far from happy with the manner in which the Charity Commission has conducted policy concerning public benefit. We have, however, received clear advice from the Attorney General that it is not Parliament's role to make decisions on the charitable status of particular organisations. We will not therefore prejudge the Tribunal decision in the case of the Preston Down Trust, part of the Plymouth Brethren (or Exclusive Brethren). For the purposes of this Report, we are therefore treating the Preston Down case as sub judice and will not make a substantive comment on the Commission's decision, until any judicial proceedings on the case have been concluded.	
A statutory definition of public benefit?	
19. The Charity Commission's evidence argued that there was a "lack of certainty as to the law relating to the public benefit requirement for the advancement of religion" since the passing of the Charities Act 2006. This lack of certainty, and the Commission's interpretation of the	See our comments on Paragraphs 14 and 15 above.

Act, have led to the questioning of the charitable status of independent schools and the Plymouth Brethren Christian Church (or Exclusive Brethren) and concerns over the wider impact on faith charities. 20. In its approach to the question of public benefit, the Charity Commission chose not to rely on previous jurisprudence, as it could be argued Parliament intended, in the light of the vacuum of definition left by the Act. Ultimately the Charities Act 2006 is critically flawed on the question of public benefit and should be revisited by Parliament. 21. We recommend that the removal of the presumption of public benefit in the 2006 Charities Act be repealed, along with the Charity Commission's statutory public benefit objective. This would ensure that no transient Government could introduce what amounts to substantive changes in charity law without Parliament's explicit consent. If the Government wishes there to be new conditions for what constitutes a charity and qualifies for tax relief, it should bring forward legislation, not leave it to the discretion of the Charity Commission and the courts.	
The Charity Tribunal	
22. The Charity Commission's reliance on the Charity Tribunal to resolve contentious areas of the law means, in practice, that some of the cost of regulating the sector falls on the particular charities concerned, taking away vital funds that could be used to fulfil their charitable objectives. This amounts to an abdication of responsibility by the Charity Commission, and an expensive, time-consuming and unjust way to test the law.	The Tribunal is now an important part of the statutory framework. As mentioned above the Commission does not determine the law – that is the necessary role of the Tribunal or the Courts. We do not accept that we attempt to abdicate responsibility. We have difficult decisions to take. We do not take them lightly and explore the issues extensively both internally and with the other parties involved. But when we make a decision it

23. The present policy for determining questions of public benefit has proved disastrous in terms of the time and commitment of the Charity Commission and the charities involved. It must also be noted that the tribunal system, has failed in its objectives to reduce the cost of disputes. The Commission should devise informal dispute resolution procedures and should not use the tribunal system as a means of determining the law, except as a last resort.	is the proper role of the Tribunal to clarify the law if an appeal is made.
A charity ombudsman?	
24. We heard worrying testimony from people with complaints about the way charities have treated them, as employees, trustees or volunteers. The sector must recognise the risk to the reputation of charities as a whole from such complaints, and must take responsibility for resolving these matters, through internal complaints mechanisms and independent appeal processes. We agree with Lord Hodgson that, while superficially attractive, the costs of a charity ombudsman should not fall upon the Government or the regulator, and should be borne by the sector itself.	Not for the Commission.
Fundraising	
25. We appreciate the very significant levels of public concern about face-to-face fundraising, or "chugging". Many members of the public report that they feel pressured by chuggers and businesses warn of the nuisance caused to their customers and obstruction on the streets. It is clear that self-regulation has failed so far to generate the level of public confidence which is essential to the success of the system and the reputation of the charitable sector.	We are working collaboratively with the 3 self regulatory bodies to clarity roles and identify how we can best work together. We have announced that, from 1 January 2014, we will show membership of the Fundraising Standards Board as part of a charity's Register entry. We believe that this will demonstrate that we view membership of FRSB as important and of value to the public, and so encourage more charities to consider membership of FRSB

	as well as helping to raise its profile.
26. The case for statutory regulation of fundraising is compelling, but this must be balanced against the significant cost, whether to the public purse, or to charities themselves. We also note the progress made by the self-regulatory bodies—the Fundraising Standards Board (FRSB), the Public Fundraising Regulatory Association and the Institute of Fundraising—in clarifying where responsibilities lie, and the response they have shown to the companies which have been shown to harass and pressure potential donors. With this in mind, we recommend to the Cabinet Office that the self-regulation system remains in place but is placed on notice, as recommended by Lord Hodgson, with progress reviewed in five years' time. The self regulatory bodies must act with urgency to increase membership of the FRSB, improve compliance with its code, and strengthen public awareness of the complaints system. The Charity Commission should do more to promote the self regulatory system as part of its statutory duty to increase public trust and confidence in charities. There should be no complacency from the charity sector about the need to rebuild public confidence in charity fundraising. Should statutory regulation become necessary, the cost should be borne by the charities themselves, and should focus on the solicitation of direct debit collections. Some means of excluding traditional "street collections", such as those by the Royal British Legion, the Royal National Lifeboat Institution, and local hospices, should be found.	
House-to-house collections	
27. We share the view of many of the charities that submitted evidence to us that Lord Hodgson's proposal to abolish National Exemption Orders is not the way to improve the legislation relating to house-to-house charitable collections. While it was made with	Not for the Commission.

the intention of deregulation and supporting smaller charities, it is unlikely to have this effect in practice, and would increase the administrative costs of larger charities. Such a move would reduce the charitable funds available to such organisations and would therefore be unwise.	
Payment of trustees	
28. We endorse the Government's rejection of the recommendation that large charities should have the automatic right to pay trustees. We were not convinced by the call by the ACEVO that such a measure would be either necessary or desirable. Indeed, we share the view of the overwhelming majority of our evidence, expressed with passion in some cases, that it would undermine the voluntary principle central to the whole ethos of the charitable sector. It is clear that in a few, exceptional, cases, trustee payment is appropriate, for example when being a trustee is incompatible with full-time employment. Our evidence suggested, however, that such cases are adequately and appropriately provided for within the current rules and we are not persuaded of the arguments for change.	We agree on this point. PASC's views are consistent with our submission and response to Lord Hodgson.
Political campaigning and independence	
29. We heard conflicting evidence on whether the restrictions on political campaigning by charities should be tightened or relaxed. Neither side made a compelling case. We note that the Charity Commission's figures show that there are few cases of inappropriate political activity by charities. Consequently, we do not recommend any changes to the rules on political campaigning by charities.	We believe the guidance in our publication *Speaking Out: campaigning and political activity by charities (*CC9) remains sound and will continue to monitor and deal with cases according to those principles. We are supporting NCVO's work on a code of good practice for campaigning (see also comments below at paragraph 31).

30. We recommend that the Liaison Committee considers the issue of transparency by select committee witnesses who appear to be independent commentators but may be lobbying for vested interests.	Not for the Commission.
31. We do support greater transparency by charities. Charities should be more transparent about their political and campaigning activities. Clear information about how much a charity spends on political and campaigning activity would enable members of the public to make an informed choice about whether to donate based on an understanding of how an organisation would use their donation. We recommend that the Charity Commission requires charities to declare in their annual returns how much of their spending has gone on political and communications work. We also recommend that the Charity Commission requires charities above the current registration threshold to declare on their annual returns how much of their income in the previous year was received from public or government sources in either i) grant income or ii) other forms of remuneration, and how much was received in the form of private donations.	Transparency is central to the maintenance of public trust and confidence and we will carefully consider the best way to cover campaigning activities. We will support NCVO's work to produce a code of good practice on campaigning and take the code into account as we develop our response to this recommendation. We will also take into account the proposals in the Lobbying Bill. We expect this will allow us fully to consider the issue as part of the development of the Annual Return for 2015. That process will include a consultation on any changes but we will also consider consulting separately on this topic to fully explore issues around definitions, comparability and so on. Development of the Annual Return for 2015 will also consider the recommendation to require charities, subject to relevant thresholds, to declare how much of their income was received from public or government sources and how much was received from private donations.
32. On the separate issue of whether public funds should be used to fund charities involved with political campaigns, this is a matter for Parliament and its oversight of public spending. We recommend that ministers should make a written statement to Parliament whenever a decision is made to provide government support by direct grant to a	Not for the Commission.

charity which is involved in political campaigning.	
The charitable status of think tanks	
33. While think tanks may not fit the typical image of a charity, we accept that, as organisations for the furthering of education, they have a place inside our charity sector, provided they are established for a charitable purpose and for the public benefit. Think tanks such as the Smith Institute and Atlantic Bridge failed to maintain the correct balance between political activity and neutrality as required from think tanks with charitable status, though we are concerned by an apparent lack of consistency in the application of rules to this sector. The high profile of these cases, and the potential impact on trust in the charitable sector as a whole, means that it is crucial for the Charity Commission to regulate such bodies in a fair, consistent and proportionate manner. The Charity Commission's review of the handling of applications for charitable status from think tanks must demonstrate objectivity and impartiality, which is necessary to maintain public trust in the charity sector as a whole.	An internal review was carried out in 2012/13. The next stage is a seminar in January 2014 building on our review and the evidence – written and oral – given to PASC on this issue. Our aim is to produce clear guidance both to help applicants (and existing charities) and to ensure consistency in our handling of applications.
Conclusion	
34. The landscape of charity law is complex and inconsistent, developed in a piecemeal fashion through centuries of case law and legislation, but which nevertheless represents a delicate and uneasy consensus amongst charities and those with an interest in the sector. The 2006 Act was a much-needed piece of legislation, but while generally welcomed by the sector, it indicated a continuation of the complexity of charity law, rather than radical change or simplification. The Charity Commission interpretation of "public benefit"	We welcome the Public Administration Select Committee's thoughtful and balanced report on their post-legislative scrutiny of the Charities Act 2006. We believe our more detailed responses above are a constructive contribution to the debate about charity regulation and look forward to further discussions with PASC of the various issues raised.

has been disruptive; though the 2006 Act left ambiguity and the Commission with an obligation to provide definition in guidance but little indication about how it should interpret an unreasonable degree of latitude. 35. Parliament must legislate to clarify the flawed legislation on the question of charities and public benefit. 36. Lord Hodgson has suggested that, in some ways, the 2006 Act represented a "missed opportunity" to deregulate more. We would go further and suggest that the Act, while reflecting the political climate of the time, does not equip the regulator or the Cabinet Office with the tools to address the changes in the sector that have occurred in the relatively short space of time since the Act was passed:the reductions in public spending, and consequently in charitable income; the growth of non-charitable organisations, such as social enterprises; and a new focus on the delivery of public services by charities. 37. We trust that the Government will accept our recommendations, which have been made with the objective of increasing public trust in charities, while reflecting this changed economic and political climate.	