



Annual return 2018

Consultation response to the Charity Commission for England and Wales

From the Association of Charitable Foundations

November 2017

About us

The Association of Charitable Foundations (ACF) is the membership body for UK foundations and grant-making charities, established in 1989. Driven by a belief that foundations are a vital source for social good, our mission is to support them to be ambitious and effective in the way that they use their resources. Our 330 members collectively hold assets of around £50bn and give over £2.5bn annually.

General comments

To accompany the responses given to the online questionnaire and included below, ACF would like to outline some overarching concerns and common themes for the Commission's consideration. ACF's charitable foundation members have informed our response. In our response, we raise issues of direct concern for foundations and of concern for other charities, as they are the main grant recipients of foundations.

Firstly, ACF appreciates that the Commission has recognised that the burden on charities should be minimised where possible. However it is not apparent that the proposed changes have this effect. Many charities will answer the same questions as they do currently (either as part of Update Charity Details or the annual return), and many will have significantly more to answer. Our response has highlighted particularly onerous questions, but even the shorter questions must be seen in the context of the cumulative burden facing charities. The Common Reporting Standard, changes to data protection, and developments in fundraising regulation have posed significant challenges, and efforts to improve governance, diversity and digital skills all require time and resources. While the sector is striving to improve, charities are operating in a testing environment. The Commission ought to be mindful of this when making changes.

Secondly, the Commission's efforts to know the sector better are appreciated, and we would all benefit from good quality data. However, given the Commission's stretched resources, it is not clear how data quality will be assured and how the additional information sought will be used for regulatory purposes. Several of the proposed questions would involve charities duplicating or re-packaging information that they provide elsewhere, such as in their annual accounts or to HMRC, which is burdensome and risks innocent inconsistencies arising. At a time when the Commission has limited capacity, it should only add questions that are absolutely essential and where the data will be of sufficiently reliable quality to improve regulatory oversight and/or public understanding.

Thirdly, ACF understands that the Update Charity Details service is due to go live imminently, but nonetheless we reiterate comments made in our response to the previous annual return consultation and from our members. The facility to update details throughout the year is useful and certainly some will take advantage of it throughout the year. However, it may be unrealistic to expect all charities to update their details in real time. Some do not have the staff capacity, or others may overlook updating their details during periods of change. Therefore we recommend that the Commission reassures charities that it will not take measures against those which do not update their details any more frequently than the annual update required by the service. This will not affect the existing requirement for charities to report serious incidents to the regulator more promptly.

Finally, ACF would like to thank the Commission for opportunities to engage throughout this consultation period. It is important that these channels of dialogue stay open and while agreement may not always be reached, we can reach an understanding of what is required, why, and how charities may best deal with change.

Please see below the responses submitted to the consultation questions, also submitted via the online survey.

A. ii. Income from central or local government

Q1 Do you agree with the proposal to revise the questions which we ask about the income which charities receive from central and local government as shown above?

No

If you disagree it would be helpful if you could give the reasons why. If you have any amended wording, please provide this with your explanation in support of this.

Further information about the financial sustainability of charities could be useful for foundations and help to inform decision-making. However we are concerned that this question does not provide the quality of data needed to make good judgments. Charities with several contracts or grants are not necessarily more resilient, and the duration and spread of the value across contracts or grants is not conveyed with this question. Moreover, it doesn't differentiate between different funding arrangements that charities may be involved in such as: grants with conditions, staggered grants, sub-contracts, consortia, payment-by-results and other mechanisms. These different funding mechanisms often entail different levels of risk, which could not be interpreted based on this question. As users of data, foundations would look to charities' accounts or applications for this type of more detailed information.

If the Commission is primarily concerned about being able to identify charities that are dependent on a single source of government income, there may be better ways of addressing the question. When considering single-source dependency more broadly, the Commission should also bear in mind the majority of trusts and foundations whose income derives entirely from one source - be it investment, a regular gift, or a large annual appeal - which does not pose the same risk to sustainability as reliance on a single government contract.

Q2 Do you consider that publishing the information resulting from this question would aid general transparency and accountability?

No

Please give the reasons for your view.

For more information on charities' income, their accounts offer greater detail and the context needed to provide a more accurate picture. Foundations, as a primary user of the public register, know that such information is available in the accounts and will not rely on the information submitted in the annual return to make a judgment on a charity they are considering funding. Foundations are also in a position to ask further questions of a charity where they want to know more. That leaves the general public as the main consumer of this information, but it is unlikely that the data would improve public understanding for the reasons given above at Q1. It is therefore unclear what value there is in placing this burden on charities to duplicate information that is already available in more detail elsewhere.

Q3 Are you aware of any other sources from which the Commission can obtain the information being sought in these new questions?

Yes

If 'yes', please provide details.

As mentioned previously, the information is already available in the accounts. ACF understands that the Commission does not have ready access to pull data from the accounts as they are submitted in their current form. However the burden and cost should not be placed on charities to duplicate their existing efforts. Any additional information that charities must supply – however small and in whatever format – adds to the cumulative burden facing charities in recent years, for example in dealing with the introduction of the Common Reporting Standard, changes to data protection, and developments in fundraising regulation.

Q4 If your charity would have to provide this further information about grant and contract income from central and local government, is there a cost in putting this together?

Yes

Please explain the reasons for your answer.

There are two costs potentially involved; time cost and software cost. As mentioned above, the administrative burden would fall to already overstretched staff or trustees, who would need to read guidance on how to answer this question and then identify or seek the relevant information before they could complete their annual return. This would be a particular concern for smaller charities, but there could also be complexities for charities of all sizes to grapple with (e.g. should this grant agreement be included if it has not yet been paid? Does it count as one or more government contracts if we are paid on a spot-purchase basis by a prime contractor?). In some charities, their internal systems may not make this data readily available in the format the Commission requires. Upgrading software or setting up new software reports capable of returning such data could be costly, and beyond the reach of many charities.

A. iii. Gift Aid

Q1 Do you agree with the proposal to introduce this question about Gift Aid?

No

If you disagree it would be helpful if you could give the reasons why. If you have any amended wording, please provide this with your explanation in support of this.

Gift Aid information is already collected by HMRC, which holds responsibility for charity tax affairs. Having to submit the information separately to the Commission increases the burden on charities. This is compounded by the fact that the information submitted to HMRC is not in a format that the Commission can use, by its own admission, and as a result the burden will fall to charities to report

the same information in a different format. It is not clear why this responsibility should lie with charities rather than between the Commission and the tax authority.

We are also concerned that the Commission will not find the information it is looking for by asking this question. Those subverting the tax system are unlikely to be caught out by the annual return (though ACF accepts that the declaration can be used in evidence in a criminal case). Instead, this question is more likely to affect charities which have made an administrative error or which have complex tax arrangements due to a variety of factors.

The inclusion of this question also suggests a changing role for the Commission, which would be stepping into territory occupied by HMRC. Given the Commission's stretched resources, it seems counterintuitive to use those resources to take responsibility for a matter that is already regulated.

Q2 Do you consider that publishing the information resulting from this question would aid general transparency and accountability?

No

Please give the reasons for your view.

There may be some value in providing further information about Gift Aid. The public can expect charities to be accountable for the Gift Aid they receive. However, understanding raw figures on Gift Aid requires prior understanding about how Gift Aid works and relates to donations from different sources. There is also a difference between Gift Aid claimed and Gift Aid paid, which could be misread or misinterpreted, and so would only show a partial picture of the process of claiming Gift Aid. It may be more valuable for the Commission to ensure charities are maximising the opportunity to claim Gift Aid, as this is more likely to be of benefit to the public as donors and beneficiaries.

Q3 Are you aware of any other sources from which the Commission can obtain the information being sought in these new questions?

Yes

If 'yes', please provide details.

As highlighted above, HMRC already collect information on Gift Aid. The Commission could helpfully reduce the burden on charities by finding an arrangement with HMRC that made the necessary information available to them, by asking for the information in the exact same format as HMRC, or by leaving tax matters to HMRC entirely. The burden of providing the information should not fall to overstretched and under resourced charities. Any additional information the Commission seeks from the annual return, in particular if it is to be submitted in a format not currently used, adds to the cumulative burden facing charities.

Q4 If your charity would have to provide this further information about Gift Aid, is there a cost in putting this together?

Yes

Please explain the reasons for your answer.

Again, the cost would lie in the time spent preparing the information in a format useable to the Commission. While many foundations are not directly affected by Gift Aid, it is concerning for them that the charities they fund may have to spend considerable staff time on an unnecessary administrative burden. For foundations which do claim Gift Aid themselves, staff time is just as costly. The average foundation has just 0.5 Full-Time Equivalent staff.

A. iv. Income received from outside the UK

Q1 Do you agree with the proposal to introduce this series of questions about the income which a charity receives from countries outside the UK?

No

If you disagree it would be helpful if you could give the reasons why. If you have any amended wording, please provide this with your explanation in support of this.

ACF has serious concerns about this proposal.

On a macro level, ACF is concerned about the message this sends to civil society. Similar disclosures are required in countries like Hungary and Russia where civil society is heavily restricted. It is these sorts of measures against which the UK government has promised to protect civil society organisations across the world through the DFID Civil Society Partnership Review¹. While accepting that the Commission is independent from government in the UK, other countries do not necessarily see this distinction, nor does regulation in other countries map onto the model used in the UK. For this reason, the Commission introducing this question could be seen as the UK giving merit to this type of measure elsewhere.

Back in the UK context, it is far from clear how this would work in practice without being unduly onerous. Addressing the granularity of the questions would be laborious and time-consuming, especially for charities with considerable overseas income. Many foundations hold complex portfolios with funds invested in global markets, or have endowments held in other countries, and receive large portions of their income this way. While they have an idea of the proportion of income coming from which specific investments, current accounting practice does not require that it is recorded in any detail. If this question were to be introduced with such scope, it would mean a significant change in accounting for many foundations with complex portfolios. There are also complexities for foundations which derive income from a multinational company, either through a percentage of profit or an annual gift. Accounting for income received in this way goes beyond current requirements and would pose a significant upheaval to current practice.

We are also concerned that declaring donations received from individuals is unnecessarily burdensome and potentially intrusive. Colleagues in Europe have expressed concern that there a risk

¹ DFID, 2017. Civil Society Partnership Review. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/565368/Civil-Society-Partnership-Review-3Nov2016.pdf

that international philanthropy could be deterred if philanthropists felt their giving behaviour was being monitored. Though we accept and appreciate that the Commission does not propose naming individuals or making the information public, the perception of being monitored by the regulator may particularly deter philanthropists who make donations anonymously to sensitive causes. There are also practical questions to consider about how a charity may realistically know the residence of all their individual donors. Finding out such information could be onerous and impractical, and the Commission should consider whether this task is necessary in pursuit of its aims.

Feedback from members suggests it is unclear what benefit there is in the Commission holding such information and what it would do with it in practice. HM Treasury and the Home Office's National Risk Assessment 2017² has found that charities are at a low risk of being used for terrorist financing and money laundering, and other risks to the sector such as the potential withdrawal of EU funds will be at best only partially reflected in the answers to this question.

Several members also commented that the Commission's interest in the risks in this area step into what should be the responsibility of the trustees, and may be seen to undermine their judgment and authority to make decisions based on risk.

Q2 Do you agree that data provided by individual charities in response to this question should not be published?

Yes

Please give the reasons for your view.

If the Commission were to proceed with this question, it would be very important that this information was only used for regulatory purposes and not published. There have also been reports that charities under regimes where such information is collected have felt public perception change, as those who receive income from overseas are deemed less trustworthy. This is a greatly concerning prospect that would negate the Commission's objective to uphold public trust and confidence in charities.

Q3 Are you aware of any other sources from which the Commission can obtain the information being sought in these new questions?

Yes

If 'yes', please provide details.

The information necessary to monitor risk is already collected by banks, which have responsibilities under their own reporting regimes. The fact that this information is not available from other sources indicates that introducing this requirement would signal a new regulatory strand, and pose a significant challenge and burden to charities.

² HM Treasury & Home Office, 2017. National risk assessment of money laundering and terrorist financing 2017. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/655198/National_risk_assessment_of_money_laundering_and_terrorist_financing_2017_pdf_web.pdf

Q4 Do you agree that all charities with an income in excess of £10,000 should be asked these questions about income from overseas?

No

If you disagree it would be helpful if you could say what the threshold should be and give the reasons why.

Further to the comments made above, if the Commission were to introduce this question it should consider the capacity of small charities of this size – often with no staff – to cope with the added regulatory burden where they do derive their income from overseas donors or investments.

Q5 If your charity would have to answer these questions about income from overseas, is there a cost in putting this together?

Yes

Please explain the reasons for your answer.

The costs are again in terms of time and software. In this particular question, there is a substantial demand on staff time to collate the information, find out where individuals are resident, attribute investment income to particular sources, and categorise the information as required by the Commission. Sophisticated finance software may be needed to cut statistical data in the format required by the Commission, which would be out of reach of many charities that could be required to answer this question.

ACF appreciates the Commission's confirmation that Scotland and Northern Ireland would be excluded from its definition of 'overseas'. This would slightly reduce the extent of the burden. However, it remains unclear why other questions relating to overseas expenditure would not use the same basis.

Q6 We propose to ask for the value of the income from each question to be given in Pounds Sterling. Do you agree that this is appropriate?

No

If you disagree it would be helpful if you could give the reasons why.

To minimise the burden placed on charities, the most appropriate option would be to allow them to record expenditure in whichever currency is most readily available.

Q7 Some charities may find it easier to report the income received in US Dollars. Do you think that there should be an option to report in either Pounds Sterling or US Dollars?

Yes

If you disagree with this proposed option, it would be helpful if you could give the reasons why.

As stated above, to minimise the burden placed on charities, the most appropriate option would be to allow them to record expenditure in whichever currency is most readily available.

B. i. Employees' salaries

Q1 Do you agree that charities should be asked for this information about staff pay?

No

If you disagree it would be helpful if you could give the reasons why.

ACF supports measures for greater transparency in the sector, but does not believe displaying salary figures in this way with no context is a sensible way to do this. Raw figures do not show the varied reasons why certain staff members are paid as they are – a decision which ultimately lies with the trustees – and as a consequence they could easily mislead, or be misconstrued by, the public or journalists. This would have the opposite effect to the Commission's aims of transparency and accountability.

For example, a foundation that manages its investments in-house may have occasion to pay an investment manager as a staff member, whereas for others that use external investment management services these costs will be accounted for elsewhere. This could give rise to inappropriate comparisons.

The annual return is not the best place to explore issues of pay, as it misses the vital context to inform the public. Charities are already required to include more information in their accounts and best practice guidance from NCVO suggests on their websites as well. These are better approaches to inform the public, given that circumstances can vary widely between different types of charities.

Q2 Do you have suggestions for the framing of the questions and guidance to help charities recognise that they are within the intended scope of these questions?

Yes

If you do, please provide suggested wording and reasoning.

We do not support the inclusion of these questions within the annual return, as it would only reveal raw figures without the necessary context to promote understanding. The figures are better framed within a charity's accounts.

If the Commission is to include such a question, it should be careful not to overcomplicate the wording. However the exact wording will depend on whether the Commission wants to know how much the most senior member of staff is paid, or whether it wants to know how much the person who earns the most is paid; these two options must be clear as they do not always refer to the same member of staff. The Commission may use pop-out boxes to provide further information in support of charities filling in the return, but overreliance on such boxes should be avoided by ensuring questions are clear.

Q3 Do you consider that publishing the information resulting from this question would aid general transparency and accountability?

No

Please give the reasons for your view.

For the reasons outlined above, ACF does not feel that asking this question in the annual return would aid transparency and accountability. The lack of context belies the justification for paying staff at a certain level – whether they manage a substantial endowment, provide vital services, or operate multi-nationally – and it is misleading to suggest the figures alone say anything meaningful about a charity’s staff team and trustees’ decisions. It may be beneficial if steps were taken to improve public understanding about pay in charities, but this is out of scope of the annual return.

Q4 Are you aware of any other sources from which the Commission can obtain the information being sought in these new questions?

Yes

If ‘yes’, please provide details.

The accounts contain disclosures around salaries, usually accompanied by a more detailed explanation to help the reader understand why charities pay staff as they do. The Commission should consider the implications of presenting salaries without such nuance as given they will be reported in the media and interpreted by the public.

Q5 If your charity would have to answer these questions about staff salaries, is there a cost in putting this together?

Yes

Please explain the reasons for your answer.

The Commission is right in saying that charities already hold this information, but this alone is not reason for charities to submit it through the annual return. The cost of this proposal would be felt in the potential damage to individual charities or the wider charity sector, should the figures be misrepresented or deter donors when provided without sufficient context. There would then be more work to do in regaining public trust and confidence.

B. ii. Payments to trustees

Q1 Do you agree that charities should be asked for this further information about trustee payments?

Yes

If you disagree it would be helpful if you could say whether you disagree with all or just some of the proposed further questions and the reasons for your views. If you have any amended wording, please provide this with your explanation in support of this.

ACF does not object to this proposal in principle, as it is in line with the Commission’s regulatory responsibility to authorise payments to trustees. Its inclusion may also give foundations a clearer picture of the governance structures of a charity when viewing the register. However, as this

information is also available in charity's accounts, several of our members do not feel it would be necessary to duplicate it within the annual return.

Q2 Do you consider that publishing the information resulting from this question would aid general transparency and accountability?

Yes

Q3 Are you aware of any other sources from which the Commission can obtain the information being sought in these new questions?

Yes

If 'yes', please provide details.

Some members have expressed concern that duplicating information already available in the accounts is unnecessary. Although they are not opposed to greater transparency and have no issue in answering the question itself, they question whether its inclusion is justified given the number of proposed changes which duplicate information already provided. The information required by the SORP offers far greater detail and is arguably more useful, as it outlines the legal basis for any trustee payments made.

Q4 If your charity would have to answer these questions about trustee payments, is there a cost in putting this together?

Yes

Please explain the reasons for your answer.

Any additional information required in the annual return will increase the amount of time staff members spend on filling it in. The cumulative burden of regulation on charities is growing, and it should be minimised wherever possible.

B. iii. Expenditure in countries outside England and Wales

Q1 Do you agree with the proposal to introduce this series of questions about a charity's use of alternative/informal financial systems to hold or move charity money in countries outside England and Wales and the ways in which it manages risk?

No

If you disagree it would be helpful if you could give the reasons why. If you have any amended wording, please provide this with your explanation in support of this.

Similar to the issues that arise from declaring overseas income, ACF has serious concerns about this proposal. Several members commented that this proposal was the most concerning of the all those included in this consultation.

The granularity poses a significant burden to foundations, especially given that grants can be staggered and made by a number of different transfer methods. Not only could this be burdensome, it is also unlikely to give an accurate or fair picture of a foundation's activity. What's more, there is concern that the options available to select on the form are misleading. For example using the term 'regulated banking system' to mean what most people refer to as 'banks' could cause unnecessary confusion and lead to mistakes in the information submitted. 'Cash couriers' may also be misunderstood to mean any person who carries cash. If the Commission were to include such a question, the terminology must be clear and accessible.

In previous consultations, foundations have also noted a lack of clarity on what constitutes 'overseas expenditure', for example how to classify a grant to a UK-based group operating only in Yemen. It is evident when looking at entries on the public register that many grant-makers consider themselves to operate in a number of countries when the Commission may only consider them to fund within England and Wales. This existing difference in how charities and the Commission conceptualise 'operating overseas' must be clarified before considering adding further complications.

It is particularly odd that Scotland and Northern Ireland are treated as 'overseas' here – a difference in thinking to the question on overseas income – and so the confusion, burden and granularity of reporting on expenditure in those countries could be hugely problematic and difficult for charities operating nationally. When the Commission does not consider income from Scotland and Northern Ireland to be an issue due to its relations with regulators there, it seems contradictory to take a different approach to expenditure.

In the wider context, bank de-risking has left foundations with little choice but to use transfer methods outside the regulated banking system in order to fund charities that have been denied a bank account. Using money transfer systems outside the regulated banking system is not evidence of any wrongdoing, and foundations and other charities should not feel that they have anything to be guilty of when transferring money to meet need. The current regulatory climate is making it increasingly difficult for foundations to support good causes overseas – often in areas of acute need. Rather than challenge charities on their use of alternative transfer methods, the Commission might usefully engage with banks and the sector to ensure that the problems caused by de-risking are minimised and allow vital charity work to continue.

The Home Office's National Risk Assessment 2017 found charities to be at low risk of being used for terrorist financing or money laundering, so it is not clear why the Commission believes there is an exceptional risk for charities transferring funds overseas. Furthermore, in identifying this risk, the Commission may be diverting attention away from the most serious cases, which it is already stretched to deal with.

The Commission is also proposing to ask whether the charity has monitoring controls in place and whether trustees feel these controls adequately address the risks. While we understand the Commission's concern to ensure that there is appropriate oversight, it does not seem that this question adds value. Charities have risk management policies which will cover expenditure, they will have different interpretations of 'monitoring controls', and they will be unlikely to say that these controls are not adequate. Responsibility and authority to manage risk lies with the trustees and some members commented that the Commission could be seen to infringe on trustees' discretion by asking such a question.

Q2 Do you agree that data provided by individual charities in response to this question should not be published?

Yes

Please give the reasons for your view.

It is vital that the Commission does not publish this information if it were to be collected, and that it defends the confidentiality of this information if a Freedom of Information request were to be made. The human rights and wellbeing of charity staff and beneficiaries could be placed at risk if hostile regimes were to investigate funds coming into their country for work that may be sensitive or controversial but of vital importance.

Furthermore, the Commission has an objective to uphold public trust and confidence in charities, and full public disclosures may be misinterpreted and propagated in the media in a way that wrongly damages trust in charities. Information on charity expenditure is already available in the accounts to aid transparency and accountability, but there are certain circumstances in which it would be highly inappropriate to disclose overseas expenditure without context or understanding of the work being carried out or the reasons why an alternative payment method was chosen.

Q3 Are you aware of any other sources from which the Commission can obtain the information being sought in these new questions?

Yes

If 'yes', please provide details.

The level of information on expenditure needed to be transparent and accountable is already available in the accounts. Beyond this, there are good reasons why such information is not disclosed; confidentiality, security, or impracticality, for example.

Information on expenditure to Scotland and Northern Ireland may be helpfully recorded in the accounts of Scottish and Northern Irish charities as income. Further collaboration or discussion with the regulators in those countries may better facilitate the sharing of information, rather than shifting the burden onto charities.

Q4 If your charity would have to provide this further information about its use of alternative/informal financial systems to hold or move charity money in countries outside England and Wales and the ways in which it manages risk, is there a cost in putting this together?

Yes

Please explain the reasons for your answer.

The cost in staff time of putting together this information would be substantial. Foundations commonly make hundreds of grants in a year outside of England and Wales, and having to account for each of these in the annual return along with the transfer method used would be a huge task – bearing in mind that the average foundation has 0.5 Full-Time Equivalent staff. The Commission might consider whether placing this pressure on charity resources is proportionate to the likely

outcomes of submitting such data. The Commission already undertakes a great deal of essential and valuable regulatory work, and understandably cannot act on every point of concern. It therefore poses the question whether overstretched charities can reasonably be expected to complete such a substantial task.

Foundations maintain records of their expenditure, but they are not necessarily recorded in the way the Commission requires, and it is most unlikely that information about how funds were transferred is easily available in a way that could be pulled as a report. Therefore there is an additional substantial cost in record keeping software that would satisfy the Commission's requirements.

Q5 Some charities may find it easier to report the income received in US Dollars. Do you think that there should be an option to report in either Pounds Sterling or Dollars?

Yes

C. i. Land and buildings

Q1 Do you agree with the proposal to ask charities which own or lease land and/or buildings if they receive rate relief?

No

If you disagree it would be helpful if you could give the reasons why. If you have any amended wording, please provide this with your explanation in support of this.

ACF does not think there is value in the data that this question elicits. Such partial information on rate relief – which falls under the responsibility of the local authority – is unlikely to result in good quality data. Many charities will receive mandatory rate relief on their land or buildings and a smaller proportion also receive discretionary rate relief at a rate that varies by local authority and may vary year by year. The business rate regime and local policies are also in a period of transition at present, meaning it seems unlikely that the Commission will be in a position to check these details. The Commission has said that further information on rate relief will shine more light on charities operating nationally or in several local authorities, but asking a question about a rate relief regime that is in flux does not seem the best way to do this.

Q2 Do you agree that data provided by individual charities in response to this question should not be published?

Yes

Please give the reasons for your view.

The Commission is right not to publish this information if it were to be required. It would not aid public understanding of charities in any meaningful way and could only serve to clutter the register, thus hiding the information of real value.

Q3 Are you aware of any other sources from which the Commission can obtain the information being sought in these new questions?

Yes

If 'yes', please provide details.

Local authorities already collect information on rate relief as they are responsible for this matter. Duplicating existing efforts would divert the Commission's resources away from essential and valuable work in its priority areas.

Q4 If your charity would have to provide this further information about rate relief, is there a cost in putting this together?

Yes

Please explain the reasons for your answer.

ACF appreciates that this question is proposed to be relatively straightforward to answer. However the limited information returned may not offer the Commission anything of value, and so the burden added by this question to the cumulative burden facing charities seems unnecessary.

C. ii. Trading subsidiaries

Q1 Do you agree with the proposal to ask charities about whether trustees are also directors of the subsidiary company?

No

If you disagree it would be helpful if you could give the reasons why. If you have any amended wording, please provide this with your explanation in support of this.

This question is again unlikely to provide the data the Commission seeks. Knowing how many trustees are directors does not relay the total number of directors nor does it say anything meaningful about management or governance. It is also common practice across the sector for trustees to serve as directors, so the quantity of data returned may be too great to show any trends. It could be interpreted from this question that the Commission considers it bad practice for trustees to serve as directors, in which case there is work to be done beyond the scope of the annual return. If the question the Commission seeks to answer is whether trustees receive personal benefit from being directors of the subsidiary, the wording ought to reflect this. The Commission may wish to revisit the questions already asked in the return to see if they may be improved.

Q2 Do you consider that this question should be widened in scope to cover other types of non-charitable organisation that have a close link to the charity?

No

It would be helpful if you could give your reasons in support of or against this proposal.

ACF understands the Commission's intention to find out more about potential wrongdoing resulting from a charity's close link to a non-charitable organisation. But there are many legitimate ways in which a charity may have a close link to a non-charitable organisation, for example as donors, supporters, grantees, or partners, and 'close link' in this consultation is not defined. The vast majority of cases are perfectly legitimate and compliant with regulation. For example, corporate foundations will usually have a close link to the business that donates resources to them.

The Commission would be undertaking an enormous task to begin looking at charities with a close link to a non-charitable organisation, and asking for such information using a tool like the annual return would likely turn up too much data to be meaningful, especially given the lack of definition and specificity of the Commission's intention. The Commission might helpfully clarify what type of link it is most interested in.

Q3 Do you consider that publishing the information resulting from this question would aid general transparency and accountability?

No

Please give the reasons for your view.

As highlighted above, the number of ways in which charities can have a link to a non-charitable organisation is considerable, and presenting that relationship simply as a link does not aid transparency or accountability as it does not say anything meaningful. The accounts are a better outlet for such exploration as they allow for context and justification of why a charity may have a link to a non-charitable organisation, in whatever form that takes.

Q4 Are you aware of any other sources from which the Commission can obtain the information being sought in this new question?

Yes

If 'yes', please provide details.

Charities with trading subsidiaries explain their circumstances in their annual reports.

Q5 If your charity would have to answer this question about trading subsidiaries, is there a cost in putting this together?

Yes

Please explain the reasons for your answer.

Any additional information that charities must supply – however small and in whatever format – adds to the cumulative burden facing charities in recent years, for example in dealing with the introduction of the Common Reporting Standard, changes to data protection, and developments in fundraising regulation. As this consultation response has shown, each additional question soon amounts to a time-consuming task which falls to under-resourced charity staff, especially among foundations which have on average 0.5 Full-Time Equivalent staff.