



23 April 2012

Our ref: ICAEW Rep 67/12

Charities Act 2006 Review
C/O Office for Civil Society
4/16, HM Treasury
1 Horse Guards Road
London SW1A 2HQ

By email charitiesactreview@cabinet-office.gsi.gov.uk

Dear Sirs

Charities Act 2006 Review – Call for Evidence: Reporting and accounting requirements for charities

ICAEW welcomes the opportunity to comment on the *Charities Act 2006 Review – Call for evidence: Reporting and accounting requirements for charities* published by the Cabinet Office in February, a copy of which is attached as an Appendix.

ICAEW is a world-leading professional accountancy body. We operate under a Royal Charter, working in the public interest. ICAEW's regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the UK Financial Reporting Council. We provide leadership and practical support to over 138,000 member chartered accountants in more than 160 countries, working with governments, regulators and industry in order to ensure that the highest standards are maintained.

ICAEW has a Charities Technical Sub-Committee and a Charities & Voluntary Sector Group with over 3,000 members. Many ICAEW members are active in charities and the voluntary sector; approximately 30,000 are charity trustees, treasurers, school governor and in other voluntary roles.

We should be happy to discuss any aspect of our comments and to take part in all further consultations on this area.

Yours sincerely

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APPENDIX

Charities Act 2006 Review – Call for Evidence

Reporting and accounting requirements for charities

Issue

The Charities Act 2006 Review is considering whether further changes should be made to the requirements for charities to prepare annual reports and accounts and submit them to the Charity Commission (the Commission).

Background

Accurate, clear and publicly available information about charities' finances and activities is essential to ensure public confidence in both individual charities and the charitable sector as a whole.

All charities, whether or not they are registered with the Commission, must prepare accounts. They must make their accounts available to anyone on request, and may charge to cover their costs of doing so eg photocopying and postage.

A registered charity must send to the Commission some or all (depending on its size) of:

- an annual return (containing key information such as contact and trustee details as well as income and expenditure)
- its accounts
- an Annual Report

These are then made available to the public through the Commission's website (the charity must also make the Annual Report available to anyone who asks for it).

Charities with an annual income of more than £10,000 are required to send this information to the Commission within ten months from the end of their financial year. Failure to do this results in the charity being "named and shamed" on the Commission's website.

Annex A summarises the Commission's guidance about what information should be included in charities' accounts and Annual Reports and what should be sent to the Commission ("Charity Reporting and Accounting: The essentials April 2009" (CC15b))¹.

Issues the Review will be considering

The first issue to consider is whether the information that charities are required to provide in their accounts and reports meets the needs of the public and other stakeholders. There is little value in providing detailed information and making it publicly available if the information provided does not answer stakeholders' questions.

There is also a significant anomaly with the charity accounting and reporting system. It is estimated that there are around 80,000 unregistered charities in England and Wales. Many have an annual income under £5,000 so are below the registration threshold; others are charities of a type that is "excepted"², and need only register if their gross annual income is more than £100,000. As unregistered charities, they are not subject to any reporting requirements, so the Commission holds no information about them. (Further issues around

¹ www.charitycommission.gov.uk/Publications/cc15b.aspx

² Churches and chapels of some Christian denominations; charitable service funds of the armed forces; scout and guide groups.

excepted charities are dealt with in a separate Call for Evidence “Charity registration thresholds and excepted charities”). The Review will consider if and how such anomalies should be removed so as to achieve a more level regulatory playing field.

There are around 180,000 registered charities and over 70,000 of them have to send their accounts and Annual Report to the Commission every year. On an arithmetic average basis this means that about 280 registered charities need to send their accounts and Annual Report to the Charity Commission every working day. Clearly the Commission cannot, and never has been able to, examine the volume of accounts it receives in any detail.

In these circumstances the Review will consider whether the requirements to submit accounts and Annual Reports to the Commission should be relaxed. Is the burden (on charities and on the Commission) proportionate, given that members of the public can ask any charity directly for its accounts and its Annual Report? Examples of how the requirements could be relaxed include:

- bringing the submission requirements for accounts and Annual Reports into line with the threshold above which excepted charities must register (i.e. no charity with an income below £100,000 would have to comply with the requirements), or
- not requiring accounts and Annual Reports to be sent to the Commission if they are already published on a charity’s own website and a link is provided from the charity’s entry on the Register.

An alternative view is that the regulatory costs lie in preparation of charity accounts and reports, that submission of these to the Commission does not present a significant burden, and that it is warranted on the grounds that it ensures accurate and up-to-date information about registered charities is transparent and accessible on the Commission’s website.

Failing to comply with requirements to submit accounts and Annual Reports and accounts within 10 months from the end of a charity’s financial year is a criminal offence. At present the only sanction the Commission uses is “naming and shaming” on its website. The Commission’s Annual Report for 2010-11 records that 84% of charities, accounting for 95% of the income of all registered charities, complied with this requirement. The Review will be considering whether the enforcement of more rigorous sanctions, such as fines or even suspension of charitable status for persistent offenders, could help to push the compliance figures closer to 100%.

Finally, the Review will consider concerns that the format and content of accounts and Annual Reports is too technical and difficult for most members of the general public to understand. This could distance people who might otherwise want to get involved.

It was with this concern in mind that the Commission introduced the Summary Information Return for charities with an annual income of more than £1 million. It was designed to be an easily accessible summary of the charity’s key aims, activities and achievements. However, it is viewed by many charities as being an additional burden rather than an improvement in their transparency.

Consequently the Review will be considering how the essential information provided by accounts and Annual Reports can be presented in a way that is more easily understood by the general public without adding to the regulatory burden.

Who should respond?

Anyone can respond, and all responses will be considered.

However, we are particularly interested to hear from charity trustees, charities’ staff who are involved in the preparation of accounts and Annual Reports as well as accountants who work with charities.

Deadline for responses:

The deadline for receiving responses to this call for evidence is 16 April 2012.

How to submit your response:

Please send your response by e-mail to charitiesactreview@cabinet-office.gsi.gov.uk

Alternatively you can write to:
Charities Act 2006 Review
c/o Office for Civil Society
4/16, HM Treasury
1 Horse Guards Road
London SW1A 2HQ

Question 1: Do you think that the current thresholds at which charities have to send their accounts and Annual Reports to the Charity Commission are set at the right level? Should smaller charities have to comply, so that their information can be made available to the public as well? Or should the threshold be raised, so relaxing the requirement for other charities?

The current thresholds at which charities have to send their accounts and Annual Reports to the Charity Commission are appropriate given that charities are dealing with public money given in good faith.

While we agree with the current thresholds, we would prefer to see a requirement for all registered charities, including exempt and excepted charities, to file their Annual Report and Accounts with the Charity Commission. This would help make a clearer link between the requirements of registration and reporting, improving accountability and transparency in reporting in the sector. As indicated in our submission on "Charity Registration and Excepted Charities" we consider that *all charities over £5,000 income* should be required to register with the Commission. However, this requires the Charity Commission to be properly resourced. We realise that in the past it would have been very hard for the Commission to deal with huge volumes of paper-based accounts filed by smaller charities, but given that around 80% currently file electronically, this would be much less of a concern.

- 1.
2. If this is not possible, we would welcome a system to encourage charities under £25K income to file accounts voluntarily with the Commission and for these to be available to view online. At present, charities with an income under £25K can file accounts and Annual Reports online. However, the Commission's website only shows whether they have received the accounts and Annual Reports, but doesn't actually let you view the accounts for charities under £25K.

We note that the Sheffield Hallam University research in 2011 on *Public Benefit Reporting* (p75) found that 19.5% of charities under £25K had in fact filed accounts voluntarily. (The Commission's IT team were able to retrieve them and make them available for research - but they are not available to an ordinary member of the public accessing the Commission's website, as explained above.)

Question 2: If you are a charity, do you think the regulatory burdens around accounts and reports (preparation, scrutiny, and/or submission) are too onerous? Could the burdens be lightened without putting at risk public confidence in the sector?

Not applicable.

Question 3: Do charity accounts and Annual Reports provide the information the public and other stakeholders need about a charity? How could the presentation of information be improved? Do you have any other comments on the preparation of charity accounts and reports?

In general, we think that the charity accounts and annual reports provide sufficient information to the public about the charity. As noted in our call for evidence on the Charity Commission, we feel that the Charity Commission should increase its regulatory role in monitoring the quality and timeliness of submission of accounts and enforcing compliance with accounting, legal and regulatory requirements. However, as indicated in this call of evidence, the Charity Commission needs to be appropriately resourced to undertake this possible additional responsibility.

Significant improvements could be made to the receipts and payments (R&P) accounting regime allowed for charities with an income under £250,000. The Charity Commission's guidance and templates on *R&P accounting (CC16)* are helpful but they need much more publicity to encourage their use. The research by Sheffield Hallam University in 2008 for the

Association of Charity Independent Examiners (ACIE) on *Receipts and Payments Accounting by Smaller Charities* which found many funders had significant concerns about the standard of R&P accounts, and that this made it harder for smaller charities to win funding. A simpler regulatory framework behind this would be very helpful (please see ICAEW's response to the Charity Commission's call for evidence).

It seems to be a major omission by the government that the Charities Act 1993 did not make any provision for regulations to be made on R&P accounting and this was not remedied by the 2006 Act (although it was mentioned in the submissions in 2004 when the Charities Bill was considered in draft) - unlike the position in Scotland where a fairly simple but reasonably effective framework exists in the Charities Accounts (Scotland) Regulations 2006.

As regards accruals accounting, we do not feel this is the place to make detailed comments on the SORP since this is likely to be issued for public consultation later this year, when the accounting framework and standards issued by the Accounting Standards Board are finalised. However, we note that there is an anomaly in that unincorporated charities are *required* to follow the SORP as a result of the Charities (Reports and Accounts) Regulations 2008, but there is no direct equivalent for charitable companies. (For charitable companies, the SORP takes effect purely as a following accounting standard FRS 18 on Accounting Policies (in future,

Application of Financial Reporting Requirements (draft FRS 100)) the purposes of ensuring the accounts give a true and fair view under the Companies Act 2006.) Therefore, the Charities Act 2006 should make it clear that all charities, whether incorporated or unincorporated, must follow the SORP. The Charities (Accounts and Reports) Regulations 2008 soon to be 2010, should not repeat detail that is covered in the SORP but purely refer to the relevant SORP as providing required reporting to prevent inconsistencies arising. If there is detail presently not included in the SORP, then the SORP should be required to be expanded to cover that aspect.

As far as presentation of information is concerned, the research on *Charity Reporting and Accounting: Taking Stock and Future Reform* by Queen's University Management School suggests that there is strong support for a 'story approach' to reporting, which focuses on achievements, using narratives, graphs, charts to complement financial information required in the SORP. Further comments on the SORP are included in question 9.

Question 4: Is it useful for charity information including accounts and Annual Reports to be available through the Commission's website? Have you ever tried to find these documents through the Commission? Did the information meet your needs? Is there other information that should be available on the Commission's website?

It is very helpful that these accounts and annual reports are freely available and accessible in the Charity Commission's website. Many charities do not include the accounts and annual reports in their own website and if they do, they are often providing a link to the Charity Commission's website where the information is available. In addition, some smaller charities may not have their own websites.

It would also be very useful if the charities' governing documents were also freely available in the Charity Commission's website to provide additional information on the constitution of the charity.

Question 5: Are the scrutiny requirements for charity accounts proportionate and set at the right levels? Do you have any comments on the requirements for independent examination or audit of accounts, or the various financial thresholds at which different requirements apply?

In general, we think the scrutiny requirements for charity accounts are proportionate and set at the right levels.

We believe it is much simpler to set all the thresholds by income alone. The current requirement for charities between £250K and £500K to have an audit only if they have over £3.26m assets is a very confusing aspect of the regime and should be abolished. This is the *only* case where an assets test arises and it is a confusing anomaly in what is otherwise a clear structure of requirements. Especially given that charitable companies are required to have a Companies Act audit if it does not have an audit exemption under section 477 of the Companies Act 2006, even if the accounts are prepared under the 'small companies regime'. Thus a charitable company will still require an audit under the Companies Act if gross assets exceed £3.26m – regardless of whether the income is greater or less than £250,000. With the assets test removed, these charities will still have to have an independent examination by a professionally-qualified examiner.

More generally, we feel the thresholds are working well, but we do wish to see harmonisation of thresholds between England & Wales, Scotland, and Northern Ireland. The current differences are a major source of difficulty. For example, all charities registered in Scotland require an independent examination, irrespective of the income threshold. In England and Wales, charities with a gross income of £500,000 or less may choose to have an independent examination in place of an audit unless both their gross assets exceed £3.26 million and their gross income exceeds £250,000. Charities with a gross income of £25,000 or less are not required to have an external scrutiny. There are also differences in requirements between Scotland, England and Wales relating to the individual who is acting as an examiner which depend on the form of accounts being prepared by the charity i.e. accruals or receipts and payments.

Also, in relation to the prescribed list of those able to undertake independent examinations above £250,000 income, we recommend consideration of the inclusion of holders of **ICAEW's Diploma in Charity Accounting (DChA)** and CIPFA's Certificate in Charity Finance and Accountancy. The DChA is a specialist qualification in the charity sector which can be obtained via an experience route or a classroom-based study route at Cass Business School and Sheffield Business School. This qualification is available to members or non-members of ICAEW.

Question 6: Did you know that a charity must provide its accounts and (unless it is unregistered) its Annual Report to any member of the public who asks for it? Have you ever asked a charity for these documents, or looked for them on a charity's website? If you are a charity, do you make them available on your website, if you have one?

Based on feedback from our members, not all members were aware that any individual could be provided with the accounts and the Annual Reports of a charity (unless it is unregistered). Furthermore, the present arrangement may not however be working as well as it should. In the 2011 Sheffield Hallam University report on Public Benefit Reporting (p75) the researchers wrote to 322 charities under £25K income enclosing a reply-paid enveloped and asking for a copy of their latest report and accounts: the covering letter reminded them that it was a statutory requirement to provide them. The researchers received just 135 responses (42%) by the deadline given (although the cut off was shorter than the full 40 days allowed under the Act). Even out of these, many responses fell short of providing a trustees' report and accounts complying with the Act.

Therefore, we would encourage greater publicity on this area to charities and the public.

Question 7: Are there other ways to make the information contained in charities accounts and Annual Reports available to the public? For example, should charities publish them on their own website, if they have one?

Yes, but not as an alternative to filing accounts and Annual Reports with the Charity Commission. In order to ensure accountability and transparency, we believe that it is very important for charities to make their accounts and Annual Reports available in their websites or as a minimum include a link to the Charity Commission's website. In addition, it is very important for charities under £25K to include their accounts on their website (if they have one) since they are not currently available in the Charity Commission's website. However, please see our answer to Q1 which states that we would prefer to see all registered charities' accounts, voluntary and mandatory, to be available through the Commission website. It is also crucial in relation to excepted charities (please see our submission on that issue - we would prefer to see *all* charities required to register with the Commission).

It is worth noting that our **Annual Online Financial Reporting and Accounts Awards** aim to increase transparency by rewarding best practice in financial reporting, raise the standard of web-based financial reporting for greater impact and accessibility and encourage more charities to do their financial reporting online.

Question 8: What sanctions should there be for charities that fail to submit accounts and Annual Reports to the Commission within ten months of the end of their financial year? Is "naming and shaming" enough? What other sanctions would be appropriate, for example fines, suspension of registered charity status, or suspension of access to charity tax exemptions and reliefs?

Our members think that the current system of "naming and shaming" is not sufficient to encourage charities to submit their accounts within the ten month deadline. We therefore believe that a penalty fine system should be introduced for late filing of accounts and Annual Reports to provide a greater incentive.

While we are supportive of a penalty system for late filing of accounts, there are a number of areas which should be considered for consultation should this idea progress. For example, what caused the delay in late filing and who should pay the late filing. Companies House waives the penalty if the delay is unavoidable ie outside the control of the directors. It might also be unfair for a company charity that is a month late to have to pay both the Companies House fine and the Charity Commission fine. Regarding payment of late filing, if the charity pays penalty fees, this diverts resources from charitable spending. However, if trustees pay the penalty fees, this may discourage future trustees from coming forward to act as trustees.

Question 9: Do you have any other comments on the accounting and reporting requirements that apply to charities?

We understand that some concerns have been expressed about the format and content of accounts and Annual Reports on the grounds that it is too technical and difficult for most members of the general public to understand.

Due to their non-profit nature and emphasis on activities, charities are different to commercial entities and therefore this affects accounting and reporting, in particular terminology. For example, unlike commercial entities, charities need to do fund accounting and related disclosures which is of importance to funders and other stakeholders.

The SORP aims to simplify charity accounting and financial reporting to help make compliance easier and to make them more user-friendly for the public. As mentioned in Q3, the revised SORP is likely to be out for public consultation later this year.

The SORP and the focus on small charities detailed above is supported by recent research. In 2009, ICAEW partnered with the Charity Commission on a number of roundtable events involving auditors, preparers and funders looking at charity reporting and accounting, including the Statement of Recommended Practice (SORP). Queen's University Management School in Belfast analysed feedback and responses to questionnaires completed at events and published the research findings in **Charity Reporting and Accounting: Taking Stock and Future Reform**. It is our understanding that the revised SORP will try to take this into account by being modular by type of charity activity.

Respondent details:

Name:	Anne Davis
Position:	Head of Charity and Voluntary Sector
Organisation Name:	ICAEW
Organisation size (income)	Not applicable

Are you a trustee of a charity?	Yes / No
Is your organisation a charity?	Yes / No

What happens next?

- We will acknowledge receipt of all responses, although we cannot provide a detailed response to each individual submission.
- All responses will be considered in forming the report of the review.
- The aim is for the report of the review to be laid in Parliament and published in July 2012.

The small print:

All information in responses, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004). If you want your response to remain confidential, you should explain why confidentiality is necessary and your request will be acceded to only if it is appropriate in the circumstances. An automatic confidentiality disclaimer by your IT system will not, of itself, be regarded as binding on the department. Contributions to the review report will be anonymised if they are quoted, unless we contact you and you give us your permission to use a particular quote.

Individual contributions will not be acknowledged unless specifically requested.

ANNEX A TABLE SUMMARISING CHARITY REPORTING AND ACCOUNTING REQUIREMENTS

Type of charity	Threshold	Type of accounts	External Scrutiny*	Trustees' annual report	Information to be sent to Commission
Registered unincorporated charities	Gross income up to £25,000	Receipts and payments, or accruals basis in accordance with SORP	No requirement	Must be prepared but it may be simplified	Annual Return (If income is under £10,000 the requirement is only to notify of changes to basic information on the Register of Charities)
	Gross income between £25,000 and £250,000	Receipts and payments, or accruals basis in accordance with SORP.	Independent examination or audit by a registered auditor	Must be prepared but may be simplified	Annual Return Annual Report and accounts must be sent within 10 months of financial year end
	Gross income between £250,000 and £500,000 (and gross assets do not exceed £3,260,000)	Accruals basis in accordance with SORP	Independent examination or audit by a registered auditor. If gross income exceeds £250,000 an independent examiner must belong to a body specified in the 1993 Act	A full Annual Report must be prepared	Annual Return Annual Report and accounts must be sent within 10 months of financial year end
	Gross income exceeds £500,000; or gross income exceeds £250,000 and gross assets exceed £3,260,000	Accruals basis in accordance with SORP	Statutory audit carried out by a registered auditor	A full Annual Report must be prepared	Annual Return. Annual Report and accounts must be sent within 10 months of financial year end. Charities with a gross income exceeding £1,000,000 must also complete a Summary Information Return (SIR)
	Where the charity has either charitable or non-charitable subsidiaries and the income of the group exceeds £500,000	Accruals basis in accordance with SORP	Statutory audit carried out by a registered auditor		The parent charity completes the Annual Return and SIR on a group basis Annual Report and accounts must be sent within 10 months of financial year end Charities groups with a gross income exceeding £1,000,000 must also

				complete a SIR (continued)
Registered Charitable companies	<ul style="list-style-type: none"> • Annual Return requirements are as for unincorporated charities. • Must prepare directors' report and accounts under the Companies Acts and file these at Companies House. This means that they cannot prepare their accounts on the receipts and payments basis. • Must comply with Annual Report requirements. In practice, the directors' report is expanded to include information required in the Annual Report 			
Excepted charities (unregistered)	<ul style="list-style-type: none"> • Must produce annual accounts in the same way as an equivalent type of registered charity (company or non company) • Copies of accounts must be provided to the public on request, but not sent to the Commission unless requested. • Commission can require an Annual Report to be produced in exceptional circumstances 			
Exempt charities (unregistered)	<ul style="list-style-type: none"> • Must keep proper accounting records and prepare accounts • Where having to prepare accounts giving a true and fair view, they should follow SORP 2005, unless a specialised SORP applies, for example English universities follow the Higher Education Funding Council for England's SORP. • Must provide copies of accounts to the public on request • Audit requirements depend on how charity is constituted and the regulatory regime under which it operates 			