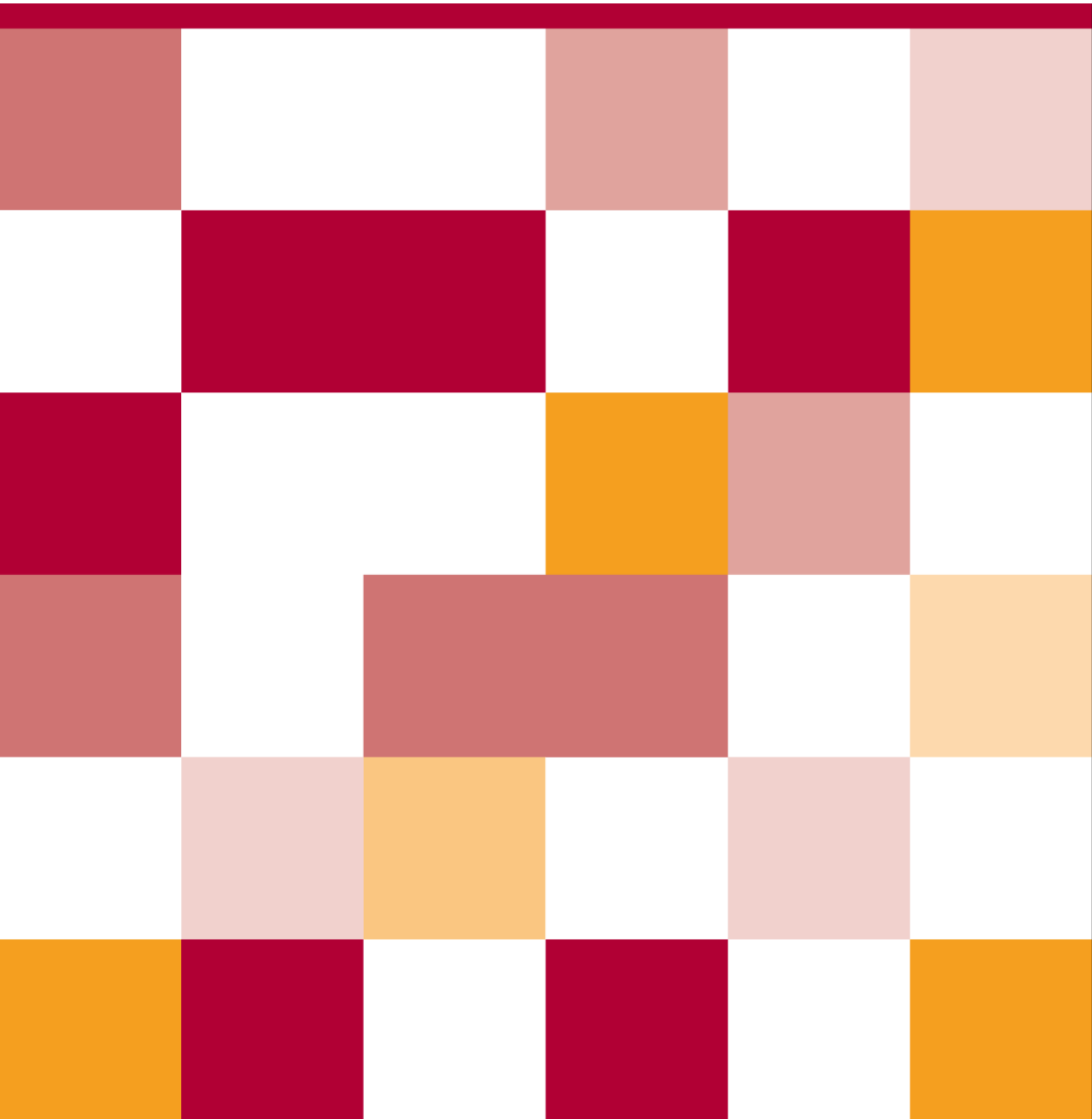




Financial Thresholds in the Charities Acts – Proposals for Change

Government Response

August 2008



Contents

| | Page No |
|---------------------------------|---------|
| Introduction | 3 |
| Background | 4 |
| Summary of consultation | 5 |
| Responses to specific questions | 7 |
| Conclusion and next steps | 20 |
| Summary of government response | 21 |
| Annex A – List of respondents | 26 |

Introduction

This document is the Government's response to the consultation 'Financial Thresholds in the Charities Acts – Proposals for Change' which was undertaken jointly by the Office of the Third Sector and the Charity Commission.

It covers the following:

- background to the joint consultation exercise
- a summary of responses to the consultation
- detailed Government responses to specific questions in the consultation
- the next steps following this consultation

Further copies of this report and the consultation paper can be obtained by contacting Khaled Moyeed at the address below:

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This report and the original consultation document are also available on the Office of the Third Sector website www.cabinetoffice.gov.uk/third_sector and the Charity Commission website www.charity-commission.gov.uk.

Background

The review of financial thresholds in the Charities Act 1992 and the Charities Act 1993 as amended by the Charities Act 2006 resulted from a commitment made during the passage of the Charities Act 2006 through Parliament. The Minister (Lord Bassam of Brighton) committed to reviewing all the regulatory and reporting thresholds in the Charities Acts a year after Royal Assent.

The review was conducted by the Office for the Third Sector, which is responsible for the legal and regulatory framework of charities in England and Wales, jointly with the Charity Commission, the independent regulator of charities in England and Wales. Its conclusions were the basis of a series of deregulatory recommendations included in the consultation document 'Financial Thresholds in the Charities Acts – Proposals for Change'. This was published in December 2007 for public consultation. The consultation period closed on 31 March 2008.

There are 168,000 main charities on the Charity Commission's register. The aim of the proposals is to reduce administrative burdens on charities while maintaining an effective regulatory framework. Most of the recommendations to increase thresholds go well beyond inflationary increases.

Summary

There were 58 responses to the consultation. Responses were received from a wide range of sector bodies and other stakeholders including:

Association of Chief Executives of Voluntary Organisations (ACEVO), Action with Communities in Rural England, Association of Charitable Foundations, Association of Charity Independent Examiners, Charity Finance Directors Group, Churches Main Committee, Charity Law Association, Directory of Social Change, GuideStar, National Association for Voluntary and Community Action (NAVCA), National Audit Office, National Council for Voluntary Organisations (NCVO), Institute of Chartered Accountants for England and Wales and the Wales Audit Office.

There were also responses from a number of individuals including academics and experts. A full list of respondents is attached at **Annex A**.

The responses were broadly supportive of the attempt to reduce the regulatory burden for charities and their trustees. At the same time, there was no overall sense among respondents that charity specific regulation imposed an undue burden on charities. In fact, critics of some of the proposals noted that potential savings from less regulation were not sufficient to balance the possible impact on sector accountability and transparency. Most respondents were opposed to more radical changes than those proposed.

The specific recommendations for change were almost all supported by a majority of the comments received. There was overwhelming support for retaining the requirement for all charities to prepare accounts and make them available on request, and for continuing to base reporting requirements on an annual cycle.

Nearly 20% of registered charities would benefit to some extent from a reduced regulatory burden under the recommendations that will be taken forward.

Responses to the consultation also raised a number of other issues. Two of the most

commonly raised were:

- That all financial thresholds should be subject to regular review.
- Concern over the potential confusion caused by cross-border differences within the United Kingdom. While we are conscious of the advantages of harmonised regulation, and work closely with the devolved administrations to minimise differences wherever possible, we would make recommendations to Ministers on the merits of the arguments and not simply in the interests of harmonisation.

It is important to note that not all questions in the consultation received comments from the 58 respondents. Some questions had more responses than others. This is reflected in the analysis below.

Responses to specific questions

Reference to question numbers in this section is to those used in the consultation document.

1. Do you agree that the criteria in paragraph [1.10 of the consultation] are sensible guidelines for this review and that they should be applied in a sensible and pragmatic way as outlined in paragraph [1.12]?

Paragraph 1.10 contained the following criteria as guidelines:

1. There is a logical case to be made for the change
2. It would reduce the administrative burden on charities and their trustees
3. It would simplify/rationalise the regulatory framework
4. It is consistent with maintaining an effective regulatory framework
5. It provides for transparent and accountable reporting

Paragraph 1.12 stated that these criteria would be applied in a sensible and pragmatic way. We could not accept a proposal if it did not meet the fourth criterion, but we would not reject a proposal because it did not meet the second or third.

34 responses were received to this question. The great majority of respondents (25) agreed with the criteria and how they were applied in the consultation with only 3 disagreeing. There were other comments from 6 respondents.

Government response:

With the majority view that the criteria in the consultation were sensible guidelines, they have been applied in a sensible and pragmatic way in the government response.

2. Do you think that the overall package of recommendations in this paper strikes the right balance between reducing the burden on charities and the effective regulation of charities?

There were 44 responses to this question. 25 respondents generally agreed that the balance under the proposals was right and 11 disagreed. There were other comments from 8 respondents.

Some comments suggested that the recommendations did not go far enough towards deregulation. Others were happy that the proposals would mean reduced workload for smaller charities.

Those in agreement also pointed out some concerns around transparency and the effective regulation of small charities. Those disagreeing did not believe that the current requirements were particularly burdensome, and some of them expressed reservations that the proposals could have negative impact on accountability and transparency.

Government response:

The recommendations were intended to be risk based and proportionate and maintain the right balance between reducing the burden on trustees and the effective regulation of charities. There was a majority support for this approach. However, we will take into consideration all the concerns that have been raised around transparency and accountability in particular for small charities.

3. Do you think our overall approach goes too far? If you do, would you say that the current thresholds should be retained or do you believe there is a case for reducing them? If the latter, what thresholds would you suggest?

There were 35 responses to this question. Most respondents (20) did not think that the overall approach went too far. They were generally comfortable with the approach and certainly did not see any case for reducing the current thresholds. However, some respondents (15) thought that it went too far – mostly advocating that the current thresholds should be retained as they are working well. There were specific concerns about the possible adverse impact on small charities if the submission thresholds for annual accounts and the Trustees Annual Report (TAR) were changed, and a preparation threshold introduced for the TAR.

Government response:

We have noted the concerns expressed here but given the majority view that the overall approach does not go too far, we will take forward most of the recommendations. Our conclusions below take full account of concerns around annual accounts and TAR thresholds.

4. Do you think that far more radical changes are justified? If you do, what major changes would you propose? Do you think there are any general limits? For example, should routine reporting focus exclusively on large charities? If so, what thresholds would you suggest?

There were 33 responses to this question. The overwhelming view from 24 respondents was that more radical changes were not justified. Comments also suggested that there was no reason to specifically target large charities as there was no evidence to support the view that large charities are more likely to breach regulation than small ones. A minority of 9 respondents suggested more radical changes in specific areas such as the threshold for the Annual Return (AR).

Government response:

There is clearly no general appetite for more radical changes. This is reflected in the decisions on whether to proceed with the individual recommendations in the consultation document.

5. Do the proposals have an adverse impact on any group or particular group of charities or their beneficiaries?

Response to this question was finely balanced. Of the 28 respondents to this question, a small majority (15) did not think that there was any adverse impact while some respondents (13) pointed out possible negative impact on small charities. Concerns about the impact on small charities included that the proposals would reduce the accountability

of, and public confidence in small charities, and make it more difficult for small charities to obtain funding.

Government response:

While the majority of the comments do not think there will be any adverse impact, we are mindful of the concerns around small charities and have taken account of these concerns in reaching the conclusions below.

6. Do you agree that there should be no change to the requirement for all charities to prepare accounts and make them available on request?

There were 38 responses to this question. There was an overwhelming agreement from 37 respondents to this question that there should be no change to the requirement for charities to prepare accounts and make them available on request. There was only 1 opposition.

Government response:

In line with the overwhelming agreement, there will be no change to the requirement for all charities to prepare accounts and make them available on request. This is an important requirement to promote trust and confidence in charities.

7. Registered charities with income over £10,000 must send their annual accounts to the Commission. Do you agree that this £10,000 threshold should be raised? If you do, is £25,000 the right figure?

8. Registered charities with income over £10,000 must also send their Trustees Annual Report to the Commission. Do you agree that this £10,000 threshold should be the same as the threshold for sending accounts to the Commission? If you do, is £25,000 the right figure?

There were 48 responses to question 7. A majority of respondents (26) supported the proposal to raise the annual accounts submission threshold to an income over £25,000

with 16 respondents against. 7 respondents made other suggestions and comments such as the increase should not apply to new charities.

There were 45 responses to question 8. A majority of respondents (27) were in favour of raising the TAR threshold to £25,000 with 11 against. Some respondents suggested an even higher threshold. 7 respondents made other comments.

Around 23,000 charities would no longer be required to submit annual accounts and TAR if both of these thresholds are increased to £25,000.

However, some respondents opposing the proposed increase raised concerns about the impact such an increase would have on accountability and transparency.

Government response:

The Government proposes to raise both the annual accounts and the TAR submission thresholds to £25,000. Accounts and Reports submitted using the proposed new threshold would still cover 98% of registered charities' income.

We further propose that the Commission should introduce some form of sampling for charities with annual income between £10,000 and £25,000 so that charities in this category could not simply assume that they would never have to submit the documents.

Changes to this threshold would not remove the requirement for all charities to produce accounts and reports and make them available on request to the Commission or members of the public (see the response to question 6).

9. All registered charities must prepare a Trustees Annual Report (TAR). Do you agree that a TAR preparation threshold should be introduced to ease the burden on small charities? If you do, is £25,000 the right figure, or should the level be the same as the registration threshold (£5,000) or another figure such as £10,000?

There were 46 responses to this question. A total of 27 respondents supported the introduction of a TAR preparation threshold and most comments in support of the proposal

were happy with £25,000.

However, there was also strong opposition to this proposal. 19 respondents were against the proposal, mostly citing concerns about the impact on accountability and transparency and stressing the usefulness of preparing a TAR for the charities themselves as well as their stakeholders.

Government response:

We propose to drop the proposal to introduce a preparation threshold for TAR given the strength of the arguments raised against it. This view also takes account of the response to a question in a survey of Public Trust and Confidence in charities, commissioned by the Charity Commission. It found that 90% of the public thinks it is important for charities to publish an annual report of what they achieve.

This proposal was perhaps the most significant change put forward in the consultation document as it would have removed the obligation to produce the TAR in any form from around 118,000 small charities. It carried a higher risk to the accountability and transparency of charities that is vital to the maintenance of public confidence. For this reason, we feel that in order to prove workable it required wider support than was apparent from the responses.

10. Charities with income over £100,000 must prepare accruals accounts. Do you agree that this £100,000 threshold should be increased? If you do, is £250,000 the right figure?

There were 41 responses to this question. A majority of respondents (21) supported the proposal to increase the preparation threshold for accruals accounts to £250,000. However, 14 respondents were against the proposal, with some raising concerns about the quality of accounting and the impact on transparency if it were implemented. There were 6 other comments.

Following the consultation, the Association of Charity Independent Examiners (ACIE) published a study into *the use of Receipts and Payments Accounts for Financial Reporting*

by Smaller Charities. As a result, we gave further consideration to our proposal to increase the accruals accounts threshold. However, we feel that the financial thresholds consultation sought the views of a wider group of stakeholders; the majority of whom were in support of the proposal. We, therefore propose to increase the accruals accounts preparation threshold to £250,000.

Government response:

We propose to raise the preparation threshold for accruals accounts to £250,000. The proposed change would be consistent with other changes made to accounting thresholds and take account of inflation and the emphasis of proportionality and risk-based regulation. It would also mean that around 11,700 charities would be able to produce accounts in the simpler, less expensive receipts and payments format.

11. (i) Do you agree that the £10,000 minimum threshold for external examination of accounts should be raised? If you do, is £25,000 the right figure?

(ii) What are your views on the minimum threshold being raised to £50,000?

Charities with income over £10,000 must have their accounts externally examined (they can choose an independent examination or audit¹).

There were 47 responses to this question. Most respondents (33) were in favour of raising the threshold for external examination of accounts from £10,000 to £25,000. There was also some support for increasing it to £50,000. There were 14 oppositions to the proposal.

Government response:

We continue to recommend increasing the threshold for external scrutiny of accounts to £25,000. This would release more time for trustees and volunteers of 37,000 charities and

¹ Provided the mandatory audit threshold is not exceeded, and the charity's governing document does not require an audit.

allow for expansion of activities.

12. Charities with income over £500,000 must have their accounts audited. Do you think this £500,000 audit threshold should be raised? If you do, is £1 million the right figure?

There were 42 responses to this question. Although there was some support (13) for raising this threshold to £1m, a majority of respondents (22) was in favour of retaining the current threshold. There were other comments from 7 people.

Government response:

We intend to keep the income threshold to have accounts audited at £500,000 for the time being. It is felt that it is too soon for further change as the Charities Act 2006 (“the 2006 Act”) raised the £250,000 audit threshold for charities to £500,000. Time should be allowed for this to settle in. We propose to assess its impact in 2011 as part of the five-year review of the 2006 Act².

13. Charities with income exceeding £100,000 but less than £500,000 must have their accounts audited if their assets are worth more than £2.8 million (before deduction of liabilities).

(i) Do you think the lower income trigger should be raised to £250,000 in line with the proposed increase in the threshold for preparing accruals accounts?

(ii) Do you agree that the asset element should be increased to £3.26 million to remain in line with the threshold for non-company charities?

There were 34 responses to this question. There was a majority support (20) for increasing the lower income trigger to £250,000 with 7 respondents disagreeing. There were other

² S.73 of the Charities Act 2006 provides that the Minister will appoint a person 5 years after the passage of the Act to review its impact.

comments from 7 respondents i.e. some questioned the link with accruals accounts.

Of the 34 respondents, an overwhelming majority (32) supported increasing the asset threshold to £3.26m. There were 1 disagreement and 2 other comments.

Government response:

We will raise the lower income trigger to £250,000 in line with the proposed increase in the threshold for preparing accruals accounts. In addition, we will increase the asset element to £3.26m to remain in line with the threshold for companies that are not charities.

14. If a charity with income between £250,000 and £500,000 opts for Independent Examination, it must appoint a qualified examiner. If the £500,000 income based audit threshold is raised should this lower £250,000 threshold also be raised? Is so, what would be the right figure?

A large majority of respondents (27 out of 34) were against this change.

Government response:

The lower income threshold of £250,000 is to remain unchanged in line with the recommendation that the connected audit threshold is also to remain the same (please see the response to question 12).

15. Registered charities with income over £10,000 must state that they are registered on certain documents. Do you agree that this £10,000 threshold should be increased? If you do, is £25,000 the right figure?

There were 34 comments to this question. A majority support from 20 out of 34 respondents was against the proposal to increase this threshold to £25,000 with some raising strong objections. A number of respondents even suggested that all registered charities should state that they are registered on their documents. There were 2 other

comments such as making it voluntary up to £25,000 income.

Government response:

We will retain the current threshold. The arguments made by opponents of the original proposal were convincing. Complying with this requirement provides the public and other stakeholders with useful information and is a very small burden on an individual charity. It is also noted that many charities want to highlight their registered status.

16. There is a £500 threshold relating to recovery of the cost of proving a charity's title to a rentcharge. Do you think that this should be increased? If so, is £1000 the right figure?

There was not a lot of interest in this question. 6 respondents supported the change, 1 disagreed with it and 3 made some other comments.

Government response:

We recommended increasing this figure to £1000 as most were in favour of this proposal.

17. A person may be a professional fund-raiser if his or her relevant income exceeds £5 a day or £500 a year. Do you agree that these figures should be increased? If you do, are £10 a day and £1,000 a year the right figures?

There were 17 responses to this question. All were in favour of the proposal to double these figures. There was some support for far higher figures.

Government response:

We propose to increase to £1000 a year and £10 a day given the consensus in support of the increase.

18. There is a qualified right to a refund in connection with broadcast appeals that applies only to donations of £50 or more. Do you agree that this minimum amount should be changed? If you do, is £100 the right figure?

There were 15 responses to this question. A majority of respondents were in favour of this proposal (11 in support, 2 were against and 2 made other comments).

Government response:

We will raise this minimum amount to £100 as it has support from the majority of respondents.

19. Most charities with income over £5,000 are required to register with the Commission. Do you agree that this general registration threshold should remain at £5,000? If you do not, what should it be?

There were 36 responses to this question. Most respondents (22) agreed that the registration threshold should remain at £5000. Some (14) were in favour of an increase with £10,000 being mooted by several respondents.

Government response:

The registration threshold is to remain at £5000. It was introduced in the 2006 Act and therefore its impact can be assessed as part of the five-year review of the Act in 2011.

20. All registered charities with income over £10,000 are required to make an Annual Return to the Commission. Do you agree that this threshold should remain at £10,000? If you do not, what should it be?

There were 35 responses to this question. This received a mixed response. Most comments (19) were in favour retaining the current threshold of £10,000. Those against (9) mainly proposed an increase to £25,000 in line with other thresholds. A minority of

respondents (7) suggested that all registered charities should make an Annual Return.

Government response:

We will retain the existing threshold of £10,000. The Annual Return requires little effort from smaller charities and gives them a national presence and visibility via the Commission's register. It also provides a convenient way for all charities to keep their register entry up to date

21. Do you agree that the benefits of the current annual return, based on the annual accounts and reports cycle, outweigh the benefits of taking a different, perhaps biennial, approach to reporting? If you do not, what approach would you suggest for the annual return and/or the preparation of accounts and reports by charities?

There were 36 responses to this question. Almost all respondents (32) agreed to keep the annual cycle with only one support for biennial reporting. 3 respondents made other suggestions. There was some strength of feeling towards retaining the annual cycle. It was suggested that biennial is more cumbersome than annual and that any changes to cycles would only further reduce timely submission and could cause confusion.

Government response:

In light of the majority support for the existing system, we propose to retain the annual reporting cycle.

22. The 2006 Act changed the ability of charities to spend capital, transfer property and modify their powers. Do you agree that no further changes should be made to the thresholds in these areas until their effect has been assessed as part of the five year review? If you do not, what changes would you make?

All respondents (26) to this question were in support of not making any further changes until their impact is assessed as part of the five year review.

Government response:

These were potentially significant changes and time should be taken for them to settle in so that their impact can be properly assessed. So, we propose that these thresholds should be assessed as part of the five year review.

23. Do you think that any other thresholds covered by this consultation should be changed? If you do please let us have details.

Most respondents (19 out of 26) felt that no other thresholds should be changed.

Government response:

No significant thresholds to be changed other than those already discussed in this paper.

Conclusion and next steps

The 58 responses included a high number of umbrella and representative bodies and so was a reflection of a wider range of views. It is encouraging that few identified charity specific regulation as a major problem across the sector. However, the mixed responses to many of the proposals in the consultation clearly illustrates the difficulty in reaching a consensus on the best balance between reducing regulatory burdens and maintaining effective regulation, accountability and transparency.

Almost all of the specific proposals were supported by most who commented on them, and the recommendations in this paper represent a balanced response to the consultation results.

These recommendations will be introduced in secondary legislation by the end of the 2008/09 financial year. This will allow the measures to take effect from the beginning of the next financial year.

Summary of government response on proposed changes to the thresholds

| Consultation Question | Issue | Current Threshold | Consultation Proposal | Government Response |
|-----------------------|---|--|---|---|
| Q7 | Submitting Annual Accounts to the Commission | Required by registered charities with income over £10,000. | Increase from £10,000 to £25,000. | Increase to £25,000 |
| Q8 | Submitting Trustees Annual Report (TAR) to the Commission | Required by registered charities with income over £10,000 | Increase from £10,000 to £25,000 | Increase to £25,000 |
| Q9 | Preparing a Trustees Annual Report (TAR) | All registered charities must prepare a TAR. | Introduce a preparation threshold of £25,000. | Retain existing rule that all registered charities must prepare a TAR |
| Q10 | Preparation of Accruals Accounts by Non Company Charities | Charities with income over £100,000 must prepare accruals | Increase from £100,000 to £250,000. | Increase to £250,000. |

| Consultation Question | Issue | Current Threshold | Consultation Proposal | Government Response |
|-----------------------|---|--|---|---|
| | | accounts | | |
| Q11 | External Scrutiny of Accounts (Independent Examination an Option) | Charities with income over £10,000 must have their accounts externally examined (can choose an Independent Examination or Audit) | (i) Increase from £10,000 to £25,000. (ii) Invited views on increase to £50,000. | Increase to £25,000. |
| Q12 and Q13 | Requirement to have Accounts Audited. | Charities with income over £500,000 must have their accounts audited. Charities with income between £100,000 and £500,000 must have their accounts audited if their assets are worth £2.8 | No Specific Recommendation but invited views on: (i) increasing the income threshold from £500,000 to £1 million. (ii) increasing the trigger for the assets threshold from £100,000 to £250,000. (iii) increasing the | (i) Retain £500,000 threshold (ii) Increase to £250,000 in line with recommendation on accruals threshold. (iii) Increase to £3.26 million. |

| Consultation Question | Issue | Current Threshold | Consultation Proposal | Government Response |
|-----------------------|---|--|---|--|
| | | million or more. | asset threshold to £3.26m to bring it in line with the threshold for non-charitable companies. | |
| Q14 | Need for Independent Examiner to be Qualified. | If a charity with income over £250,000 but below audit threshold of £500,000 opts for Independent Examination, it must appoint a qualified examiner. | Invited comments on: If the £500,000 audit threshold is increased, should the lower limit be raised? | Retain the existing £250,000 threshold |
| Q15 | Requirement to refer to Registered Status on Documents. | Charities with income over £10,000 are required to say they are registered charities on certain documents. | Increase from £10,000 to £25,000. | Retain the existing £10,000 threshold |

| Consultation Question | Issue | Current Threshold | Consultation Proposal | Government Response |
|-----------------------|---|---|--|--|
| Q16 | Costs of proving right to title of rentcharge | If a rentcharge is released for no more than £500 the charity shall recover these costs from other party. | Invite comments on increase to £1,000 | Increase to £1,000 |
| Q17 | Definition of Professional Fundraiser. | The definition applies to an individual who receives more than £500 a year or £5 a day. | Double both figures to £1,000 a year or £10 a day. | Increase to £10 a day and £1,000 a year. |
| Q18 | There is a Qualified Right to a Refund of Donations to Broadcast Appeals. | Applies to donations of £50 or more. | Increase from £50 minimum to £100. | Increase to £100. |
| Q19 | Compulsory registration with the Charity Commission. | Generally charities with income over £5,000. | No change but views invited. | Retain the existing £5,000 threshold |

| Consultation Question | Issue | Current Threshold | Consultation Proposal | Government Response |
|-----------------------|--|--|------------------------------|---|
| | | | | (This may be reviewed as part of the 5-year review) |
| Q20 | Making an Annual Return to the Commission. | Required by registered charities with income over £10,000. | No change but views invited. | Retain the existing £10,000 threshold |

Annex A – List of Respondents

Association of British Orchestras Trust (ABO Trust)
Association of Chartered Certified Accountants (ACCA)
Association of Chief Executives of Voluntary Organisations (ACEVO)
Action in Rural Sussex, Sussex Village Halls Advisory Group
Action with Communities in Rural England (ACRE)
Archbishops' Council on behalf of the Church of England
Association of Accounting Technicians
Association of Charitable Foundations
Association of Charity Independent Examiners (ACIE)
Association of Church Accountants and Treasurers
Association of International Accountants
Bath Federation of Townswomen's Guilds
Beevor Band
Bruce Roberts
Campbell Tickell
Charity Finance Directors' Group
Charity Law Association
Charity Trustee Network
Chartered Institute of Public Finance and Accountancy
Church Urban Fund
Churches Main Committee
Community Accountancy National Network (Cann)
Community Council for Berkshire
Croydon Play Care
Directory of Social Change
Emmanuel Christian Centre
Fellowship of Independent Evangelical Churches
Frank Griffiths

Gareth G Morgan, Professor, Sheffield Hallam University
Graham Taylor
Groombridge Village Hall
GuideStar
Guild of Aid for Gentlepeople
Horwath Clark Whitehill
Hospital Broadcasting Association
Ian Clark, Management Consultant
Institute of Chartered Accountants
Institute of Chartered Secretaries and Administrators (ICSA)
J K Ashford BA (Econ) PhD FCMA
Kingston Smith LLP, Chartered Accountants
Mind in Gateshead
Ministry of Defence
Musicians Benevolent Fund
National Audit Office (NAO)
National Confederation of Parent Teacher Associations
National Council for Voluntary Youth Services (NCVYS)
National Association for Voluntary and Community Action (NAVCA)
National Council of Voluntary Organisations (NCVO)
Ok2b
OMNIS VAT Consultancy Ltd
Professional Classes Aid Council
Quakers
Stewardship
Syresham Village Hall Committee
Sywell Village Hall Management Committee
Wales Audit Office
Welwyn Hatfield Festival of Dance
Whittlebury Reading Room & Playing Field Charity

