

A SHARED SOCIETY?

The independence of the voluntary sector in 2017

**CIVIL
EXCHANGE**
Strengthening Society's Connection to Government

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About this report

This report is the sixth in a series of annual assessments of the independence of the voluntary sector.

The principal author of this and earlier reports is Caroline Slocock, the Director of Civil Exchange, with research by Ruth Hayes, and communications and other support by DHA.

Civil Exchange is grateful to guest contributors: Jacky Bourke-White, Tom Burke, Ivan Cooper, Kathy Evans, Anne Fox, Anna Heslop, Jane Slowey CBE, Paul Streets OBE, Sue Tibballs OBE and Sally Young.

The report has been produced with the generous support of the Baring and Lankelly Chase Foundations and follows on from the work of the Panel on the Independence of the Voluntary Sector, which was established by the Baring Foundation in June 2011 to ensure that independence is seen as a top priority by the voluntary sector, and which brought together experts and practitioners to serve on the Panel for a fixed period of time. The Panel produced its final report in February 2015. Civil Exchange is grateful to the Chair and members of the former Panel, Sir Roger Singleton CBE, Professor Nicholas Deakin CBE and Sir Bert Massie CBE, for their informal advice on this occasion. However, the views expressed in this report are Caroline Slocock's and hers alone.

Foreword

Theresa May's commitment to deliver a Shared Society is a potentially positive context for this year's report on the independence of the voluntary sector, which continues a series first started by the Panel on the Independence of the Voluntary Sector, of which I was Chair. Brexit also opens up an important leadership role for the voluntary sector on behalf of those individuals and communities that feel and have been 'left behind'.

However, it is depressing to note that, since the Independence Panel's last report two years ago, the challenges to independence we identified have continued and indeed in some respects increased, despite some positive developments. Key threats to that independence remain, including the so-called Lobbying Act, 'gagging clauses' in government contracts and a statutory funding regime that threatens the independent action and sustainability of the very organisations on which those with least power and resources in society often depend. And new threats have been added.

What particularly strikes me over the last 12 months is the chilling – indeed sometimes freezing – effect on the independent voice of the sector, not helped by what the report describes as 'a profound muddiness' about what is acceptable on campaigning. This was only increased by the guidance put out by the Charity Commission on the EU referendum, which – although partially retracted – effectively silenced an important voice in the campaign. The new grant standards issued by the Cabinet Office at the end of 2016 include some welcome concessions but have also added to the growing confusion about the importance of the voice of the sector in shaping the policies and services that are essential to any truly Shared Society, including when funded by Government. It is also regrettable that these grant standards put new requirements on grants that make them more like contracts, reducing the options for charities and potentially further threatening freedom of action.

I hope that Theresa May's Government will support a strong and independent voluntary sector – reversing these threats – and take the action needed to put her positive words on a Shared Society into practice.

The voluntary sector, too, must assert its distinctive contribution to society and ensure this is fully recognised and strengthened, particularly in relation to groups who currently lack power. I am delighted that Julia Unwin, who served on the Independence Panel, is chairing a new Inquiry into the Future of Civil Society that will be reporting over the next few years. I hope the Inquiry will bring renewed insights into the role of the sector in a our rapidly developing technological world which is often failing to improve the quality of life of those whom charities have been developed to espouse.



Sir Roger Singleton CBE

Former Chair of the Panel on the
Independence of the Voluntary Sector
5 April 2017

A Shared Society? Some voluntary sector perspectives

'Now there are new proposals around inclusive growth, but still minimal engagement, let alone involvement, of the voluntary and community sector. We are told that Government is interested only in the business perspective, well what about the people perspective?'

Sally Young, Newcastle CVS

'By removing cost caps and allowing personal finances to be publicly examined, it creates a huge deterrent for those who would use law to defend people's health and the natural world. With unlimited legal costs, it will be virtually impossible to bring a public interest case and hold the Government to account'.

James Thornton, ClientEarth

'Over the last few years, we have given the asset-based approach that has always underpinned the Foyer approach a name – Advantaged Thinking – and set about applying it within the Foyer network. As we did that, we came to realise just how far the Foyer approach was being corrupted through its funding relationship with the state and became convinced that our role was to try and reclaim it'.

Jane Slowey CBE, The Foyer Federation

'A strong, active, diverse and independent community, voluntary and charitable sector forms an essential part of a healthy democracy – but this independence is not in isolation: we can only achieve real independence when our interdependency with the public and private sectors is acknowledged, and accommodated by all. Let's work to re-build these shared appreciations and achieve our common purposes'.

Ivan Cooper, The Wheel, Republic of Ireland

'The lack of funds and family support have created impossible-to-meet levels of demand on dwindling social care and health resources and local voluntary organisations. These pressures are bringing about a small revolution in how the public and voluntary sector work together. Southwark Council and the Clinical Commissioning Group have recognised that it is vital that we concentrate our resources on the front line, pooling our knowledge of need and joint expertise on what works to deliver effective preventative interventions for older people...'

Jacky Bourke-White, Age UK Lewisham and Southwark

'It is clear from the Prime Minister and her Government that there is an appetite for reform of the systems which drive social inequality and injustice in modern Britain... These are necessary and welcome reforms, but it also represents a huge challenge, one that will be made all the more difficult if the voluntary sector continue to be sidelined'.

Anne Fox, Clinks

'Our role as social changers has never been more crucial. Yet in the headlong rush for growth some of us have bought into a state vision of what social change means that is articulated in the contracts it would have us take. Swapping the voices of those we reach – for the voices of those who commission us to reach them and determining need on the basis of what they are prepared to pay'.

Paul Streets OBE, Lloyds Foundation

'By any definition, the idea of creating a more 'Shared Society', of the kind that Theresa May has made the centrepiece of her social policy, should appeal to the very heart and soul of the voluntary sector... however, the voluntary sector's sustainability and independence remains dominated, and threatened, by a far more 'transactional' philosophy. Marketplace approaches to contracting with the most business-like and target-focussed charities share nothing of the philosophy or language of a Shared Society, or of a shared endeavour between equal partners'.

Kathy Evans, Children England

'Two decades of austerity have not only increased stress within society, they have also reduced the Government's capacity to deal with this additional stress. Swingeing cuts in Departmental budgets mean that there is now often more policy expertise in the voluntary sector than within Whitehall...As Britain moves further through one of the most disruptive social changes in its history marginalising those voices that have a real connection to the base of society seems a recipe for turning dissent into disaster'.

Tom Burke, Co-founding Director and Chairman of 3GE, Third Generation Environmentalism

'Charities work with and speak for millions of people. Charities are powerful. But I feel the sector has lost confidence in that. Re-engaging in campaigning is a quick route to re-engaging in core purpose, and also can help bring in the skills and competencies today's sector needs'.

Sue Tibballs OBE, The Sheila McKechnie Foundation

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Executive Summary

A Shared Society?

Could 2017 could be a turning point for the relationship of the state and the voluntary sector? Brexit, despite the social divisions it has revealed and even reinforced, potentially creates an opportunity.

On the one hand, Theresa May's has spoken of wanting to create a 'Shared Society', in which 'burning injustices' are addressed, communities are no longer left behind, and Britain works for everyone.¹ On the other, charity leaders have called on the sector to take a leadership role in rebuilding trust and healing social divisions, signalling a potential renewal of confidence and purpose after a referendum campaign in which the sector was largely silent.² This context may suggest signs of a shared agenda between the state and the voluntary sector, especially around giving disenfranchised communities and individuals more agency and control.

Recent history, however, is far from promising. David Cameron's Big Society, which bears a strong resemblance to May's Shared Society, petered out, with the relationship between the state and voluntary sector soured and the financial sustainability of parts of the sector weakened. That relationship has also been progressively undermined by growing threats to the sector's independence, many of which derive from Government, as Civil Exchange has documented in its five earlier annual reviews of the independence of the voluntary sector; the first four of which were in support of the Panel on the Independence of the Voluntary Sector.³

Despite the potential for improvement, this report asserts that the independence of the voluntary sector, which must lie at the heart of a truly Shared Society, continues to be under serious and growing threat, even in spite of some positive developments over the last 12 months.

The voluntary sector - acting for the disenfranchised?

Any Shared Society needs a strong independent voluntary sector at its heart. That independence is what, ultimately, enables it to speak up for and act on behalf of those who 'have been left behind'.

'Taking back control' – the dominant slogan of the EU referendum – is partly being interpreted as giving more power to disempowered individuals and communities, a shift in which charities should have a significant role. But what do the people 'left behind' actually want? Recent RSA research suggests: being listened to, being given more power, being treated equally and given equal opportunity, and it is clear that in doing so it will be important to rebuild trust in politicians, the media and institutions.⁴

An independent voluntary sector must be part of the solution, enriching public debate and helping to shape public policy and services, as well as deliver them. Over many years, trust in politicians and key institutions has been eroded but public trust in the voluntary sector remains relatively high, despite some recent knocks. It is that trust, together with its independence, which places the voluntary sector in such a strong position to help create a Shared Society.

But is the voluntary sector working well for those groups who in the past have lacked a voice? There are fewer voluntary organisations in the least affluent communities, with most in the best off areas,⁵ and austerity has hit them hard. In March 2017, Sir Stuart Etherington, Chief Executive of the National Council of Voluntary Organisations, suggested that the EU referendum result had shown that the sector had not been sufficiently in touch with the views of the disenfranchised and of those who are most vulnerable in society.⁶ Carrying out this role will require the voluntary sector to ask not just government but also itself some tough questions.

Is the Shared Society the Big Society all over again?

Theresa May's Shared Society closely resembles David Cameron's failed Big Society in many respects. In both cases, the incoming Prime Ministers heralded a new kind of government, a move away from individualism toward strengthening social bonds and society, and promised to address inequalities.

Like the Shared Society, the Big Society made ambitious promises, but largely failed to deliver on them, as documented by Civil Exchange in 2015.⁷ The agenda of austerity, a directive, top-down style of delivery at odds with community empowerment and Big Society rhetoric, and a public management model that focused on competition, not on the collaboration required to address deep-seated social issues, were major factors. The voluntary sector was often sidestepped and even directly attacked. There is no sign yet that any of these issues have disappeared, as this report documents.

A democratic deficit?

Part of the problem may be an imbalance of influence over government by corporate and civil society voices, what some have called 'a democratic deficit'. Perhaps because governments tend to see economic interests as paramount. In 2010, David Cameron had promised to stop behind the scenes lobbying by those corporate interests, speaking of 'money buying power, power fishing for money and a cosy club at the top making decisions in their own interest' which was eroding confidence in politics.⁸ However, the so-called Lobbying Act that was intended to do this only resulted in more constraints in practice on civil society than on corporate lobbying.

Theresa May's Government so far has demonstrated a bias toward the interests of business in some key decisions that are an early test of her Shared Society commitments. For example, on the steps of No 10, she committed to tackling the 'burning injustice' of health inequalities, and repeated this in her Shared Society speech. But one of her first acts was to abandon recommendations to tackle childhood obesity; an act which Dr Sarah Wollaston MP, the Conservative Chair of the Health Select Committee, said had put the 'interests of advertising marketers ahead of the interests of children'.⁹ Overturning a rejection of fracking by the local council in Lancashire, the Communities Secretary said: 'We will take the big decisions that matter to the future of our country as we build an economy that works for everyone, not just the privileged few',¹⁰ echoing a similar Shared Society commitment by the Prime Minister, without irony.

A market-based approach to commissioning public services adopted by successive governments has also led to the domination of unaccountable, often multi-national corporate businesses with a poor track record of delivery in key areas.¹¹ 'Gagging clauses' and control over data have further reduced the ability of voluntary sector bodies to represent the interests of those they serve.

The ‘sock puppet’ narrative

Indeed, the voluntary sector has in recent years been increasingly characterised as having too much influence on policy and services through what is sometimes called the ‘sock puppet’ narrative, a term derived from an influential Institute of Economic report¹² which argued that taxpayers’ money should not be used to pay interest groups to argue for changes in Government policy. More widely, a view has taken hold amongst some Ministers including, for example, Chris Grayling, now Transport Secretary, that charities should be seen but not heard.

Wider threats to civic space in the UK

There are signs of a closing down of ‘civic space’ for the expression of dissent and influence over the political process by civil society in the UK. Pointing, amongst other things, to the impact of vaguely defined anti-terrorism policies on associational life, and aggressive policing of some demonstrations, Maina Kiai, the UN Special Rapporteur, said in a report about the UK: ‘I am concerned about a series of separate measures by the Government – some implemented and others proposed – which, put together, suggest that the Government has a negative view of civil society’.¹³ Under Theresa May’s Government, even the ratification by Parliament of the decision to leave the EU had to be forced by judicial review and when *The Daily Mail* dubbed the judges, ‘Enemies of the People’, the Lord Chancellor initially failed to defend them.

Devolution in England – an opportunity?

Devolution creates opportunities to redress the balance. However, the evidence so far suggests that the voluntary sector is not gaining a seat at the table. Our guest contributor, Sally Young, sees at first hand in Newcastle the problems of ‘communities left behind’ and thinks that devolution might in theory be an opportunity to ‘take back control’ but reports minimal engagement with the voluntary sector so far. As she says, ‘We are told that government is interested only in the business perspective. Well, what about the people perspective?’

Continuing challenges to independence

Against this backdrop, it is all the more worrying that the independence of the voluntary sector has continued to be threatened over the last 12 months, with growing threats in a number of key areas.

Independence of voice being frozen out

The *independent voice* of the voluntary sector is critical to its ability, not just to be a voice for the disenfranchised, but also to use its expertise to shape policy and services – and in a Shared Society this voice must be welcomed and supported by Government. Indeed, the agreement between the Government and the sector renewed by David Cameron, the Compact, includes commitments to ‘respect and uphold the independence of civil society organisations to deliver their mission, including their right to campaign, regardless of any relationship, financial or otherwise, which may exist’ and to work with them ‘from the earliest possible stage to design policies, programmes and services’.

However, the cumulative impact of a number of measures in recent years – including the Lobbying Act, gagging clauses in contracts, the announcement in 2016 of a ‘no advocacy clause’ for grant agreements, and restrictive Charity Commission guidance on the EU referendum – has not just created a negative climate and concrete barriers to the expression of that voice but also led to a profound muddiness about what constitutes legitimate campaigning amongst all concerned.

The result is a growing and deeply concerning self-censorship, the most worrying sign of which was that the voice of the sector was almost entirely absent in the EU referendum debate. In a survey of 100 charity professionals, one in five respondents said their organisations were already campaigning less and 90 per cent felt that campaigning by the voluntary sector is under threat.¹⁴

In some respects, this chilling – indeed in the case of the EU freezing – impact can only be made worse by the watered down ‘no advocacy’ clause in the new grant standards announced at the end of 2016. Although the concessions won by the voluntary sector are welcome, significant problems remain. And it is not a happy or clear situation when key leaders of the sector could announce a ‘victory for common sense and for free speech’, while the Cabinet Office press release simultaneously said that the new standards ‘would put an end to grant money being wasted on activities not specified in the grant agreement, such as ‘political lobbying’’, and other charity leaders pointed out in a letter to the Minister that the standards were not Compact compliant.

The power of NGOs to use judicial review has also been further threatened in the last 12 months, most recently in the environmental field, where caps on costs are being removed by this Government. The Chief Executive of ClientEarth, the organisation that has twice taken the Government successfully to court over lack of effective plans on poor air quality – which is causing 40,000 premature deaths every year – has said: ‘With unlimited legal costs, it will be virtually impossible to bring a public interest case and hold the Government to account’.

At the same time, Part 2 of the Lobbying Act remains in place, anti-advocacy terms and ‘gagging clauses’ in contracts still exist, for example in the Tampon Tax Fund, and consultation remains weak, in many areas bearing no resemblance to the commitment to co-production currently included in the Compact.

As Anne Fox writes in her guest contribution, a Shared Society heralds potentially vital reforms, but these cannot be achieved while the voluntary sector ‘continues to be sidelined’.

Poor commissioning and new grant standards threatening independent action

The voluntary sector’s independence of action helps ensure that communities, particularly those which are least affluent, feel and are in control of services that matter to them – and in a Shared Society the state would ensure that its financial support was given in a way that encouraged this activity.

Many voluntary organisations provide services either as part of the welfare state or in addition to it, and often rely on government funding to do so. However, over many years, a switch from grants to poorly designed competitive contracts for specific services has often restricted freedom of action to the detriment of services. Our guest contributor, the departing Chief Executive of the Foyer Federation, Jane Slowey, writes about how the organisation started to move away from its original focus because of this and said: ‘We came to realise just how far the Foyer approach was being corrupted through its funding relationship with the state and became convinced that our role was to try and reclaim it’.

Not all organisations have alternative sources of funding to turn to, and loss of state resources for community-based and specialist services is reducing capacity in key areas, made worse by the rise in demand for their support due to public service cuts. Competitive tendering has also squeezed out social collaboration and innovation and led to an increasingly instrumentalist view of the sector as an arm of the state.

Over the last 12 months, the situation overall has become worse, despite some positive developments. Increasing pressure on public funds is exacerbating the weaknesses in the current funding regime and some voluntary organisations are even cross-subsidising the public sector with their own income as the amount of money provided for services has reduced.

Perhaps most worryingly, the Cabinet Office's new grant standards will make grants, which have been an important and more flexible alternative to contracts, especially for smaller organisations, more like contracts. Grants will in future be normally awarded through competition, reviewed annually, and linked to outcomes and outputs as far as possible, with payments expected to be mostly in arrears – potentially reducing the freedom of action of recipients further. Whilst the move to reduce the risks uncovered by the case of Kids Company has to be welcomed, this looks like overkill.

The Government has announced more support for small charities to win contracts and also, in the next few years, a significant new Dormant Asset Fund. But fundamental problems remain and progress is likely to be slow. Infrastructure bodies, which have largely lost their strategic partnership funding from the state, have been increasingly cut back at a time when the voice of the sector is especially crucial - and some have closed.

'Independent' regulation is not independent

Over a number of years, there have been concerns about the political independence of the Charity Commission and its failure to stand up for the independent role of the sector. One of the most damaging developments over the last 12 months was the issuing of guidance by the Charity Commission that discouraged charities from speaking up during the EU referendum which, although later modified, contributed to the major chilling effect referred to earlier. At the same time, one of its Trustees wrote an anti-EU essay, breaking the Commission's Code of Conduct rules, but was nonetheless re-appointed, only to step down quietly at the beginning of 2017. Amongst other concerns, complaints continue to be made about its treatment of Muslim charities.

The Compact has been especially ineffective over the last year and the future funding by the Government of Compact Voice, which monitors and promotes it, was under discussion during the very period in which the 'no advocacy' clause was being discussed and the new grant standards – which are not Compact compliant – were issued.

A sharper focus on causes and people served must be maintained

Ultimately it is a focus on their independent mission – or independent purpose -that ensures that voluntary organisations put the people and causes they serve first, not money, organisational survival or a good relationship with government at any price. It is that focus which makes them an effective voice for and actor on behalf of wider society. A truly Shared Society cannot be achieved if that sense of purpose is under threat.

Last year we reported that some charities appeared to have been chasing money in ways that were not consistent with their fundamental mission. Evidence emerged in the media of poor fundraising practices, excessively high salaries in some cases and some commercial practices that seemed incompatible with mission. During this last 12 months, the direction of travel has been more positive, though evidence of some poor practice has continued to emerge and high profile criticism of specific organisations in the media has continued, though some of the allegations have been successfully overturned. Changes have been made to the regulatory regime which, although not without potential negative side effects for 'better behaved' charities, appear to have at least helped to restore public confidence. Significantly, public trust in charities appeared, at least for a time, to have suffered but now seems to have bounced back.

Nonetheless, the fact that serious social inequalities remain in society, and so many people are dissatisfied with politics and the system of government, particularly those in lower economic groups – as explored in Chapter 1 – suggests there is still work for the sector to do to better connect with and represent those it serves in order to help create a truly Shared Society.

Conclusion – toward a Shared Society

Change is needed in both the voluntary sector and the Government to tackle the threats to independence uncovered by this report and to realise the potential of a Shared Society. The Panel on the Independence of the Voluntary Sector called for a 'new settlement' between the Government and the voluntary sector, based on a shared understanding of its distinctive, independent contribution. A new two-year Inquiry into the Future of Civil Society is about to be launched by a consortium of charitable foundations led by the Baring Foundation, which will help to create a stronger shared vision and the conditions needed to get there.

This report includes a number of suggestions to contribute to this debate, some of which are made by guest contributors. Ivan Cooper from the Republic of Ireland says that it is important to recognise that the public and voluntary sectors do share a commitment to working for the public good, and can coalesce around a common purpose. Jacky Bourke-White in her guest contribution shows this is starting to happen in Southwark due to strong leadership on both sides.

Paul Streets calls for a 'bottom up' model of social change which reconnects with people's needs and capabilities locally, rather than focusing on the requirements of commissioners. Kathy Evans argues for a much more collaborative and less competitive model for how the state funds the voluntary sector. This report argues for a new funding model which, amongst other things, can ensure that the social sector's 'deprivation gap' – the lack of funding for those who need more support in a Shared Society – is addressed. As Tom Burke argues, the sector needs to develop a counter to the 'sock puppet' narrative and points out that good government and a strong democracy need a strong civil society, as politicians have become more disconnected from their grass roots, citizens have become more educated and a shrinking public sector is increasingly denuded of expertise. Sue Tibballs calls on the sector to assert its independent purpose and find a more confident voice, taking a more open, collaborative approach to campaigning.

So, we conclude that the sector can help create a new environment, but that Theresa May must also:

- Make a clear statement about the legitimate role of campaigning and the importance of the voice of the sector in helping to shape policies and services, including when funded directly by the state, and carry this through into changes to the Lobbying Act (implementing the recommendations of the Hodgson review), contracts and grant standards.
- Ensure proper, affordable access to the courts for NGOs, reversing recent changes.
- Provide a genuine seat at the table of policy-making and service design for the social sector, nationally and locally, and fund this where necessary.
- Provide effective funding, addressing the problems highlighted by this report, including revising the grant standards to ensure that grants continue to provide a genuine alternative to contract funding; and provide specific funding to strengthen social organisations and communities in the most deprived areas and helping vulnerable people.
- Sign up to an effective, externally and independently policed and properly funded Compact.

Overall, there is an enormous distance to travel to achieve a truly Shared Society, but so much to be gained by starting the journey.

Chapter 1

A Shared Society?

Since last year's report, there has been a major shift in the political and social landscape as a result of the Brexit decision in the EU referendum in 2016. Theresa May has spoken of a 'Shared Society' and voluntary sector leaders have signalled a critical role for the voluntary sector.¹⁵ It seems that the Brexit watershed could herald a significant shift in how the voluntary sector sees its role and a change in the political environment in which it works – but only if critical lessons from the failed Big Society initiative are learnt by government, including greater respect for the sector's independence.

The post-Brexit world – reaching communities left behind

The EU referendum result has been interpreted as an indication that many people in Britain felt that the economy and society were not working for them, and that whole communities had been 'left behind'. The Edelman 2017 Trust Barometer describes the worrying underlying trend:

'Last year, we talked about A Tale of Two Britains – those who felt life was fair and those who definitely did not. That played out in the split over Brexit. This year we can see the gap widening as those who are much worse off financially and those just about managing are much more likely to say that the traditional systems of British life don't work for them. Fair play feels like a thing of the past to many people. Only just over one Britain in 10 believes that the system that runs our society is working for them, 60 per cent said it was failing'.¹⁶

In different polling, lower socio-economic groups have also been much less likely to express satisfaction with politics and the system of government than the most affluent groups. 28 per cent of those belonging to classes DE were satisfied compared with 43 per cent of people in classes AB in 2015.¹⁷

'Taking back control' – a slogan during the referendum – is partly being interpreted as giving more power to disempowered individuals and communities, a movement in which charities could have a significant role.

But what do the people 'left behind' actually want? Being listened to, being given more power, being treated equally and given equal opportunity, with a rebuilding of trust in politicians, the media and institutions – these are the pointers emerging from a series of roadshows in disadvantaged communities in areas like Clacton and Port Talbot commissioned by the RSA to explore views of how to create an economy that works for everyone. Participants certainly saw a role for the voluntary sector in this – and a number of the meetings were hosted by community groups.¹⁸

After the EU referendum, opinion polls also found that nearly 14 million people felt that their community was more divided than it was at the start of the year.¹⁹ The vote itself was highly divisive, with a clear generational and educational divide,²⁰ and with strong anti-migrant views expressed by some in the campaign.²¹ There was also a significant increase in racially or religiously aggravated crimes, following the EU referendum.²² Over the last year, aggressive political rhetoric across the world has created a climate of fear and hatred for minority communities.²³

A role for the voluntary sector post-Brexit?

In the immediate aftermath of the EU referendum vote, voluntary sector leaders in England called on the voluntary sector to become a bridge between communities and between the public and institutions to restore trust. The Charities Aid Foundation (CAF) published a report to this effect and

Sir Stuart Etherington, the Chief Executive of the National Council of Voluntary Organisations (NCVO), argued that the sector should rebuild trust and heal divisions.²⁴ CAF opinion polling suggested that there was some significant public support for this role.²⁵

The response from voluntary sector leaders was in stark contrast to the relative silence of the sector during the referendum campaign, reflecting wider external and internal challenges to its campaigning voice, as explored later in this report.

Sir Stuart Etherington, in a speech in March 2017, said that: ‘My deepest regret is that charities did not have the confidence to inform the debate ahead of polling day,’ but then urged charities to take an active role in forming the future post-Brexit.²⁶

The voluntary sector arguably has a stronger mandate than politicians to speak up on behalf of the disempowered and heal social divisions. As explored in Civil Exchange’s *The Big Society Audit 2012*, over many years, mainstream political parties in the UK had seen a reduction in their grass roots engagement at the same time as membership and engagement with the voluntary sector has remained buoyant and even grown.

Trust in the voluntary sector also remains high compared to trust in politicians, the media and many national institutions and still remains higher than in most public bodies, despite some significant falls in the middle of 2016 recorded by the Charity Commission, at a low point for the sector’s reputation. The same survey found that, whilst charities fell from third place (behind doctors and the police) to fifth place (behind doctors, the police, social services and the ordinary man/women in the street), trusts in charities was significantly higher than in private companies, local councils, newspapers, MPs and Government ministers. 93 per cent of the public also think that charities play a role of either fair, very, or essential importance in society.²⁷

But are voluntary organisations in the right place or representing all interests? Participants in the RSA Inclusive Economy roadshows commented on the lack of capacity of voluntary organisations in their area.

Wider research shows that deprived communities have fewer voluntary organisations than affluent ones, and those that exist are more likely to provide welfare services.²⁸ Other research examining how people from different areas use charities found that those more commonly accessed by those in the least deprived areas offer some level of enjoyment, whereas charities in the most deprived areas are more likely to provide advice, support and guidance or a property through a charitable housing association.²⁹

There is also a question of whether the charity sector has been listening. Sir Stuart Etherington threw out this challenge to the sector in March 2017, calling on charitable foundations to invest more in building communities' capacity to speak up and advocate for themselves:

'We are and should be the voice of the disenfranchised and of those who are most vulnerable in society...But the outcome of the referendum told many of us otherwise... Collectively, we should have been more aware of how people felt. And we should have acted immediately to address the root causes and to help find a solution...The referendum result was a salutary reminder that charity as a model is not perfect: that at worst we can fall into representing communities from afar, citing deficits in skills or voice'.³⁰

The voluntary sector is also weakened by wider financial problems, particularly in disadvantaged areas – see the box below.

A weakened sector, financially

On average, voluntary sector organisations have in recent years received a reduced income from the state, and demand for their services has grown. There has been no growth in real terms in individual donations for nearly a decade and there was an overall fall by 5 per cent, adjusted for inflation, from £10.6 billion in the previous year to £9.6 billion in 2015.³¹

Organisations working in social welfare services have been most affected, and Government income has fallen by over £500 million since 2008-9. Employment and training organisations saw a fall of £345.5 million in Government funding between 2008-9 and 2013-14, law and advocacy agencies had a cut of £102 million, and culture and recreation organisations received £53.1 million less over the period.³² Cuts in statutory funds have also been deeper in some areas, particularly affecting the least affluent areas.³³

The new Fundraising Preference Service, which enables donors to opt in rather than having to explicitly opt out, may also impact negatively on income. Estimates vary and are inevitably speculative but at the top end of the scale, in 2015 the fundraising think tank Rogare estimated the cost at £2 billion a year – 20 per cent of all fundraising income – in five years' time. Rogare

also reported that fundraisers themselves had made estimates, and guessed the cost would be around £1.7 billion a year.³⁴

Brexit presents further potential challenges. The Charity Finance Group estimates that the direct loss of EU grants and contracts could be around £200 million a year – £500 million by 2020. This ‘hit’ is likely to fall sharply on just 249 organisations. There will also be the loss of the European Social and Investment Fund worth in the region of £11 billion, with 20 per cent being specifically earmarked for projects assisting social inclusion.³⁵

However, a Dormant Assets Fund estimated to be as much as £2 billion in total over a number of years was announced in March 2017 and may help to fill the gap once operational. The Government has also regarded social investment as an important substitute for lost income. In March 2016, Rob Wilson MP, Minister for Civil Society, said that he expected the social impact bond market to be ‘worth more than £1 billion by the end of this parliament’.³⁶ But the market is currently still ‘small beer’.³⁷

Finally, over a number of years there have been significant challenges to the sector’s independence in four key areas:

- Threats to independence of voice, including threats to the right to campaign and lack of consultation or a willingness to listen by the Government.
- Threats to independent action, due to unsupportive statutory funding and contracting arrangements, which have particularly damaged capacity amongst smaller voluntary organisations, often based in the least affluent communities.
- Threats to independent regulation, due to a politically-driven Charity Commission and weak Compact, that most recently discouraged charities from taking part in the EU referendum debate.
- Threats to the sector’s independent purpose, due to commercialisation and external control over governance by funders, partly fuelled by an increasing tendency to see the voluntary and commercial sectors as interchangeable in public sector contracting.

Civil Exchange started compiling annual assessments of that independence in England in 2011, initially on behalf of the Panel on the Independence of the Voluntary Sector, and these have shown a year-on-year deterioration in the independence of voluntary sector in the first five consecutive years that followed.

There have been some positive developments to report on independence over the last 12 months but the situation continues to deteriorate in significant respects as documented later in this report.

Definitions of independent purpose, voice and action, and the governance, regulatory and funding environment needed to support them, are given in the Barometer of Independence shown at the end of this report.

Overall it is clear that the sector needs not just to assert a renewed self-confidence and sense of purpose in the new context provided by Brexit but the environment in which it works with government needs to change significantly to enable it to act upon these intentions freely.

The Shared Society – the Big Society all over again?

Theresa May's 'Shared Society' speech on 9 January 2017 at the Charity Commission marked potentially the start of a new chapter for the relationship between the voluntary sector and the state, in which she promised to support the sector and committed to tackling 'burning injustices' so that post-Brexit Britain worked for everyone. Echoing her words on taking power on the steps of No 10, she said:

'We live in a country where if you're born poor, you will die on average nine years earlier than others. If you're black, you're treated more harshly by the criminal justice system than if you're white. If you're a white, working-class boy, you're less likely than anybody else in Britain to go to university. If you're at a state school, you're less likely to reach the top professions than if you're educated privately. If you're a woman, you're likely to be paid less than a man. If you suffer from mental health problems, there's not enough help to hand. If you're young, you'll find it harder than ever before to own your own home'.

Theresa May's speech extolling the virtues of a 'Shared Society' has been seen by many voluntary sector commentators as a potential step in a new direction – and been welcomed.

Sir Stuart Etherington, for example, said: 'I was very pleased to hear the Prime Minister's speech today. She is entirely correct that the state alone cannot solve problems, and that different types of organisations share the responsibility for improving our society, but also that between us we have the skills to make it happen'.³⁸ Likewise those guest contributors to this report who write about the Shared Society are entirely positive about the aspirations and see many ways in which the voluntary and public sectors could work well together to achieve a common purpose.

Yet the shadow of past initiatives cannot be ignored. Under David Cameron's premiership, there had been a toxic combination of promises for a Big Society – in which communities would be empowered, public services opened up and made more responsive and social action stimulated – and poor delivery, with the voluntary sector in particular being sidestepped and even directly attacked, despite natural expectations to the contrary, and treated as an instrument rather than an agent of change.

There are striking similarities between the two Prime Ministers' visions, as explored in the box below.

In both the Big and Shared Societies, we have been promised a new kind of government, an end to a focus on individualism toward strengthening social bonds and society, and interventions to address inequalities.

Shared versus Big Society – how different are they, really?

For Theresa May, 'the central tenet of my belief – the thing that shapes my approach – is that there is more to life than individualism and self-interest'. For her, the government has 'a clear role to play to support this conception of society' and she signals a move away from 'laissez-faire liberalism' to government 'stepping up' not just to provide welfare state support but to 'deliver real social reform across every layer of society'.³⁹

David Cameron also argued for 'a re-imagined state', saying: 'This means a new role for the state: actively helping to create the big society; directly agitating for, catalysing and galvanising social renewal'.⁴⁰ He spoke of moving from 'unchecked individualism to national unity and purpose' in his first year as Prime Minister.⁴¹ Like Theresa May he said 'our society is blighted by the persistent failure to extend equal opportunity, dignity and worth to all', promising to 'make opportunity more equal'.⁴²

The new Prime Minister also speaks about the sector's value, extolling charities and social enterprises as the greatest example of 'the bonds of family, community and citizenship' on which this country is built and referring to 'the contribution they make in helping to meet some of the greatest social challenges of our time'. Again, David Cameron made many similar observations.

And both Prime Ministers said the voluntary sector would be better supported. Under David Cameron's administration, the promise was not just help to increase donations and volunteering but also access to funding to make the most of opportunities and greater accessibility to contracts for delivering public services.⁴³ Theresa May said:

'The shared society.... means creating an environment in which our charities and social enterprises can thrive – but responding when a small minority pursue inappropriate and unacceptable fundraising practices. And it means not being ambivalent about the efforts of all those who give their time, money and expertise in the service of others; but recognising, supporting and championing those who lead the way in shaping a civil society that can bring the talents of so many in our voluntary sector to bear on some of the great social challenges that we face together'.⁴⁴

On this, she promised to continue David Cameron's 'important work' through the Points of Light programme and the National Citizen Service and supporting the IWill campaign, as well as continuing to develop social finance.

One difference is that Theresa May's Shared Society is more focused on social injustices. The 'burning injustices' to which she refers and unheard voices are the staple of many voluntary and community organisations and there are some signs of the Government signalling that it wishes to hear from and work with charities on certain issues. In her January speech, she announced an initiative on mental health, which engaged Mind in working with employers, and she praised the sector for its awareness raising and campaign work:

'Organisations such as Mind who have led the way in helping those experiencing mental health problems. The Heads Together campaign – and the fantastic leadership shown by their Royal Highnesses the Duke and Duchess of Cambridge and Prince Harry – that aims to break the stigma surrounding mental health problems. And the tremendous campaigning work by Black Mental Health UK – with whom I worked at the Home Office – to expose injustices in the way black people with mental ill health in particular are treated, and ensure politicians take action to put things right'.⁴⁵

In February 2017, she also announced that she will be personally overseeing legislative changes on domestic violence and the views of victims, charities and legal experts will be heard in a cross-government review.

These are green shoots but do they signal a major shift in thinking?

The proof will be in the eating. The agenda of austerity, a directive, top down style of delivery at odds with community empowerment and Big Society rhetoric, and a public management model that focused on competition, not collaboration, were certainly major factors in the failure of the Big Society to achieve its objectives. And there is no sign yet that any of these have gone away.

There is a danger of placing too much emphasis on one speech. As explored in this report, there is plenty of evidence that the state is still discouraging dissenting voices, failing to equip the voluntary sector to be an equal partner and placing too much weight on the views of other vested interests. This needs to change, and hopefully it will.

Ultimately it is a question of power and where that resides. Chapter 2 looks at who shapes society, what role the voluntary sector currently has, and at recent trends in how the central and local government is regarding and working with civil society, including the impact of devolution in England.

Chapters 3 – 6 review progress against each of the challenges to the independence of the sector identified in previous years and looks at which parts of the sector are most at risk.

Chapter 7 looks at what would need to change in both government and the voluntary sector to create a Shared Society and move toward 'a new settlement' to underpin it.

Chapter 2

Who shapes society?

In a genuinely Shared Society, the economy and Britain, as Theresa May has put it on a number of occasions, would work for everyone. All sections of society would have influence over the things that affect them and none would have disproportionate power. Diverse voices would be heard to highlight problems and opportunities and expertise would be brought into central and local government to help design policies and services to meet them. In democratic debate, different and sometimes competing interests in society would be fully recognised and balanced in a transparent way.

This chapter looks at who is currently shaping society and how the Government is currently characterising and supporting the role of the voluntary sector and wider civil society and concludes that we are currently a long way from achieving that vision.

A democratic deficit?

Looking across the international stage, a number of bodies have pointed to an imbalance between the influence of corporate and civil society interests in policy formation.

CIVICUS, a global alliance dedicated to strengthening citizen action and civil society, in its 2014 report about the state of civil society, drew attention to the lack of influence of civil society both in many countries and in international bodies, speaking of a 'double democratic deficit':

'The institutions of international governance are not open enough: they do not organise themselves to be exposed systematically to people's voices. It is hard for people to relate to them or indeed to understand them. They are less democratic even than the states that make up their membership, and it is naive to expect citizens' voices to be filtered through their states to be heard at the global level. As such, international level institutions reproduce and amplify national democratic deficits'.⁴⁶

The independent not-for-profit Global Policy Forum writes of:

'the political influence of the private sector - particularly large transnational corporations - on arenas of global governance. Recent work focuses on the United Nations in particular, and how a small number of corporations, business associations, and private philanthropic foundations engage with multiple processes to ensure that the outcomes align with a global pro-business agenda. As this work illustrates, corporations and their proxies transform the discourse and/or block progressive outcomes in both the UN's sustainable development post-2015 and the business and human rights processes, pushing (overtly and/or silently) for 'multi-stakeholder' governance models and voluntary, non-binding corporate social responsibility commitments'.⁴⁷

Part of this may be explained by this observation by the UN Special Rapporteur, Maina Kiai, in his report, *Sectoral Equity: a stimulus plan for civic space*:⁴⁸

‘We live in an era where political discourse often revolves around the economy, jobs and growth. Businesses, particularly large corporations, exert enormous power over the economy, and consequently have great influence with political leaders’.

Is there evidence of undue corporate influence in the UK? Certainly David Cameron in opposition thought so, saying just before the 2010 General Election:

‘I believe that secret corporate lobbying, like the expenses scandal, goes to the heart of why people are so fed up with politics. It arouses people’s worst fears and suspicions about how our political system works, with money buying power, power fishing for money and a cosy club at the top making decisions in their own interest. We can’t go on like this. I believe it’s time we shone the light of transparency on lobbying in our country and forced our politics to come clean about who is buying power and influence. Politics should belong to people, not big business or big unions, and we need to sort this out’.⁴⁹

However, as noted in our last report, the Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act 2014, or the so-called Lobbying Act, which was originally designed as a response to various lobbying scandals by private sector interests, ended up with what many commentators regard as an ineffective lobbying register. Under the terms of Part 1, ‘in-house’ lobbyists within private companies do not need to register, and only meetings with Ministers and Permanent Secretaries have to be registered for those lobbyists who come within scope and then only once, however many meetings take place. At the same time Part 2 of the Act, which was apparently introduced as an afterthought, has had the impact of restricting the voice of the voluntary sector in the run up to elections. It succeeded in muddying the waters about whether campaigning – a stock in trade for many NGOs – was essentially political in the sense of party political, or not.

The influence of corporate interests is hard, if not impossible, to document but it can arguably be seen, if only indirectly, in the failure of governments to deliver on their commitments to secure clean air in British cities. Part of this may be behind the scenes influence, some, or perhaps, all of it may be due to economic interests trumping social ones, as suggested by Maina Kiai.

Will things be different under Theresa May? Three case studies suggest otherwise.

Tackling obesity

In her first speech as Prime Minister, Theresa May put reducing health inequalities at the top of her list for action – one of the ‘burning injustices’ that also appeared in her Shared Society speech. However, in August 2016, under her new premiership, plans to comprehensively tackle childhood obesity, which disproportionately affects those in socially deprived areas, were abandoned. These plans had included measures targeting junk food advertising to children and promotions on two-for-one deals.

Dr Sarah Wollaston MP, Conservative chairwoman of the Health Select Committee said that the decision showed the ‘hand of big industry lobbyists’ and said the Government should not promise to tackle health inequalities as the ‘first litmus test of that’ and then put the ‘interests of advertising marketers ahead of the interests of children’.⁵⁰

Jenny Rosborough, Action on Sugar campaign manager, called the strategy ‘an embarrassing and inexcusable waste of a fantastic opportunity to put the nation’s health first’.⁵¹

Clean air

In February 2017, Britain had been sent a final warning to comply with EU air pollution limits for nitrogen dioxide (NO₂) or face a case at the European Court of Justice. If the UK does not show Brussels how it intends to comply with EU law within two months, a court hearing with the power to impose heavy fines could begin later this year. The UK has been in violation of the EU’s NO₂ limit since 2010 and at the forefront of resistance to laws aimed at curbing air pollution deaths. Parts of London overshot the annual air pollution limit for the whole of 2017 in just the first five days of the year.⁵² The EU is also starting legal action against the UK and six other EU states for failing to act against emissions cheating by car manufacturers. VW was forced to recall nearly half a million cars from the US market last year after it was revealed that the company had used sophisticated ‘defeat devices’ to pass emissions tests in laboratory conditions. Other manufacturers have also used techniques to give lower emissions readings than in real world driving.

Fracking

Theresa May started her premiership by saying she would ‘do everything we can to give you more control over your lives. When we take the big calls, we’ll think not of the powerful, but you. We’ll listen not to the mighty but to you’.⁵³

The Government’s own public opinion poll found 81 per cent of the public in support of renewables, with 4 per cent against and 19 per cent in favour of fracking and 31 per cent against, with the rest undecided.⁵⁴ The Government’s decision to overturn Lancashire Council’s rejection of Cuadrilla’s plan to drill four fracking wells in the county was therefore surprising. The Communities Secretary who took this decision commented in a strange echo of Theresa May’s words:

‘Shale gas has the potential to power economic growth, support 64,000 jobs, and provide a new domestic energy source, making us less reliant on imports. We will take the big decisions that matter to the future of our country as we build an economy that works for everyone, not just the privileged few’.⁵⁵

Brussels gives NGOs greater influence

Interestingly, the EU has given NGOs a voice in policy formulation in order to reduce its 'democratic deficit'. This is what the Global Policy Forum has to say:

'The European Union has a supranational governance structure, which means it is able to make decisions without the unanimous agreement of national governments. To address the criticism concerning its democratic deficit, the different EU institutions have included NGOs in the policy making process. With their expertise and representative member base, NGOs can provide valuable input and help legitimise the decision-making process within the EU. ...The EU commission has allocated more than 1 billion Euros annually in support of NGO projects and there are over 15,000 lobbyists and 2,600 special interest groups in Brussels'.⁵⁶

In the UK, the Government has given business disproportionate influence over the way in which government is run by placing largely business representatives on departmental governing boards, which are chaired by Ministers.

Government departments have had non-executive board members for many years, with their role being first publicly codified in 2005. The Coalition government enhanced the role of NEDs, and placed a greater emphasis on their having commercial experience (the 2010 Ministerial Code stipulated that they should be 'largely drawn from the commercial private sector').⁵⁷ As of February 2017, 60 out of 73 non-executive appointments were from the private sector and only one was working in a charity, though some others had previous charity experience or sat on charity boards.

This prevalence of commercial as opposed to social thinking in Government was reflected in the new civil service competencies (against which civil servants are assessed and rewarded) in 2012, issued as part of the coalition Government's civil service reform. A competency to deliver 'outcomes', a key objective of any government across a range of social as well as economic objectives, became:

'Achieving Commercial Outcomes

Being effective in this area is about maintaining an economic, long-term focus in all activities. For all, it's about having a commercial, financial and sustainable mindset to ensure all activities and services are delivering added value and working to stimulate economic growth. For leaders, it's about identifying economic, market and customer issues and using these to promote innovative business models, commercial partnerships and agreements to deliver greatest value; and ensuring tight commercial controls of finances, resources and contracts to meet strategic priorities'.⁵⁸

Government services have also been shaped by a market-based philosophy of competitive tendering which has unduly favoured large, often multi-national, businesses.

Both the National Audit Office and Public Accounts Committee have criticised such businesses for being unaccountable and 'too big to fail' and highlighted a series of high profile contract failings.⁵⁹ The same process has resulted in the voluntary sector increasingly being characterised as a delivery agent – an arm of state – which is seen but not heard. This market-based approach – which encourages a race to the bottom on price – is coming under increasing strain, for example in care homes and children's services. Children England say that this model is also increasingly reducing the sector's ability to offer an alternative:

'Market competition has been eroding our collective resources and our sense of common cause across the children's public and voluntary sectors for far too long. By rewarding 'business success', competitive markets actually entrench rather than challenge existing business models, stifling our collective imagination to conceive of radical alternatives'.⁶⁰

'Gagging clauses' and control over data have further reduced the ability of voluntary sector bodies to represent the interests of those they serve, as explored further in Chapter 3.

The 'sock puppet' narrative

Perversely, given this situation, the voluntary sector is increasingly being characterised as having too much influence on policy and services through what is sometimes called the 'sock puppet' narrative.

For example, in 2014, Transport Secretary Chris Grayling (then Justice Secretary) said that campaigners were hiding behind 'a veneer of neutral non-partisanship':

'The issues they latch onto are usually about spending more of your money – or undermining the crucial work we are doing to turn the country round. Like their persistent campaigns to reverse our vital welfare reforms – reforms that have seen a massive drop in the number of households dependent on benefits, with all the positives that brings for them and for society'.⁶¹

In March 2014, Chris Grayling, also as Justice Secretary, told the House of Lords Constitutional Committee that the use of judicial review was a block to democracy,⁶² as he pushed through the Criminal Justice and Courts Bill that curtailed their use. And he told an audience of charity leaders in the same month that he strongly disagreed with the campaigning role of charities.⁶³

Similar sentiments were also expressed by Owen Paterson who, on his resignation as Environment Secretary in July 2014, said he was proud to have stood up to what he called 'the green blob':

'By this I mean the mutually supportive network of environmental pressure groups, renewable energy companies and some public officials who keep each other well supplied with lavish funds, scare stories and green tape. This tangled triangle of unelected busybodies claims to have the interests of the planet and the countryside at heart, but it is increasingly clear that it is focusing on the wrong issues and doing real harm whilst profiting handsomely'.⁶⁴

The case has been made perhaps most influentially by the Institute of Economic Affairs Sock Puppet report⁶⁵ which was quoted directly by Ministers when they put forward the 'no advocacy clause' for grant agreements in early 2016. The argument is that taxpayers' money should not be used to pay interest groups to argue for changes in government policy. Although some softening has been made to the clause, as we explore in Chapter 3, the new grant standards also create a very strong presumption that public funds should not be used to support so called 'political lobbying' or to exert 'undue influence'.

At the same time, opinion has been shifting amongst MPs, who are heavily divided on political lines. Over three quarters (77 per cent) of MPs say it is acceptable for a charity to highlight the impact of a policy on its beneficiaries. But more than four times more Labour MPs than Conservatives say it is acceptable for a state funded charity to challenge government policy (73 per cent and 16 per cent) and over twice as many Labour MPs feel it is appropriate for a charity to challenge the policies of a political party (86 and 37 per cent).

However, the public remain supportive.

Sixty three per cent of the public say it is acceptable for a charity to challenge government policy; and over half believe it is acceptable for a charity to highlight the impact of a policy on its beneficiaries (56 per cent).

Even some of the more politically contentious actions such as 'a state-funded charity challenging government policy' and 'charities challenging the policies of political parties' are deemed by the public to be more acceptable than not (each with 57 per cent). Only 6 per cent of the public would be put off from giving to a particular charity because of its campaigning activities to change the law.⁶⁶

Wider threats to civic space in the UK

Attacks on the legitimacy of charities to take part in debate about public policy are not the only challenges to what some commentators call 'civic space' – 'the ability of citizens and civil society organisations to organise, participate and communicate without hindrance... And claim their rights and influence the political and social structures around them'.⁶⁷

Maina Kiai, the UN Special Rapporteur, in his 2016 report on the UK, expressed concerns, not just about the Lobbying Act affecting NGOs, but also about operation of the Prevent Strategy in a 'way that translates simply into crude racial, ideological, cultural and religious profiling, with consequent effects on the right to freedom of association of some groups' and 'derisking' and 'debanking' of Muslim organisations and other charities; the Investigatory Powers Bill, which 'could have a grave impact on the rights to freedom of peaceful assembly and association'; the Trade Union Bill's changes to voting on industrial action (though this has since been watered down); lack of transparency in the inquiry into the use of 'undercover' policing; and the excessive use of force by the police in some demonstrations, citing as an example, the Greater Manchester Police, which reportedly took violent action against anti-fracking protestors at the Barton Moss Camp from November 2013 to April 2014.⁶⁸

'I am concerned about a series of separate measures by the Government – some implemented and others proposed – which, put together, suggest that the Government has a negative view of civil society', Maina Kiai said in his concluding statement. 'These moves have, in many instances, been subtle and gradual, but they are unmistakable and alarming'.

Since Maina Kiai's report, the Law Commission has started consultation to amend the Official Secrets Act which would extend the definition of espionage to obtaining information as well as passing it on and increase potential jail sentences for whistleblowers and journalists. The Act has been widely criticised by former whistleblowers, civil liberties groups and political opponents and characterised as the encroachment of 'state secrecy', better suited to a 'banana republic dictatorship' and a trait of an 'increasingly unfree society'. Shami Chakrabarti, the former head of Liberty, also pointed out that consultation had been limited: 'Three NGOs are said to have been consulted, but they don't seem to agree that this happened'.⁶⁹ The Prime Minister subsequently tried to distance herself from the proposed changes.⁷⁰

Another proposed change to the armed forces has also attracted criticism. The Law Society president, Robert Bourns, said: 'The Ministry of Defence wants to make it impossible for soldiers and their families to bring claims against it to court when these relate to actions in combat. Any claimant would only have recourse to an internal MoD compensation scheme that would rule on cases brought against itself. This means cases would not be heard by an independent judge, facts would not be independently investigated, responsibility would not be established and a state institution, if liable, would not be held to account'.⁷¹

Despite Theresa May's promise of a Shared Society, ratification by Parliament of the decision to leave the EU, the most important decision facing Britain in decades, had to be forced by judicial review. An earlier decision by a lower court led to headlines of 'Enemies of the People' in *The Daily Mail* and the Lord Chancellor was criticised for her failure to properly stand up for the independence of the judiciary at that time. The woman who took the case, Gina Miller, received numerous rape and death threats.

A number of changes have been made over previous years that have reduced the capacity of NGOs to represent individuals or otherwise challenge government decisions.

First, there was the removal of legal aid to support individuals in relation to the vast majority of housing, debt, benefits and immigration cases. Then, in 2013, the Government altered the normal deadline from three months to 30 days for judicial reviews that challenge procurement decisions. Thirdly, after a short consultation in 2013, detailed changes were confirmed to the funding of judicial review cases affecting individuals, many of whom take cases with the help of the voluntary sector. A new 'residence test' was also introduced, effectively preventing many vulnerable people from challenging decisions which, for example, rendered them homeless.

In 2015, changes were set out in legislation that – although watered down by amendments in the House of Lords – still made it more difficult for voluntary sector organisations to bring judicial reviews or offer expert advice to the courts (known as interventions). This was achieved by changing the balance of risks around the costs they might eventually face, including the prospect of having to pay the costs of other parties.

Melanie Carter, a partner at specialist charity law firm Bates Wells Braithwaite, said her firm had lobbied against the changes because they would make judicial review more expensive for charities. 'The cost implications are so serious that many sector bodies won't be able to take the risk', she said. 'As an intervener you may end up bearing the Government's costs. Interveners are there to speak for people who can't speak for themselves, and it will now be harder for them to do that... This is another attempt by Government to curtail charities' ability to criticise them. It's another limit on charities' ability to campaign. But it's not just that. It's also a direct attempt to remove people's ability to challenge their decisions, introduced by an executive which doesn't accept that their will should be questioned'.⁷²

The Law Centre Network in June 2015 found that the 'grants of civil legal aid for Judicial Reviews were down 34 per cent year on year, owing in part to the impact of more restrictive new regulations'.⁷³

Further changes have just been put in place over the last 12 months to increase the balance of risk on judicial review cases, an issue looked at in more depth in the next chapter.

In due course, the Government also plans to replace the Human Rights Act with a Bill of Rights, though this has been delayed. Former Liberty director Shami Chakrabarti called the proposal 'the gravest threat to freedom in Britain since the Second World War'.⁷⁴

Britain in the world

Historically, Britain's proud tradition of Government support for a strong civil society has been a model for other countries. The Compact, for example, has been copied by many others, including France, Estonia, Australia and Canada.

The current Secretary of State for International Development, Priti Patel, has in the past been a harsh critic of the voluntary sector in the UK and particularly of its campaigning activities. For example, when a new alliance of voluntary organisations to promote the Human Rights Act in the UK was formed in 2013, Priti Patel MP said:

'Charities are using human rights laws to pursue political agendas against the Government in judicial review cases. Their support for current human rights laws is misplaced and they should get on with delivering frontline services rather than running political campaigns'.⁷⁵

But, in her new role, she has publicly recognised the vital contribution of charities to public debate and said in the foreword to a new partnership agreement with UK international NGOs that:

'A healthy, vibrant and effective civil society sector is a crucial part of Britain's soft power and leadership around the world. ...Around the world, civil society is facing unprecedented pressure, from violent attacks to attempts to close down the space for democratic dialogue and debate. The UK Government, as part of its commitment to freedom of thought, association and expression, will stand alongside civil society against these encroachments'.⁷⁶

The same Department for International Development Civil Society Partnership agreement states that:

'Alongside other UK Government departments, DFID will support organisations that protect those under threat and increase understanding of the extent, causes and consequences of closing civic and civil society space'.

However, CIVICUS has noted that, although the UK takes its role as a global leader in protecting and promoting human rights seriously, a number of measures implemented or proposed by the UK Government have resulted in a narrowing of space for civil society.

According to CIVICUS' State of Civil Society report 2016, there are specific concerns about the impact of the Government's anti-terrorism policies on associational life and the introduction of the Lobbying Act in 2014 which had a chilling effect on the rights of civil society organisations to raise their voices in the build-up to the 2015 election. Indeed, a recent Charities Aid Foundation report warns that Britain may be setting a bad example:

'Recent developments have seen the UK heading down a worrying path in terms of curtailing the independent voice of civil society, and there are legitimate concerns that some foreign governments may perceive some recent public policy developments in the UK as a precedent for restricting civil society advocacy in their own countries, or even as a vindication of state appropriation of the civic space'.⁷⁷

The UK's leadership role is all the more important because of a deteriorating picture internationally on civic freedoms and state interference in civil society organisations. The box below considers this in more detail.

A closing civic space internationally

In its 2015 annual review, CIVICUS said the environment in which civil society operates had continued to deteriorate, with 3.2 billion people now living in countries where the core freedoms of expression, association and peaceful assembly are repressed or closed, and only nine countries out of the 104 analysed globally being rated as open in terms of enjoyment of rights and adherence to the rule of law. All nine nations were in Europe.

A recent trend of restricting the receipt of foreign funding, and depicting civil society organisations that receive such funding as the agents of foreign powers, has continued, most notably in Russia – to the extent that some civil society organisations have been forced to close.⁷⁸ In January 2017, the Indian Government cancelled foreign donation licences for more than 200 local non-governmental organisations, accusing them of engaging in ‘anti-national’ activities and forcing many to suspend or shut their operations.⁷⁹ Hungarian NGOs will have to declare foreign funding or face suspension under a proposal to be submitted to Parliament.⁸⁰ In China, the foreign NGO ‘management’ law, which came into effect on 1 January 2017, stipulates that foreign NGOs must refrain from engaging in political or religious activities or acting in a way that damages ‘China’s national interests’ or ‘ethnic unity’.⁸¹

According to CIVICUS’ new Monitor, even EU member states, which enjoy a relatively open and enabling environment, have shown a narrowed space for civil society fundamental freedoms.⁸² Of 13 countries analysed,⁸³ eight were classified as having ‘narrowed’, meaning that although the states allowed citizens and civil society organisations to exercise their rights to freedom of association, peaceful assembly and expression, these were subject to occasional restrictions.

There are also recent examples of states increasingly trying to influence the agenda of NGOs at home or abroad. In 2016, the Egyptian Parliament passed a repressive law which created a power to close any civil society organisations deemed not to be working ‘according to the state’s plan and its developmental needs’.⁸⁴ The recent trend is also manifested in the policy direction of the Trump Administration in the US. For example in January 2017, President Trump issued an executive order to cut funding to international NGOs that perform or promote abortions,⁸⁵ while the Administration is also proposing drastic cuts to US overseas aid and the US contribution to United Nations programmes.

Devolution in England – will it make a difference?

Devolution creates an opportunity to allow civil society to participate more in decision making. However, Locality reports that:

‘To date, there has been a concerning lack of engagement with people and communities in the development and implementation of devolution deals. ...there is a real risk that devolution will be a technocratic exercise which simply shifts marginal responsibilities between different parts of the public sector, adding new layers of sub-regional governance which actually push influence, power and resources away from local people...’ ⁸⁶

Likewise, NAVCA in its written evidence to the House of Lords report a disappointing picture:

‘Good devolution offers an opportunity to reimagine our economy, public services and democracy....However, this potential is being undermined by the lack of involvement of people and communities within the devolution deal areas’.

Our guest contributor, Sally Young, from Newcastle CVS, sees at first hand the problems of ‘communities left behind’. Devolution might in theory be an opportunity to ‘take back control’ but she reports minimal engagement with the voluntary sector so far.

As she says, ‘We are told that government is interested only in the business perspective, well what about the people perspective?’

No sign yet of a Shared Society in the North East

By Sally Young, CEO of Newcastle Council for Voluntary Service

For a number of years Newcastle CVS has been carrying out studies with local voluntary and community organisations on ‘the state of the sector’. We have broadened them to include not just the issues that impact on charitable/not-for-profit organisations but on the communities and people we support. Although many of the issues that impact on our local organisations are probably no different to elsewhere – cutbacks in state funding, especially for charities offering vital support into work, as commissioners favoured larger organisations, short term contracts and a loss of independence through contract funding – there is an increasingly common theme for our communities. This is the issue of welfare reform.

Our office is the centre of Newcastle and you can see the entrance in ‘I, Daniel Blake’. Like many other local groups we provided information and true stories to Ken Loach. The food bank is a Newcastle CVS member. We recognise many of the volunteers and actors. I’m saying this not to boast of a ‘celebrity connection’, but to affirm the realities of what was portrayed.

The North East has some of the best health care yet some of the most poorly populations, with long-term industrial illnesses, high levels of smoking and drinking and rates of mental illness.

The Bedroom Tax is determined nationally but in the North East there are insufficient single-bedroom properties in many areas and people don't want to leave their neighbourhoods. Work can increase self-respect, confidence as well as income. But there are many people who can't achieve this because of long term disabilities, anxiety and conditions, and caring commitments. There are insufficient properly paid, secure jobs. Bouncing in and out of employment and having to wait 4-6 weeks for benefit payments just adds to instability and insecurity.

In the last 30 years, the key jobs in the North East of England have not been those of the coal mines, shipyards and heavy industry but instead an increasing number of public sector roles. The shrinkage of the state in the years since 2010 has caused a loss of these jobs and the only new roles seem to be in our 'coffee society', catering and retail - our increasing service sector. Often these are filled by middle class students, creating further displacement.

So could devolution offer a genuine opportunity to 'take back control'? - a much abused phrase at the moment. Is there a North East identity or are we just that awkward space between Scotland and the North Sea? Do we have a recognised culture? Could devolution offer us a genuine opportunity to define our own priorities? As a region that has generally voted Labour but hadn't benefitted from this loyalty, there are few crumbs of comfort from Conservative governments.

I admit to being a founder member of the unsuccessful Campaign for North East Assembly. I still believe we got roundly trounced because we were not able to offer sufficient power, and we were described as another layer of government and bureaucracy. And nobody ever votes for more government.

So the key questions for me in devolution are around power, control and democracy. Is it a genuine shift of power and resources from Whitehall to local decision makers? Is it a mechanism to impose unwanted mayors? How will local communities, who are so far away from the levers of power, have their say? Our elected politicians can't even agree on it, and there are different proposals across the region, with some areas opting out completely.

Now there are new proposals around inclusive growth, but still minimal engagement, let alone involvement, of the voluntary and community sector. We are told that government is interested only in the business perspective, well what about the people perspective?

A democratically elected authority with powers and resources around jobs, investment and training and access to national charitable funding could be interesting. But it is unlikely. Instead there are concerns that Combined Authorities could lead to unnecessary scale and the move towards (even larger) contracts rather than useful grants that support local organisations.

A Shared Society surely means sharing the power, wealth and resources and investing in those communities furthest away from control over their own destinies. Until we reach this nirvana, it is up to the rest of us to advocate and speak up for the poorest, most disadvantaged and vulnerable people and communities.

Chapter 3

An independent voice

The *independent voice* of the voluntary sector enriches democracy through the expression of diverse views, it ensures access to justice and a properly functioning judicial system and creates better government through its influence.

That independent voice is critical to its ability not just to be a voice for the disenfranchised but also to use its expertise to shape policy and services – and in a Shared Society this voice must be welcomed and supported by Government. Indeed, the agreement between the Government and the sector renewed by David Cameron, the Compact, includes commitments to ‘respect and uphold the independence of civil society organisations to deliver their mission, including their right to campaign, regardless of any relationship, financial or otherwise, which may exist’ and to work with them ‘from the earliest possible stage to design policies, programmes and services’.

Yet it is a voice that is being frozen out.

Summary of threats to independent voice

Over the six years of reviewing independence, there has been a progressive increase in the threats to the sector’s independent voice and – despite some concessions on the ‘no advocacy clause’ – the threat continued to increase over the last 12 months. Self-censorship appears to be increasing, most notably during the EU referendum, fuelled by a growing muddiness about what is acceptable or not, and not helped by the Cabinet Office’s new grant standards, which are inconsistent with the Compact. The ability of NGOs to act on behalf of others to overturn poor government decisions through judicial review has also been further reduced over the last 12 months. Part 2 of the Lobbying Act remains in place, ‘gagging clauses’ in contracts and anti-advocacy terms in grants still exist, for example in the Tampon Tax Fund, and consultation remains weak, in many areas bearing no resemblance to the commitment to co-production currently included in the Compact.

Who is most at risk of threats to independent voice

Large and smaller charities that want to use their service delivery knowledge to shape better services and public policy but rely on state funding for much their work are most at risk. For a typology of these kinds of organisations, see Chapters 4 and 6. Also affected are single cause charities and network campaigning organisations which put campaigning at the centre of their activities – see below.

Non service-delivery voluntary organisations: a typology

Network voluntary organisations

eg sports and choir groups, self help groups, eg AA, 38 Degrees, Mumsnet

- Model for many community based activities
- May operate in a location or through social media
- Great at generating and tapping into social capital, employ relatively few paid staff
- Rich in 'network volunteering,' ie mutual support, rather than using volunteers as unpaid employees
- Some are campaign focused
- Main threat: external challenges to voice

Single cause organisations

eg Greenpeace, Friends of the Earth

- Organisation is focused on achieving a specific social or environmental objective
- Delivers this primarily through campaigning
- Strong sense of mission and purpose
- Highly independent financially from state
- Often relying on membership subscriptions
- Main threat: external challenges to voice

Charities that provide advice and, on behalf of individuals, undertake advocacy and take court cases are also at risk, as are umbrella or infrastructure organisations, which are a critical collective voice for the sector. They have also lost state funding recently, though this also opens up an opportunity for a different relationship with the State.

The 'no advocacy clause' and new grant standards

Although some modifications have been made to the 'no advocacy clause', the new grant standards have only served to muddy the waters.

In early 2016, the Cabinet Office announced that the following new clause should be inserted into all grant agreements across government by May 2016 at the latest:

'The following costs are not Eligible Expenditure:- Payments that support activity intended to influence or attempt to influence Parliament, Government or political parties, or attempting to influence the awarding or renewal of contracts and grants, or attempting to influence legislative or regulatory action'.⁸⁷

This followed earlier action by the Department for Communities and Local Government to include a similar clause in all its contracts. Similar terms were also included by the Treasury in the Tampon Tax Fund.

In April 2016, the Government put forward a pause in progressing the 'no advocacy clause'. Observers pointed out that the 'significant climbdown' was a result of pressure from voluntary sector leaders and their argument that the clause was in breach of the Compact (which guarantees the right to campaign) and was so widely drawn that it could prevent a charity presenting evidence to a select committee. The Minister for the Cabinet Office also admitted that there had yet to be an equality impact assessment on the policy, as required by law. 'Reading between the lines' it seems that 'the hasty and unevidenced policy decision was potentially vulnerable to a judicial review, and the pause for further thought comes on the advice of government legal advisers'.⁸⁸

At the end of 2016, the Government finally issued a revised form of words as part of new requirements placed on all government grants in respect of grants to charities. The revised standards were hailed as a major breakthrough in a joint statement from the NCVO, the Association of Chief Executives of Voluntary Organisations (ACEVO) and Social Enterprise UK. The statement said:

'The new grant standards take a substantially more sophisticated approach than the original clause, and explicitly safeguard the important role of charities and others in presenting evidence to Government and Parliamentarians'.

Asheem Singh, the acting Chief Executive of Acevo, added:

'This is a victory for common sense and for free speech....We made our case in collaboration with partners across the sector and it is positive to see that the Government has listened. There remain some questions about the application of the grant standards in practice. There is the potential for confusion between some of the provisions of eligible and ineligible expenditure. But we will continue to work with the Government to monitor the implementation of the new guidelines and ensure that the voice of charity beneficiaries remains heard. That the Government has moved from implementing an aggressive, regressive and unfair anti-advocacy clause to explicitly recognising and facilitating the role of charities to speak out on behalf of their beneficiaries is constructive and welcome'.

Sir Stuart Etherington, Chief Executive of the National Council for Voluntary Organisations, said:

'The original clause was counterproductive and would have meant grant-funded charities would be unable to provide crucial insights that improve legislation, regulation and public services. This fundamental flaw has been recognised by the Government and its new guidance is crystal clear in saying that activities such as raising issues with ministers and civil servants, responding to consultations and contributing to the general policy debate are not only permitted but actively welcomed'.

Peter Holbrook, Chief Executive of Social Enterprise UK, said:

'This is good news for the social enterprises that would have been affected by this clause. A number of social enterprises receive grants to support their work, but also want to ensure that they are using their experience on the ground to shape policy on behalf of the people and causes they work for. Today's new grant standards mean that they will continue to be able to make this important contribution'.⁸⁹

The guidance did include some significant concessions. In particular, it explicitly stated that grants could be used for:

- Giving evidence to Select Committees;
- Attending meetings with Ministers or officials to discuss the progress of a taxpayer-funded grant scheme;
- Responding to public consultations, where the topic is relevant to the objectives of the grant scheme. This does not include spending government grant funds on lobbying other people to respond to the consultation (unless explicitly permitted in grant agreement);
- Providing independent, evidence-based policy recommendations to local government, departments or Ministers, where that is the objective of a taxpayer funded grant scheme, for example, 'What Works Centres'; and
- Providing independent evidence-based advice to local or national government as part of the general policy debate, where that is in line with the objectives of the grant scheme.

It is therefore understandable that ACEVO, NCVO and Social Enterprise – which had fought hard to achieve this and deserve praise for doing so – should welcome the revisions.

However, the reaction of these sector leaders seemed to paper over some very significant cracks, potentially conceding important points of principle and practice. Indeed, the Cabinet Office said in its statement that the standards:

'would put an end to grant money being wasted on activities not specified in the grant agreement, such as 'political lobbying''.⁹⁰

Other voluntary organisations took a very different line. NAVCA, Directory of Social Change, Children England, Clinks, Grants for Good, the Lloyds Bank Foundation and the Charity Finance Group wrote to the Minister, Ben Gummer, with concerns in early January. They said that, despite the assurance in the equality impact assessment that the standards were Compact compliant:

'We do not believe that this is the case, given that the first principle of the Compact is to 'respect and uphold the independence of Civil Society Organisations to deliver their mission, including the right to campaign, regardless of any relationship, financial or otherwise, which may exist. These standards do limit the independence of civil society organisations to use their grant funds in the way that they determine best to achieve the funder's outcomes and serve their beneficiaries – regardless of whether they can use other funds to carry out prohibited activities'.⁹¹

Their concern was prompted by the following further stipulations in the grant standards:

‘Similarly, Cabinet Office expects that eligible expenditure terms will be used to specifically prevent certain categories of expenditure.

‘In particular, the expectation from the Cabinet Office, supported by the Chief Executive for the Civil Service, is that all grants must include eligible expenditure terms and that paid for lobbying - unless a requirement of the grant - and attempting to exert undue influence using taxpayer funding, will always be prevented under those terms (see below).

‘Accordingly, eligible expenditure terms should exclude the following types of expenditure, as a minimum, unless permitting them is a specific requirement of the grant agreement. The list below does not override activities, which are deemed eligible in the grant agreement:

- paid for lobbying, which means using grant funds to fund lobbying (via an external firm or in-house staff) in order to undertake activities intended to influence or attempt to influence Parliament, Government or political activity; or attempting to influence legislative or regulatory action;
- using grant funds to directly enable one part of Government to challenge another on topics unrelated to the agreed purpose of the grant;
- using grant funding to petition for additional funding;
- expenses such as for entertaining, specifically aimed at exerting undue influence to change government policy;
- input VAT reclaimable by the grant recipient from HMRC; and
- payments for activities of a party political or exclusively religious nature’.

Although it is made clear that it is the Department’s responsibility to draft terms that include eligible and ineligible expenditure, and some discretion is allowed, the advice is clearly signalling that grants should only be used to fund staff activity or wider lobbying to influence policy in exceptional circumstances. Indeed, the guidance on this section (standard 6) ends in this way:

‘All departments, in the implementation of this standard, are required to consider their existing grant terms and strengthen them where required. Critically, this will include making absolutely sure that terms covering eligible expenditure are included and that the associated financial and performance monitoring and assurance regime is sufficiently stringent to prevent inappropriate expenditure. This will be assessed in 2017 by the Cabinet Office via a monitoring pilot, which will involve random sampling and assessment against pre-defined criteria covering the Government grant standards (see ‘Standards Overview’ document for details)’.

Nowhere in the guidance is there any statement equivalent to the Government’s Compact commitment. The consortium’s letter to the Minister also expressed concern about the lack of definition of key phrases such as ‘undue influence’ and sought clarification on these issues.⁹²

Worryingly, Compact Voice has remained silent on this point and the Chair of Compact Voice welcomed the new grant standards in his separate capacity as CEO of Social Enterprise.

The welcoming of the grant standards and the apparent presentation as ‘job done’ by some leading sector leaders appears to have conceded an important Compact principle – perhaps to the point of no return. However, the letter by the more critical consortium of NAVCA, Directory of Social Change et al hints that the standards could still be challenged whilst the Compact remains in force.

'No advocacy clauses' were included in 2016-17 grant agreements, following the original Cabinet Office instruction, and it will be interesting to see how many of these remain in place.

New Tampon Tax Fund - no advocacy, campaigning and awareness raising

The new grant standards were issued in early December 2016, at the same time as the next round of applications for the Tampon Tax Fund were invited by the Minister for Civil Society, Rob Wilson. A year ago, the guidance had included a clear 'no advocacy' requirement for grants, despite pre-dating the Cabinet Office announcement of the wider policy.

The Tampon Tax Fund now includes 'advocacy', 'campaigning and awareness raising' in its list of exclusions, a slightly different formulation but one which ultimately has the same effect.

Many grant agreements in place at the time of the original instruction did pay for political lobbying, one of which is explored in the case study below.

Strategic Partnership on Health: a case study

The Department of Health grant funds the Health and Care Strategic Partner Programme to enable the voluntary and community sector to 'work in equal partnership with the Department of Health, NHS England and Public Health England' which 'allows each organisation to demonstrate leadership and innovation, to reflect the views of their members and networks and support the development of knowledge and capability in the sector to engage in the wider health and social care reform agenda'.⁹³ There are 22 partner organisations from the voluntary, community and social enterprise sector working strategically in the area of work, worklessness and wellbeing.

In May 2016, a report produced in partnership by representatives of the voluntary sector (VCSE) and the Department of Health, NHS England, and Public Health England on partnerships within the health and care sector noted:

'The VCSE sector plays a vital role in amplifying the voices of people from communities whose voices are seldom heard, helping them to engage with the health and care system. NHS commissioners and local authorities should work with the VCSE sector to enable all groups in society, especially those experiencing health inequalities, to have a say in how services can achieve better health and care outcomes for all citizens'.

The report recommends a streamlined Voluntary Sector Investment Programme in which:

*'Strategic partners should have responsibility for supporting government to disseminate learning, develop policy and identify new models for reducing health inequalities that can be rolled out nationally. This programme should be aligned with the overall strategy of the health and care system set out in the NHS Five Year Forward and underpinned by the requirements for success set out in the VSIP chapter. This should include multi-year funding to maximise opportunities for impact and learning'.*⁹⁴

In a written answer in September 2016, David Mowat, the Parliamentary Under-Secretary of State for Health, said: 'We are reshaping the programme to reflect the recommendations in the report and will announce our plans in due course'.⁹⁵

The worry is that the grant standards will create a more risk adverse climate amongst commissioners and policymakers – a concern raised by Sir Stephen Bubb in June 2016 when he reported an ‘astonishing’ drop in civil servants’ engagement with charities over the last year.

He added: ‘At the moment the message around Whitehall is that the sector doesn’t matter, they are pesky people who are irritating and therefore can be ignored’.⁹⁶ Although some in the sector may feel that the ‘anti-advocacy clause’ has been quashed, it is the standards that government officials will be reading.

Gagging clauses

In previous years, we have reported on ‘gagging clauses’ in Work Programme contracts, including restrictions on a charity’s use of data that might have otherwise highlighted problems with the programme. In last year’s report, we showed that similar clauses were being used in contracts for work with refugees and women’s services, suggesting much wider use.

It is unclear whether ‘gagging clauses’ will be used in the new Work and Health programme but some concern has been expressed by disabled groups about potential conflicts of interest if disability charities gain contracts, showing a heightened awareness amongst some users of charity services about potential conflicts of interest.⁹⁷

Clinks has told us that ‘gagging clauses’ are fairly common practice in certain areas of the criminal justice system and some of its members have reported having commercial confidentiality clauses which are very restrictive.

Some of its members were worried that they would be identified and get ‘in trouble’ if, for example, they responded to Clinks’ Track Transforming Rehabilitation survey.

More ‘gagging clauses’ look likely now that a principle that government money should not be used to fund ‘political campaigning’ and attempts to exert ‘undue influence’ has been established in the grant standards.

Lack of consultation

Previous reports by the Independence Panel have recorded the Cabinet Office's own decision to remove the 12-week minimum consultation period from the Compact in July 2012, with the avowed aim of introducing more flexibility. A National Audit 2015 report found that the proportion of consultations lasting less than 12 weeks had increased significantly, from 40 per cent in 2011 to 81 per cent by mid-May 2013.⁹⁸ Shockingly, no consultation took place before the introduction of the Lobbying Bill and the 'no advocacy clause'. One result, according the Institute of Chartered Accountants in England and Wales, is that: 'Legislation is often rushed in, for example in response to media headlines or political short term goals rather than as a considered development in line with the strategy for the sector'.⁹⁹ The House of Lords report, *Stronger charities for a stronger society*, published in March 2017, also observed that 'the Government needs to improve the way in which it consults the charity sector when developing new policies'.

The Lobbying Act

When it was passed in 2014, the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act, or so-called Lobbying Act, caused considerable concern and, after being put under considerable pressure in the House of Lords, the Government committed to undertake a review in the light of experience in the General Election. The key terms of the Act are rehearsed in the box below.

The Lobbying Act 2014

The Act sets out new rules for how charities and other civil society organisations can campaign in the run up to an election, and apply to UK Parliamentary general elections, European Parliament, Scottish Parliament elections, Welsh Assembly elections and Northern Ireland Assembly elections, but not to local elections unless occurring at the same time as one of the above elections.

It provides that all third party campaigners must register with the Electoral Commission if their spending on particular 'regulated activities' in the regulated period exceeds £20,000 in England or £10,000 in the rest of the UK. The regulated period is normally 12 months for a UK general election, and for European Parliament elections, Scottish Parliament elections, Welsh Assembly elections and Northern Ireland Assembly elections, four months. The maximum amount non-party campaigners can spend at the UK parliamentary general election is £319,800 in England, £55,400 in Scotland, £44,000 in Wales and £30,800 in Northern Ireland.

When the Bill was going through Parliament, an independent Commission on Civil Society and Democratic Engagement was established which succeeded in securing some amendments, including a shortening of the affected period from 12 to eight months before the general election (but still 12 months before subsequent elections).

The Commission on Civil Society and Democratic Engagement found in a September 2015 report 'considerable evidence [that] shows it has had a negative impact on charities and campaign groups speaking out on legitimate issues ahead of the election'. Part of the problem, the Commission found, was confusion and ambiguity in the definition of regulated charity, with charities having to invest 'significant resource in understanding it and ensuring compliance'.

It remains to be seen whether any NGOs will be subject to enforcement action by the Electoral Commission for breaching the Lobbying Act during the General Election, though this may well happen given the nature of the law.

This is despite the fact that Lord Hodgson - in a review undertaken to fulfil the Government's commitment during the passage of the Bill - has proposed extensive revision of the Act that would arguably take all charity activity outside the scope of the legislation. Crucially, he acknowledged that campaigning was the normal and legitimate activity of charities and should not be affected during an election period, at all, except where directly intended to influence the result of an election.

In more detail, he recommended in his March 2016 report, *Third Party Election Campaigning - Getting the Balance Right*, that:

- The definition in the Act should be amended to reflect the campaigning groups' actual intentions – so charities would only be in breach of the law if it could be shown they had meant to campaign in favour of a party or candidate, something already banned in Charity Commission guidance CC9 for charities.
- The law should not be left open to 'someone else's interpretation' of whether a group had tried to influence voters and should not apply to day-to-day advocacy work or attempting to raise awareness of an issue among politicians.
- The 365-day period covered by the Act for general elections should be reduced to four months in line with the rules for European and devolved administration elections.
- There should be anti-avoidance measures in place.

So far, there has been no indication from the Government of whether it intends to make amendments to the Act - and early action seems unlikely. Until it does, confusion about the legitimate role of charities continues, and this has only been made worse by the lack of clarity in grant standards.

A negative climate

Previous reports have commented on the increasingly negative climate toward charity campaigning in the press. Matters came to head most recently when the Red Cross said that the NHS was facing a humanitarian crisis. In the Commons, Theresa May attacked the charity for ill-founded remarks, branding it as ‘irresponsible and overblown’. In *The Times*, Melanie Phillips more directly attacked charities of this kind, writing on 10 January that ‘charities should stop meddling in politics’. Impressively Sir Stuart Etherington quickly hit back with a letter to the *The Times*, published two days later, which said:

‘Melanie Phillips appears to share the illiberal stream of thought that, even in the 21st century, charities should be seen and not heard. This view holds that charities’ expertise should not inform policy, and that their experiences should not be shared with the public. The proponents of such a view would prefer that no organisation be allowed to say anything that might be of inconvenience to the Government of the day. I do not believe this is a society that many of us would want to live in, whatever our political beliefs’.

Chilling impact and self-censorship

Hostile media coverage, Government pressure and growing confusion about what is acceptable are directly affecting the ability of charities to campaign on important issues, according to research by the Sheila McKechnie Foundation,¹⁰⁰ creating not just a chilling but in some cases a ‘freezing’ effect.

In the Foundation’s survey of 100 charity professionals, one in five respondents said their organisations were already campaigning less and 90 per cent felt that campaigning by the voluntary sector is under threat. The main reasons given are worth noting:

- ‘Negative media coverage of the work of the voluntary sector’ – 65 per cent;
- ‘Conditions of funding discouraging campaigning’ – 63 per cent;
- ‘Senior managers and trustees being more cautious about campaigning’ – 53 per cent;
- ‘Guidance from the Charity Commission of England and Wales’ – 52 per cent;
- ‘Campaigning has become seen as too risky or something that voluntary sector organisations should not be involved in’ – 52 per cent.

Sue Tibballs, the Chief Executive of the Foundation, argued that senior figures in charities might be over-reacting to changes in law and regulation and said organisations were too driven by reputation management.¹⁰¹ Indeed, Vicky Browning, writing in *Third Sector* on 14 November 2016, when she was director of CharityComms, warned that it feels like the sector is losing its ‘chutzpah’, and mentioned a meeting during which some charities described how they were avoiding using the term ‘campaigning’ because ‘it increasingly has negative connotations’.

Sir Stephen Bubb wrote in October 2016 that:

'The real threat to the sector is our own self-censorship. In the big debates of the moment, you would need to look hard to find the charity leaders' voice. On Brexit, for example, we took a craven line in the referendum debate and now are failing to effectively challenge the rise of xenophobia and hate crime. There are honourable exceptions, of course, and the organisations promoting the cause of migrants and refugees is a great one. But, by and large, we have failed to come together to promote the tolerance and inclusivity that our sector espouses...Then we come to the horrendous crisis in our health and social care system. This strikes at the heart of where our sector has traditionally been active.... But where are the charity sector leaders pointing out in the media the crisis we face and demanding action? There is a curious silence when we need a voice'.¹⁰²

And writing specifically in relation to the EU Referendum, the Sheila McKechnie Foundation's Sue Tiballs noted that the advice on campaigning provided by the Charity Commission:

'Without doubt... stopped a lot of charities from campaigning – only those with the legal support and political will did. For many, trying to navigate the 'advice', particularly with risk-averse boards, was just too difficult. It seems to me a great shame, and highly regrettable, that the Charity Commission gave such narrow advice'.¹⁰³

Alzheimer's Research UK provides an example of one such charity:

'Leaving the EU could have a significant negative impact on dementia research if important policy areas are not favourably addressed in the negotiation, but Alzheimer's Research UK was largely restricted from sharing important information with supporters'.¹⁰⁴

Deborah Dane in *The Guardian* said that gagging was taking place in the international aid sector:

'Whether by force or by fear, NGOs have started to self-censor, cautiously awaiting the Government's next political move before speaking out. They fear being relegated to the likes of simple service deliverers, their years of insider influence now redundant... Patel is leading the charge to see our aid budget provide benefits to the UK – straying very close to forms of 'tied' aid that were dismissed, both legally and ethically, over 20 years ago. Like the Brexit campaign, she's riding the wave of *Daily Mail* aid haters, with glee'.¹⁰⁵

This is a long way from the rhetoric of the Sharing Society. And yet the voluntary sector's role is critical to good policy making. Speaking at the NCVO annual conference in April 2016, former Cabinet Secretary Lord Gus O'Donnell told delegates:

'New problems are always arising so we need all of you to be active and vocal in passing these messages to the front line to Government and to the public to create political pressure for change'...'this is a vital channel that must not be cut off by the government's proposals designed to reduce lobbying by charities'.¹⁰⁶

Judicial review

NGOs play an important role in ensuring good government by being able as a last resort to challenge poor decisions made by central and local government in the courts, and to intervene in such cases as an expert witness. In a climate where consultation has been reduced, and voices are not heard in policy formulation, it is especially important as a campaign tool. Recent examples of the power of judicial review are:

- The successful legal challenge in August 2015 by Detention Action of the fast track process for asylum appeals, a success referenced by *The Daily Mail* as part of a 'Fifth Column'.¹⁰⁷
- Changes to the so-called 'bedroom tax' secured through a judicial review brought by the Child Poverty Action Group and heard by the Supreme Court in November 2016.¹⁰⁸
- ClientEarth and Clean Air – details of which are given below.

Clean Air and ClientEarth: a case study by Anna Heslop of ClientEarth

Defra's own estimates are that 40,000 premature deaths are caused every year in the UK by air pollution. In 2011, ClientEarth brought its first judicial review (ClientEarth 1) against the UK Government on issues of air quality. At the time the UK government had failed to meet binding limits for harmful NO₂ concentrations across the country. This case ultimately resulted in the Supreme Court ordering the Government to prepare air quality plans which would meet the legal pollution limits in as short a time as possible.

When the Government produced flawed plans, ClientEarth returned to the High Court in 2016 (ClientEarth 2) to once again press the Government to meet its obligations. The Government has been ordered by the High Court to prepare new plans by April 2017, which must aim to meet legal limits in the shortest time possible. To date, the UK remains in breach of NO₂ limits in 37 out of 43 zones across the UK.

As well as ordering the Government to prepare new air quality plans to tackle the problem, these judicial reviews resulted in some important legal issues being settled. For example, at an early stage in the ClientEarth 1 proceedings, the High Court held that enforcement of the Directive was a matter for the European Commission, and declined to give any remedy despite the Government admitting a breach. On appeal, the Court of Appeal also declined to award any remedy. The Supreme Court overruled this point, declaring a breach of the Directive and saying that 'Such an order is appropriate ... to make clear that...the way is open to immediate enforcement action at national or European level'.

The ClientEarth 2 judgment made important clarifications on the meaning of the obligations which flow from the Directive. In particular, it said that air quality plans must contain measures to achieve limit values as soon as possible, with a high degree of certainty. The primary consideration when selecting measures must be their effectiveness and air quality plans must choose the route to compliance which minimises human exposure to air pollution.

These judicial reviews have been key in forcing the Government to take measures to tackle harmful air pollution. They also underline the important role the courts play in holding public authorities to account when they fail to meet their legal obligations to protect their citizens

and the environment. In fact, as President of the Supreme Court, Lord Neuberger, said:¹⁰⁹ 'The courts have no more important function than that of protecting citizens from the abuses and excesses of the executive – central government, local government, or other public bodies'. This is particularly the case when we rely on citizens, and the organisations they support, to challenge unlawful actions that damage the environment, as they choose to do so in the public interest.

The recent amendments to the environmental costs capping Civil Procedure Rules¹¹⁰, which came into force on 28 February 2017, will create such financial uncertainty for claimants that they will be deterred from bringing public interest environmental claims. These rules, by reducing access to justice, will undermine the rule of the law.

The ability to undertake a judicial review, or to intervene in the courts as an expert, has been under increasing challenge in recent years, as set out in Chapter 2, including when the Government took steps in 2015 to increase the potential liability of NGOs taking judicial reviews or to give advice to the court. Over the last year, the balance of risks has further increased as a result of Government decisions.

Measures to increase potential risks in taking judicial reviews

In September 2015, the Government in *Reform of judicial review: proposals for the provision and use of financial information* consulted on a proposal to increase liability further to include charitable donors, a move opposed by a joint consultation response from the Association of Charitable Foundations, the Charity Finance Group and the NCVO.¹¹¹ In July 2016, the Ministry of Justice said it intended to retain the general approach and signalled that charities bringing judicial reviews could be forced to name supporters providing more than £3,000 to support the case, who could then end up being hit with substantial costs. Charities had asked for an exemption from these rules but that exemption was not granted. The Government said that the changes they were planning to make were designed to ensure that organisations bringing judicial reviews could afford to do so, and to identify backers who may be using an organisation as a front to represent their interest.¹¹² Asheem Singh, then interim Chief Executive of Acevo, said: 'The continued insistence on adopting these proposed reforms can only serve to deter many charities from using Judicial Review'.¹¹³

Changes for environmental cases

On 28 February 2017, the Government introduced a regulation for environment judicial review cases which will further increase risks in these cases and partially reversing 'automatic cost caps' of £5,000 for an individual and £10,000 for an organisation. These caps arose from an earlier judicial review forcing the Government to comply with international obligations, both with the EU and the Aarhus Convention requirement for legal action to protect the environment to be 'fair, equitable, timely and not prohibitively expensive'.

The loss of automatic cost caps could mean individuals having to sell a house. Before the caps, the cost of bringing cases was sometimes huge. In a case about construction of a funicular railway up Cairn Gorm Mountain in Scotland, WWF was ordered to pay the Government's legal costs of over £200,000 on losing. In another case, local resident Lilian Pallikaropoulos faced a costs bill of just under £90,000 after losing her challenge against the legality of a large cement works near her home.

in Rugby, Warwickshire. Under the new rules, the court can look at the financial resources of a claimant and discard the automatic cost cap. This could involve an assessment of the value of their home and likelihood that they would have to sell up to pay costs if they lost.

ClientEarth, Friends of the Earth and the RSPB have announced that they are challenging the rule change in the courts, arguing that those bringing such cases would be exposed to huge and uncertain financial risk. ClientEarth's Chief Executive James Thornton said:

'By removing cost caps and allowing personal finances to be publicly examined, it creates a huge deterrent for those who would use law to defend people's health and the natural world. With unlimited legal costs, it will be virtually impossible to bring a public interest case and hold the government to account. This is especially true after a hard Brexit - which looks increasingly likely - when the EU won't be able to punish UK law breaking'.¹¹⁴

In conclusion

The developments described in this chapter must be of concern not just to the voluntary sector but to everyone in society, and particularly to Theresa May. As Anne Fox writes in her guest contribution in Chapter 7, a Shared Society heralds potentially vital reforms, but these cannot be achieved while the voluntary sector 'continues to be sidelined'.

Chapter 4

Independent action

The voluntary sector's independence of action helps ensure that communities, particularly those which are least affluent, feel and are in control of services that matter to them – and in a Shared Society the state would ensure that its financial support was given in a way that encouraged this activity. But poor commissioning practices and restrictions in the use of grants are putting this at risk.

Independent action, as defined by the Panel on the Independence of the Voluntary Sector's Barometer of Independence shown at the end of this report, is the ability to design and deliver activities that meet needs effectively and efficiently; to innovate, respond creatively to needs and take risks; to use assets at the discretion of trustees in order to fulfil purpose and mission. Funding which is poorly designed, or inappropriate, can place unnecessary and counterproductive restrictions on freedom of action, or even threaten the future of that action altogether.

Summary of threats to independent action

For a number of years, it has been apparent that the system for providing state funding to the voluntary sector is not fit for purpose, particularly for smaller specialist and community based organisations, and is putting an important eco-system of voluntary sector infrastructure at risk. Competitive tendering has squeezed out social collaboration, innovation and independence of action and led to an increasingly instrumentalist view of the sector as an arm of the state.

Over the last 12 months, the situation overall has become worse, despite some positive developments. Increasing pressure on public funds is exacerbating the weaknesses in the current funding regime, the Cabinet Office's new grant standards will make grants, which have been an important alternative to contracts, more like them, and the withdrawal of state funding for many infrastructure bodies is leading to downsizing and some closures. It has become even clearer that many voluntary organisations are struggling to combine contract funding with independent action and some are even cross-subsidising the public sector as the amount of money provided for services has reduced. It is welcome that the Government has announced action to help small charities win more contracts, but the major problems remain and progress is likely to be slow. Infrastructure bodies, which have largely lost their strategic partnership funding, have been increasingly cut back at a time when the voice of the sector is especially important to deliver a truly Shared Society – and some have closed.

Who is most at risk from threats to independent action?

Smaller specialist and community-based organisations and umbrella bodies and larger organisations that receive significant state funding under contract.

Smaller service delivery charities: a typology

Smaller specialist and community based organisations

- Lost significant state income, partly because of unsympathetic contract culture
- No/little income from major donors/corporations/sales of services
- Lack financial resilience to withstand shocks, compared to larger organisations
- Lack power in face of threats to independence

Voluntary sector umbrella organisations

eg NCVO, NAVCA,
Locality,
local infrastructure bodies

- Many have lost state funding and rely on membership subscriptions and sales of services
- Important voice for different parts of the sector, including defending smaller voluntary organisations from unfair loss of funding

Unsupportive funding arrangements affect all types of voluntary organisations by restricting freedom of action and innovation, and by distorting the way in which they operate to the detriment of their effectiveness. But the very sustainability of small and medium-sized voluntary organisations that rely heavily on Government funding and often work in social welfare with some of our poorer communities is also threatened because of a bias against them in current funding arrangements.

How current funding can restrict independence of action

The departing Chief Executive of the Foyer Federation, Jane Slowey, has written about the way in which contract funding had been taking them off mission and reducing their freedom of action, explaining how they decided to resist this.

The Foyer Federation: a case study by Jane Slowey CBE, the outgoing Chief Executive

Foyers were originally set up as an alternative to hostel provision and to provide a positive induction to adulthood for those young people who don't get that from home. They were intended to offer much more than a crisis response to youth homelessness by providing personal development, enabling young people to build their emotional health and wellbeing and connecting them with learning and employment as the best routes out of poverty and disadvantage.

I joined the Foyer Federation in 2004, when the network of Foyers had grown to around 120, with an established accreditation process, developed at the request of young people who wanted a consistent service across the country. As an organisation, we were working with Government, who understood the distinctive approach Foyers could offer. At the time, we were developing

and rolling out a national learning programme and, for the first time, many of our members were receiving revenue funding under the Government's Supporting People programme to support their work.

But there were clouds gathering on the horizon. Supporting People was already under pressure and, within a couple of years, it became clear that the goose had not laid a golden egg. Indeed, for many of our members, an over reliance on a particular strand of public funding is now threatening the very existence of their Foyers. As commissioning has become more prescriptive, local authorities are focusing their resources largely on those young people for whom they have a statutory responsibility. This means they are largely purchasing 'safety net' services, despite the rhetoric at both national and local level about prevention or early intervention. For Foyers this has meant being asked to take more and more young people with higher levels of need, and we have seen a dramatic increase in the number of 16 and 17-year-olds in Foyers, who often form the vast majority of young people with whom they work. This has been accompanied by pressure to move young people on as soon as their immediate housing crisis has been stabilised regardless of whether they have built the skills they need to build sustainable futures. Gone too are the days when a local college could phone a Foyer and ask them to take a young person on one of their courses, who was at risk of homelessness. With referrals now controlled by local authority homelessness teams, that young person would need to be made homeless before they could access a service and, of course, and it is all too likely that they will have dropped out of college in the process. There is a sizeable and growing cohort of young people who do not qualify for state support but whose need to develop their assets and maximise their contribution to society has never been more acute. In short, the 'foynerness' is being squeezed out of Foyers and Foyers are being turned back into the hostels they were developed to replace.

The Foyer Federation could, of course, have gone with the grain of this and accepted this dilution of their offer as an inevitable consequence of the political, social and economic situation. At this crossroads on our journey as an organisation, however, we chose to take a more 'savvy' path. We decided to focus on our role as a thought leader, innovator and challenger of the status quo. Having done that, we have reconnected with the original charitable mission set out by Shelter and Diageo and have a vision that is consistent with what drove development of Foyers in the first place.

The truth is that, as an organisation, we have always believed that young people will only thrive when services focus on their strengths and assets rather than on their disadvantages.

Over the last few years, we have given the asset-based approach that has always underpinned the Foyer approach a name – Advantaged Thinking – and set about applying it within the Foyer network. As we did that, we came to realise just how far the Foyer approach was being corrupted through its funding relationship with the state and became convinced that our role was to try and reclaim it.

NB This is an extract from a blog originally published by the Foyer Federation. The full text can be found here: <http://foyer.net/jane-slowey-reflections/>

Problems with commissioning and procurement

An increasing number of reports have highlighted the barriers for charities, especially small charities, in the current practices of commissioning and procurement.

Most recently the House of Lords published a report in March 2017, *Stronger charities for a stronger society*, that recognised that the progressive replacement of grants with contract funding has disadvantaged smaller charities; and said that such funding has often failed to provide for essential core costs. It called for Government to provide better support.

A National Audit Report (NAO) published in March 2016 endorsed many of the criticisms made by the sector in the past.

The NAO has said that commissioners develop contract specifications that do not fully understand or reflect users' needs and may restrict providers' ability to engage the hardest to help and that short-term contracts fail to recognise the length of time required to achieve complex outcomes.

Voluntary organisations also argued in their submissions to the NAO that their contribution in some areas can be taken for granted, with the Government assuming that charitable organisations will step in, even if not funded to do so.¹¹⁵

Even well-funded charities such as hospices struggle with the bureaucracy, with children's hospices having to work with an average of seven different local Clinical Commissioning Groups (CCGs) each. To secure funding from CCGs, hospices are having to commit resources which are disproportionate to the limited funding contributions they are receiving in return'.¹¹⁶

Problems are being increased by cut backs in local authority staff. Citizens Advice report a loss of experienced staff within commissioning bodies, saying:

'This can result in less effective commissioning. For example, we've experienced regular misinterpretation of procurement regulations, making the process more onerous and disproportionately impacting smaller organisations who tend to have less capacity...' ¹¹⁷

As public funds have come under ever increasing pressure, there are signs, not just of insufficient funding being given for contracts, but of voluntary organisations using their own income to cross-subsidise Government work.

Recent research by the Charity Finance Group has found that:

- The average income per contract was £169,707, but the median surplus (income less total costs) on service agreements or contracts was 0 per cent.
- For the bottom quartile, the median loss was 16.9 per cent. For the upper quartile the median surplus was 3.4 per cent, which shows that even those charities which were able to generate surpluses are not making large gains.
- The position was worst for the largest organisations (defined as an income of over £50 million), with a median loss of 11 per cent.¹¹⁸

Clinks, the criminal justice umbrella organisation, reports a similar picture. Only 11 per cent of voluntary organisations working with offenders and their families reported achieving full cost recovery on contracts they delivered. The result is that some have to subsidise their work, through either their reserves or by accessing alternative funds, whilst others are scaling back their services or making staff redundant.¹¹⁹

In a further development, the Government has said that unspent apprenticeship levies raised from larger charities (which charities may find hard to spend themselves because the levy cannot be used for their tailored specialist training or for start-up costs to set up new apprenticeships) will be taken back by the Government and used to subsidise private sector small businesses.¹²⁰

Smaller charities

There has been a redistribution of state funding from smaller charities to those that have an income of over £10 million since 2007-08. One reason is that the large charities are best placed to secure large-scale government contracts. Smaller organisations have consistently reported problems in bidding for contracts, from the increasing scale of contracts, to reduced focus on quality, and payment-by-results mechanisms that disadvantage smaller providers.

Current commissioning processes are a major threat to the survival of smaller charities, as grants have declined. This is the conclusion of a Lloyds Foundation report, which details barriers, including unrealistic payment structures; inaccurate information and unfunded requirements – for example on TUPE; funding shortfalls and inappropriate contract amalgamations and divisions.¹²¹ The report calls for measures to give smaller charities a fairer chance, including a simpler process, based on an understanding of how small charities operate, with a focus on the long-term value of effective service delivery, rather than on short-term time and cost savings.

Many smaller charities are struggling to maintain quality services as a result of a toxic combination of rising demand, as cash strapped public services point clients in their direction, reducing income and the increased bureaucracy required to gain contract rather than grant funding.

This is illustrated by the following case study of Home Start Slough, taken from their evidence to the House of Lords Committee on charities.

Case study: Home Start Slough

'We are being crushed between falling revenue and burgeoning demand, both of which are ultimately caused by public spending cuts. On the demand side, Local Authorities are simply cutting services and dumping them on charities. On the revenue side, Local Authorities and Clinical Commissioning Groups are withdrawing charitable funding. This is a double blow to charities: grant income is lost directly, of course, but also indirectly by the enormously greater competition for funding from non-statutory sources.

Fierce competition for funds is a triple whammy: it wastes the time and resources of the benefactors who end up with less money to disburse; it wastes time for Trustee fundraisers; and it forces charities to employ professional bid writers which unproductively wastes some of the funds they get. Not only does the combination of falling revenue and burgeoning demand place an almost intolerable financial and operational strain on charities but it also makes it impossible to invest in skills and equipment, or to recruit suitably skilled staff and Trustees. In the long run this is bound to adversely impact service quality and efficiency when we need the exact opposite.

Worse, public spending cuts create an inefficient distorted allocation of work. In a misguided attempt to improve efficiency and accountability, public sector health workers and social workers are targeted to maximise case closures. They have discovered that the easiest way to achieve their targets is to refer the most difficult cases to charities, since one difficult case can take as much time as five easy cases. The result is that highly skilled professional health workers and social workers end up doing mostly trivial cases, whilst unpaid semi-skilled charity volunteers get complicated cases that are beyond their skills and capabilities'.¹²²

For some regions with mostly small and medium-sized charities, the impact can be considerable – see below.

Case study: impact in the North East

A survey in the North East by VONNE highlighted the experience of charities– mostly small and medium-sized organisations - over the past 12 months:

- 85 per cent have experienced an increase in demand for their service (71 per cent in 2014).
- 72 per cent have had an increase in numbers of beneficiaries (up from 42 per cent).
- 21 per cent had no reserves and 43 per cent only have reserves to last up to three months, and 53 per cent plan or are likely to use reserves in the coming months.
- 46 per cent have seen their grant income decrease, and a third of those who have experienced a reduction of income did not expect that loss.
- A third is considering closing a service over the next 12 months and 14 per cent may close altogether.¹²³

(42 per cent of respondents were in the 'medium' sized organisation band of £100,000-£1 million; 35 per cent were in the £10,000-£100,000 band and 13 per cent were in the under £10,000 band)

Clinks reports that almost half (44 per cent) of organisations working with offenders and their families had found it harder to focus on their core purpose in the last financial year and said that this could 'indicate that organisations are experiencing 'mission drift'.

This trend might be explained by the fact that organisations are spending more time generating income, which is having a negative impact on their ability to deliver services'. Over a third (36 per cent) of small organisations and medium (35 per cent) reported this problem compared to 10 per cent of large organisations.¹²⁴

Payment by Results contracts

Payment by Results contracts for Rehabilitation Services are also causing problems, despite Government promises to learn the lessons from the Work Programme. Problems have included uncertainty about future funding, with poor communication between probation services and the voluntary sector, leaving services vulnerable and at a greater risk of closure; and low voluntary sector involvement in supply chains, organisations in supply chains being disproportionately large with very few medium or smaller-sized organisations represented.¹²⁵

Work and Health programme

The new Work and Health programme, which is replacing the Work Programme, is designed to provide more specialist support for disabled people, those who are long-term unemployed, and other groups such as ex-carers, ex-offenders, homeless people and those with drug or alcohol dependencies. However, it has still resulted in large umbrella contracts going to major private sector organisations (such as G43, Maximus and A4E), which have poor track records in the delivery of public sector contracts.¹²⁶

Charities turning away from contracts

Contracts are becoming so onerous that there are increasing signs that charities are turning them down, Barnardo's for example report 'a number of examples in recent months where, after lengthy deliberation, Barnardo's has chosen either not to bid for work or has submitted qualified bids including for services which we currently deliver – solely because of onerous contractual terms'.¹²⁷ Family Action also tell a similar story:

'We are continually asked to do more for less. We have had occasion to decline to tender for work that we would normally be delighted to deliver because the budget offered was nowhere near enough to deliver what was asked, and we could not expose the charity to the risk of not being able to make up the shortfall in funding'.¹²⁸

Government action

The Government increasingly recognises that there is a problem and has been trying to take some remedial action, including in the last 12 months, but there have also been changes to grant standards that are likely to create new problems for smaller charities and may further restrict independent action.

The Social Value Act

The Social Value Act was an attempt to reduce some of the bias against voluntary organisations by giving social value more weight in procurement. However, just a third of councils in England routinely consider social value in their procurement and commissioning, according to a report by Social Enterprise. The report concludes that 'if Government wants to see an uptake of the Act by councils, then legislative change is necessary – guidance so far has been insufficient'.¹²⁹

Help for small charities

In December 2016, Rob Wilson, Minister for Civil Society – who earlier in the year had told the NCVO conference that 'small and medium-sized charities are especially close to my heart'¹³⁰ – announced a range of positive measures to help more small charities win contracts. He appointed Sir Martyn Lewis to chair an implementation group. Measures include developing a Public Service Incubator to help small charities work with commissioners and identify and overcome barriers to winning contracts, developing a kitemark which commissioners can use to show their commitment to small charity commissioning, and recruiting a voluntary, community and social enterprise crown representative to champion small charities and social enterprises within public services.¹³¹

A Dormant Assets Fund

The Minister announced more good news for the sector in March 2017 in the shape of a major new dormant assets fund potentially worth up to £2 billion over a period of years, although the money will not be available for some time.

Grants becoming more like contracts – a death knell?

Government action to help small charities secure more contracts is at risk of being more than cancelled out by changes announced in December 2016 to grant standards,¹³² particularly as grants are often more appropriate for smaller organisations.

Concerns about these changes were raised with the relevant Minister in early January by a consortium of charities including NAVCA, Directory of Social Change, Clinks, Grants for Good and the Charity Finance Group.

The consortium pointed out that charities and their representatives were not consulted on the details of all the standards, only parts, and said they were unclear as to whether organisations representing small charities were consulted at all during the process.¹³³

The changes arise because of the Kids Company scandal, which erupted in 2015 and many have seen as a 'one-off', which led to calls for tighter controls on grants. The grant standards say that 'the Government's first strategic risk is the 'policy rush' to grants rather than using more innovative and less costly delivery mechanisms'. However, as the consortium pointed out, Payment by Results contracts can often be considerably more risky and are not subject to these controls.

The new standards include the creation of a Grants Advice Panel to consider 'high risk, new and contentious' expenditure, as well as any significant increase in funding to existing grant schemes. This may be understandable given the lax controls which seem to have been in place in relation to Kids Company. However, as the consortium pointed out, these supervisory arrangements are not in place for new payment by results schemes which are more high-risk, new and contentious - but probably should be.

The changes make grants far more like contracts – grants must normally subject to a competitive process and outputs and outcomes must be agreed – and other elements that also enable more freedom of action are being removed.

Grants must be reviewed at least once a year, despite the commitment in the Compact to 'multi-year funding where appropriate and where it adds value for money'. What's more, the standards say that grant funding models will 'avoid paying significant portions of grants upfront', which could create cash flow problems for many charities which have difficulty accessing working capital.¹³⁴ The consortium said that 'this suggests to departments that all grant funding is issued effectively on a Payment by Results basis'.

Charity income from the state has been increasingly replaced by contracts rather than grants over many years. Of the £15 billion total government spend in 2013-14, £12.2 billion is estimated to have come from contracts and just £2.8 billion from grants.¹³⁵ The proportion of grant aid income from government sources fell from over half (51 per cent) in 2003-04 to just 19 per cent in 2013-14. Back in May 2016, Rob Wilson had said that:

‘Too many charities are reliant on grants from the public sector, a way of working that is simply unsustainable in the long term’.¹³⁶

Infrastructure support

Infrastructure bodies have never been more important but many are downsizing or closing.

They provide vital support to voluntary organisations, help communicate policy and funding issues to local and central government and are essential to the expression and maintenance of the sector’s independence in all its dimensions. In their submission to the House of Lords Select Committee on charities, Children England said:

‘Our members now require us to be a more independent voice for them, separated financially from government, championing the role of the children’s voluntary sector and raising concerns about the conditions in which they are seeking to sustain their services and efforts for children. As many are driven to prioritise service delivery and their capacity to speak out about the causes of social deprivation is diminished, it’s essential that we, as their umbrella body, campaign for society to ‘put children at heart’ in order to make decisions that improve, rather than damage, children’s welfare’.¹³⁷

Like smaller organisations, infrastructure bodies have lost significant state support in recent years and, although this may bring greater independence, it is also causing some to struggle.

According to the Small Charities Coalition: ‘The cuts in funding have seen the erosion or stretching of services of infrastructure bodies and informal networks who previously provided support. Whilst small charities can continue to seek to develop themselves this will not be enough without the wider systems they sit within actively seeking to support small charities’.¹³⁸

Over the last year a number of agencies (such as the National Council for Voluntary Youth Services and Community Matters) have closed whilst others have had grants reduced and lost staff. Community Matters, the membership group for community organisations, closed in March 2016 after experiencing a significant fall in income over recent years. In 2011, this was £1.8 million, but dropped to £400,000 a year more recently, largely as a result of lost central government funding.¹³⁹

The National Association for Voluntary and Community Action (NAVCA) has seen a significant decline in income from £2.6 million in 2012-13 to around £500,000 in 2015-16, with the ending of big national funding streams, such as ChangeUp and the Big Lottery’s Basis. It has a large unrestricted deficit but, as a result of its three year strategic plan, this decreased from £389,000 in 2014-15 to £121,000 in 2015-16.¹⁴⁰

Large organisations have not escaped either. NCVO carried out a major reorganisation at the start of the financial year after the end of a number of time limited projects which had made a contribution to NCVO's core costs. The number of departments was reduced from four to three and 12 staff members were made redundant.¹⁴¹

In conclusion

If the Prime Minister is serious about delivering a Shared Society, then it is surely a time to rethink how the voluntary sector is being funded.

Chapter 5

Independent regulation

A Shared Society cannot be achieved without an independent voluntary sector and independent regulation plays an important role in this. In England, the Charity Commission, which is established as an agency independent of government by statute, regulates most but not all charities, and the Compact sets standards for the relationship of the state and the sector. The Compact is an agreement between the Government and the voluntary sector nationally, which is often also reproduced locally, and which is monitored by Compact Voice. This infrastructure is critical for providing a supportive environment. It is also vital for showing the state and voluntary sector leadership on the behaviours required to support independence. But the problem is, is this independent regulation independent?

Summary of threats to independent regulation

The most damaging development over the last 12 months has been the issuing of guidance by the Charity Commission that discouraged charities from speaking up during the EU referendum which, although later modified, contributed to a major chilling – indeed freezing – effect. Concerns in the sector also remain about the composition of the Charity Commission’s Board of Trustees, its direct involvement in regulatory activities and the inappropriate behaviour of one Commissioner who wrote a pro-Brexit article during the referendum but was nonetheless reappointed (though he has since stepped down). Complaints continue to be made about its treatment of Muslim charities.

The Compact has been especially ineffective over the last year and discussions about the future funding by the Government of Compact Voice, which monitors it, were continuing over the very period in which the ‘no advocacy’ clause was being discussed and new grant standards – both of which are not Compact compliant – were issued.

The Charity Commission

EU Guidance

In March 2016, the Commission published guidelines stating that voluntary organisations could only enter the referendum debate in ‘exceptional circumstances’.¹⁴² The guidance contains various warnings that were not appropriate for a piece of regulatory guidance, such as ‘be aware that a decision to engage in political activity will be closely scrutinised’ and ‘any referendum related activity may attract adverse comment’.¹⁴³ Margaret Hodge MP described William Shawcross as an ‘arch Eurosceptic’ and called upon the Commission to outline his role in drawing up the guidance. An article in *The Telegraph*, first published on 5 March, had critics accusing Friends of the Earth of breaching rules before the charity had even seen the new guidance.¹⁴⁴

In the same week, the Office of the Scottish Charity Regulator (OSCR) issued its own guidance on engagement in the EU Referendum in Scotland. It was different in tone and approach from that issued by the Commission and noted that ‘it may be appropriate for some charities to make their voices heard during the EU referendum process’.¹⁴⁵

At first, the Charity Commission defended its position. In a letter to *The Guardian*, William Shawcross said the advice was based on guidance on the duties of charity trustees in elections and referendums first published in 2011, and the Commission's considered assessment of the law in this area. He pointed out that his own personal opinions were not relevant to the Commission's regulatory position.¹⁴⁶

However, the outcry eventually prompted the Charity Commission to take the unusual step of amending its guidance, in a significant climbdown. The bald statement that involvement in the referendum campaign 'will amount to political activity' was significantly qualified, and the assertion that charity involvement will 'inevitably be by exception' became 'likely to be by exception'. But the revisions did not go far enough. For example, the guidance still contained the assertion that political activities of charities in furtherance of their purposes must be 'incidental, ancillary or subordinate' to those purposes, which is at variance with the Commission's general guidance on campaigning outlined in CC9. Stephen Cook in *Third Sector* commented:

'The fact that the words have been left in the revised EU referendum guidance strengthens the view that elements in the Commission consider CC9 at variance with the law and would ideally want to revise it again and tighten it up. Unless and until that happens, there are now two apparently conflicting sets of guidance. This creates a chilling uncertainty for charities'.¹⁴⁷

The Commission was also at variance with Ministers. Soon after the guidance was issued, Civil Society Minister Rob Wilson welcomed the fact charities' voices 'should and will be heard in the debate'.¹⁴⁸

As documented in Chapter 3, the guidance had a significant chilling effect. Sir Stuart Etherington in March 2017 said that it had contributed to the sector being too quiet during the referendum campaign, saying that with a few exceptions, charities did not enter the referendum debate and added that, although revised, 'the damage had been done'.¹⁴⁹

Concerns about the role of the Board and its legitimacy

The political impartiality of the Board of Trustees came into specific focus when Gwythian Prins published *Beyond the Glass – does EU membership erode Britain's global influence?* with strong Brexit views during the EU referendum. Publication was seen as a multiple breach of the Commission's Code of Conduct. Andrew Purkis, a former Commission trustee, called for William Shawcross to consider Prins' position, saying:

'I think it is a serious issue for consideration by the chair as to whether Prins, with his strong, militant views about current political issues, is the right sort of person to be bound by the requirements of a public body'.¹⁵⁰

William Shawcross, in response, acknowledged that Prins should have consulted other board members before publishing the article.¹⁵¹ Prins was controversially reappointed in May 2016, and was set to serve until June 2017, though he has since quietly stepped down without an announcement in January 2017.

In a letter to Civil Society Minister Rob Wilson in April 2016, Sir Stuart Etherington called for the appointment process of the Commission to be overhauled to ensure its independence and political neutrality and said that:

The NCVO ‘continue to have serious concerns about the intervention of the Charity Commission Board members in operational matters and its independence from party politics’.¹⁵²

Asheem Singh from ACEVO commented that: ‘The Charity Commission’s board has never been less representative or aware of the sector it is supposed to regulate’.¹⁵³

An analysis of the composition of the board by *Civil Society* news confirmed that none of its members had any experience of running a very large charity, despite the Charities Act stipulating that the Board should include people with ‘knowledge and experience’ of ‘the operation and regulation of charities of different sizes and descriptions’. The article also found that it is possible to draw a number of strong connections between Board members, Conservative-leaning think tanks, and right wing politicians.¹⁵⁴

In 2014, the Commission established a policy guidance committee to ensure that its ‘published guidance is strategically focussed in accordance with our regulatory approach and priorities’. It is the only committee that has not sought external expertise by appointing an independent member. Freedom of Information requests did not reveal the activities of the committee, but since its formation, ‘there has been a noticeable increase in dissatisfaction from sector bodies and charity legal experts with the various bits of guidance issued’.¹⁵⁵

Muslim charities and the Commission’s handling of JRCT

There is no doubt that the Commission has a sensitive, important and difficult regulatory task to do in relation to counter-terrorism. However, as reported last year, questions have been raised about the way in which the Charity Commission treats the Muslim voluntary sector – and these continue.

Counter-terrorism and extremism cases continue to represent a significant and rising proportion of the Commission’s regulatory work – the number of its directions fell by more than half from 154 in 2014-15 to 71 in 2015-16 but there was a slightly higher number of statutory inquiry cases relating to terrorism and extremism (9 in 2015-2016 compared to 8 in 2014-2015).¹⁵⁶

A Charities Aid Foundation report in January 2017¹⁵⁷ warned that the ‘exponential rise in compliance requirements and costs, the lack of charity specific guidance and the unfounded assumption that charities are innately at risk of terrorist financing...is creating an environment in which legitimate and well-governed charities are finding themselves unable to access financial services’.

There have been individual complaints of unfair treatment. In November 2016, the Charity Commission published a report of its inquiry into Islamic Education and Research Academy (iERA), which concluded there was misconduct and mismanagement in the charity's administration, because trustees did not properly assess the risks of appearing to be associated with people who condoned extremism. Mohammed Hussain from iERA acknowledged that the Commission had 'legitimate concerns' about the charity's governance, record-keeping and risk assessments, but said that 'Unfortunately, we still feel that the tone and language of the report and its emphasis on extremism...was unjustified and disproportionate'. He also criticised the report for not mentioning the accusations of gender segregation, which had sparked the initial investigation but which the Commission had found no evidence to support. He also said the report failed to reflect that, over a period of two and a half years, 'we've implemented policies, sought advice of the Commission...' ¹⁵⁸

Moreover, University of Bristol research suggests that 'many Muslim charities feel under particular scrutiny from the Charity Commission or the media with regard to issues of governance and finance, and many charities can find themselves under suspicion of impropriety, although their real issue is underdeveloped mechanisms of governance or lack of knowledge of regulatory issues. Whilst many faith organisations report a need for more training and advice on compliance, it is seen as a particular jeopardy for Muslim organisations at present'.

The same research observed that, in this climate, Muslim charities in particular perceived certain hazards in engaging in political campaigning, particularly in lobbying for accommodation of their specific religious needs or adopting positions of dissent or critique. ¹⁵⁹

The Charity Commission's handling of the Joseph Rowntree Charitable Trust's funding for the controversial organisation Cage was reported in our annual assessment last year. The issue highlighted specific fears for the independence of charitable foundations, with the Commission accused of trying to fetter the discretion of JRCT's trustees in the future, with a suggestion of political pressure behind the scenes.

The Commission eventually issued a statement that it did not have the power, in the circumstances, to fetter the discretion of trustees. This was after a hearing on 21 October 2015 when Lord Chief Justice Lord Thomas said he could understand how it was felt that the '*Commission had behaved in an extremely high handed manner*' and acknowledged that the Trust (JRCT) had '*real cause for complaint*'. The Commission's position in the subsequent litigation was that it had done no more than offer advice, and that it had not intended to fetter the discretion of JRCT trustees. However, the Lord Chief Justice said that this was 'wholly inconsistent' with the summary of its regulatory action in its press release and '*that in every well run organisation press statements are approved at the highest level*'.

However, in its JRCT case report published in May 2016, the Commission repeats its claim that it made no direction, despite the judge's observations. It also concluded that JRCT acted in good faith and that grants provided to Cage were made to further the Foundation's charitable purposes, although it also said that the trustees needed to conduct more robust and more regular due diligence in respect of grant recipients, especially non-charitable ones. ¹⁶⁰

The Commission's case review of JRCT also opened up a completely new distinction between charitable and non-charitable human rights activities, saying that 'under charity law, whilst the charitable purpose of advancing human rights can be supported in a number of ways, not all activities to support or promote human rights activities will be capable of furthering a charitable purpose'.

No explanation or definition was given and this may be a space to watch in 2017.¹⁶¹

New warning powers

There are concerns about how the Commission will use its 'warning' powers under the Charities (Protection and Social Investment) Act 2016. Following consultation, the Charity Commission did increase the amount of notice it will give to charities before it issues an official notice from 14 to 28 days, and said that publication of any warning would be determined on a case by case basis. But the fact that appeals against a warning cannot be made to the tribunal but must be made by judicial review, which would cost donors and taxpayers more, is still causing anxiety.¹⁶²

A shift toward sector funding and a more advisory role?

The Commission's budget has been cut by 48 per cent since 2007-08 and will be frozen at £20 million per year over the course of this Parliament. It looks increasingly likely that the Commission will be funded by the sector, though this proposal has attracted criticism. In February 2017, Deborah Allcock of the Directory of Social Change wrote to the Chancellor saying, amongst other things, that charging charities for regulation would 'be a damaging burden on charitable resources,' and 'could lead to bad or distorted regulation'.¹⁶³ The House of Lords report, *Stronger charities for a stronger society*, also raised concerns.

A shift in the future direction of the Commission has been mooted. In August 2016, the Charity Commission announced that it would move away from 'reactive casework' and become more proactive over the coming year and said:

'We will work to have an open dialogue with charities and their leaders. We will be working hard to increase awareness of key trustee duties and ensure we communicate effectively with trustees. And we will continue to promote increased trust and confidence in charities'.¹⁶⁴

The Compact

The Compact – an agreement between the Government and the voluntary sector – is an expression of partnership working. It was one of the key outcomes of the 1996 Deakin Commission into the future of the voluntary sector, was put in place in 1998 and has been adopted by successive governments since, and indeed copied in many countries. Many local authorities have also signed local Compacts.

As well as undertakings to provide supportive funding, including the funding of strategic partnerships, the Compact commits the Government to consultation and to uphold the right to campaign – regardless of any financial relationship. These commitments are presented as a means to ensure a ‘strong, diverse and independent civil society;’ ‘effective and transparent design and development of policies, programmes and public services;’ and the pursuit of ‘an equal and fair society’.

The Compact includes the following specific undertakings by the Government, many of which it is clear from evidence in this report have been broken but all of which would be critical to creating a truly Shared Society:

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|-----|--|
| 1.1 | Respect and uphold the independence of civil society organisations (CSOs) to deliver their mission, including their right to campaign, regardless of any relationship, financial or otherwise, which may exist. |
| 1.2 | Ensure CSOs are supported and resourced in a reasonable and fair manner where they are helping the Government fulfil its aims. |
| 1.3 | Ensure that the Government collectively (through the Cabinet Office) recognises the need to resource national and local support and development organisations in order to assist CSOs with their capacity and capability to deliver positive outcomes. |
| 2.3 | Work with CSOs from the earliest possible stage to design policies, programmes and services. Ensure those likely to have a view are involved from the start and remove barriers that may prevent organisations contributing. |
| 2.4 | Give early notice of forthcoming consultations, where possible, allowing enough time for CSOs to involve their service users, beneficiaries, members, volunteers and trustees in preparing responses. Where it is appropriate, and enables meaningful engagement, conduct 12-week formal written consultations, with clear explanations and rationale for shorter time-frames or a more informal approach. |
| 2.6 | Assess the implications for the sector of new policies, legislation and guidance, aiming to reduce the bureaucratic burden, particularly on small organisations. |

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| 5.1 | Work with CSOs that represent, support or provide services to people specifically protected by legislation and other under-represented and disadvantaged groups. Understand the specific needs of these groups by actively seeking the views of service users and clients. Take these views into account and assess impact when designing and implementing policies, programmes and services. |
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| 5.2 | Acknowledge that organisations representing specific disadvantaged or under-represented group(s) can help promote social and community cohesion and should have equal access to state funding. |
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| 5.3 | Take practical action to eliminate unlawful discrimination, advance equality and ensure a voice for under-represented and disadvantaged groups. |
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In 2012 the Government removed the requirement to consult for a minimum of 12 weeks. In the wake of these events a series of initiatives directly affecting the voluntary sector were announced without any consultation and in breach of the Compact. These include the 2012 Budget reduced tax relief for large donations (later overturned), the Lobbying Act and the 'no advocacy clause' announced in early 2016. Not only did the Government fail to consult, but two of these provisions directly broke other terms of the Compact. As noted in Chapter 4, the Government failed to consult on important aspects of the new grant standards issued in December 2016.

The Compact is clearly not being effective, and not just nationally. A survey carried out in the Autumn of 2015 (before the Government's February 2015 announcement about rolling out a 'no advocacy clause' to all grant agreements) found that, locally, almost half (48 per cent) of voluntary sector respondents felt that respect for the voluntary sector's ability to act independently and campaign freely had deteriorated in the preceding 12 months. 43 per cent said there had been no change and just 8 per cent noted an improvement. There was a clear divergence of views with public sector respondents: most (54 per cent) felt there had been no change, 11 per cent noted an improvement but none spoke of a decline in independence.¹⁶⁵

In 2011, the Government abolished the independent Compact Commissioner. Compact Voice has been funded since by Government but discussions over its funding have been continuing over the period in which the Government first announced its 'no advocacy clause' and in which the Government has challenged in its new grant standards the use of grant funding to finance paid staff for 'political lobbying'.

In conclusion

It's time for the Government to take a fresh look at what kind of relationship it wants to establish with the voluntary sector in the light of Theresa May's commitment to a Shared Society, to make sure that actions match public words and to restore trust in the sector's independent regulation.

Chapter 6

An independent purpose

Ultimately it voluntary organisation's focus on their independent mission – or *independent purpose* – that ensures that voluntary organisations put the people and causes they serve first, not money, organisational survival or a good relationship with Government at any price. It is that focus which makes them an effective voice for, and actor on, behalf of wider society and a truly Shared Society cannot be achieved if that sense of purpose is under threat.

Although, in many ways, charities operate like private sector organisations (and sometimes in direct competition with them), they ultimately exist to deliver a mission, not profit.

The public donate to charities generously because of their independent purpose and their services are often trusted by those who use them because they think that they are on their side, where they might otherwise be distrustful of public or private sector institutions.

However, over many years, there has been an increasing blurring between the private and voluntary sector, partly driven by the fact that private and voluntary organisations have been in competition for the delivery of public service contracts. This has fuelled a view amongst some politicians and commentators that charities should be focused on delivery, not campaigning.

Summary of threats to independent purpose

Last year we reported that some charities appeared to have been chasing money in order to fund their charitable activities in ways that were not consistent with their fundamental mission. Evidence emerged in newspapers of poor fundraising practices, excessively high salaries in some cases and some commercial practices that seemed incompatible with mission; and there was also the Kids Company scandal.

During this last 12 months, the direction of travel has been more positive though evidence of some poor practice has continued to emerge and high profile criticism of specific organisations in the media has continued, though some allegations have been successfully overturned. Changes have been made to the regulatory regime which, although not without potential negative side effects for 'better behaved' charities, may help to restore public confidence. There have been some improvements in other areas too. Significantly, public trust in charities appeared, at least for a time, to have suffered but seems to have bounced back.

Most at risk from threats to independence of purpose?

All voluntary organisations risk losing sight of mission, and there are particular risks when money or organisational survival becomes centre stage. However, as documented in our last report, it is the largest charities that have faced the most public criticism for loss of values and this has come at a time when many of them are thriving financially, compared to smaller charities. The top 100 fundraising charities as a whole, for example, have more than managed to maintain their funding position in the current climate. They achieved a combined total income of £9.5 billion in 2014-15, a record high. This represented real annual growth of 7 per cent on the previous year. Fundraising income grew by an even higher real 8 per cent. These annual growth figures are the highest for at least five years.

Part of the success of the largest charities is the result of increasing commercialisation and this in itself creates a potential risk. There has been a significant increase in income from individuals, which in 2013-14 formed 48 per cent of voluntary sector income, up from 40 per cent in 2007-08. However, 98 per cent of this growth has come from commercial activities.¹⁶⁷ According to a report produced by the NCVO and others in 2015, increasing reliance by charities on income from fees charged for services creates a serious challenge for some voluntary organisations.¹⁶⁸ This increasing commercialisation has brought financial benefits and often strengthened the ability of charities to deliver their charitable mission. But it has also led some of these charities to become more like big businesses, with a danger that they may sometimes lose sight of their charitable mission or fail to put it first.

Below is a typology of large charities, showing their diversity and vulnerability to particular risks to their independence.

Major and large charities: a typology

Big brand charities

eg Cancer Research UK,
Save the Children,
NSPCC, Oxfam, Shelter,
National Trust

- Receive significant funds from donations, membership fees and sales of services
- But can also receive significant state funds
- Often campaign, as well as deliver services
- Generally resilient, financially, some growing
- Main risks to independence: becoming too commercial and external threats to voice

Large service delivery charities

eg NACRO, CRI,
Catch 22, Turning Point,
Action for Children

- Often rely on state contracts, competing successfully with private sector
- Services are the main activity but some also campaign
- Main risks to independence: becoming too commercial, mission following money, external threats to voice, self censorship

Medical service delivery charities

eg private hospitals
and hospices

- Often well endowed and financially stable
- Significant income from services
- Some deliver services under contract to the NHS
- Highly professional, though may also use volunteers
- Main risks: becoming too commercial

Federated charities

eg Citizen Advice,
Age UK, Relate

- Small local charities with national parent body
- May have significant state contracts but some are entirely independent eg foodbanks
- Some are volunteer rich, partly because of local connections
- Mixed experiences, financially
- Main risks: all three areas of independence

Quasi public sector charities

eg housing associations,
Academy chains,
universities, museums

- Almost indistinguishable from public sector
- May receive most of income from public sector or have huge financial assets which were public sector
- Donations are often from major donors
- Focus is on service delivery, rather than campaigning
- Main risk: threats to independent purpose

Social enterprises

eg The Co-op, Big Issue,
Places for People Leisure

- Businesses that generate funds through trade that have a social or environment mission
- Growing movement, businesses from large to tiny
- May have large contracts for services from state or even have once been state enterprises
- Not generally charities, rarely campaign
- Main risks will vary

Poor fundraising practices

Over the last 12 months, evidence has continued to emerge of large charities resorting to fundraising practices which are inconsistent with their charitable missions.

After an investigation by *The Sun* in July 2016 into the practices of Neet Feet, a third party fundraiser employed by a number of major charities, the fundraising regulator found that Action for Children; Home Farm Trust; the RNIB; Save the Children; Smile Train; UNICEF and World Animal Protection 'did not employ all reasonable efforts to ensure' that the agency's work was in compliance with the Code of Fundraising Practice. The regulator also found that Neet Feet breached six sections of the Code of Fundraising Practice, and that fundraisers had 'deliberately intimidated, misled and targeted the vulnerable'. It said the agency's fundraisers were: 'derogatory to the public, accepted donations from vulnerable people, were unreasonably persistent and misleading in pressuring donors, fundraised under the influence of alcohol and drugs, and did not employ best efforts to ensure donors were over the age of 18'. They also ignored 'No Cold Calling' stickers. The Children's Trust was found to have made 'all reasonable efforts' to ensure that Neet Feet's fundraisers operated within the bounds of the Code and escaped censure as a result.

The regulator's adjudication criticised all the named charities - and, indeed, the sector as a whole - for being 'largely focused on how much money was raised' and not focused enough on how that money is raised. The regulator said that 'whilst we are aware of the financial pressures on the sector, we consider that more attention could, and should, have been paid to the experience of the donor'.¹⁶⁹

In December 2016, two major charities were also fined by the Information Commissioner's Office for abuses in their use of donors' information in 2015. In December 2016, it was announced that the RSPCA was to be fined £25,000 and the British Heart Foundation £18,000 by the Information Commissioner's Office (ICO), after it concluded the charities had contravened the Data Protection Act. The ICO had launched its investigation into the RSPCA and other charities after *The Daily Mail* newspaper ran a critical story about the case of Samuel Rae, an elderly man with dementia who was allegedly contacted more than 700 times by charities after filling in a survey in 1994. It also ran an article claiming the RSPCA was paying a private company to secretly assess how much supporters might leave in their wills.¹⁷⁰

In response, the Government established a new Fundraising Regulator (FR) in July 2016 which took over from the Fundraising Standards Board (FRSB) and is now responsible for the Code of Fundraising Practice. To fund it, a new levy applies to all charities that spend more than £100,000 a year on fundraising. The levy is 'stepped', with those that spend the most charged the most, and ranges from £150 to £15,000 depending on how much was spent. Exempt charities are charged a flat rate of £1,000 per annum. The levy is voluntary but it is necessary for registration with the FR, which in turn entitles charities to use the FR logo to show donors that they have signed up to the code of practice.

The cost of controlling the bad practices of a few charities is likely to have an adverse effect on all charities, including those which had adhered to former ethical guidance.

As noted earlier, the introduction of the fundraising preference service may mean a significant reduction in charity donations and many charities are anticipating this.

Inappropriate commercialisation

In 2015, a number of charities came under media investigation for their commercial activities. The most prominent of these was Age UK.

In early 2016, Age UK was accused of selling energy deals with E.ON that were more expensive than other tariffs. Age UK eventually suspended the arrangement. In April 2016, the Charity Commission issued a case report which warned that the charity faced a 'significant risk' over its relationship with E.ON.¹⁷¹ Criticism continued. A Channel 4 documentary, *Supershoppers*, broadcast on 31 October 2016, claimed that a number of 'competitively priced' products for older people, including a mobile phone and car insurance, available through Age UK's commercial arm, Age UK Enterprises, could be found cheaper from other retailers, sometimes at almost half the price. Age UK argued that the broadcast had failed to take into account that Age UK is a charity. It therefore did not make profit from setting higher prices and any margin was, in effect, a donation.¹⁷²

In its accounts, published in January 2016, Age UK said that it conducted a strategic review of its trading activities 'in order to focus its attention on core products and services'. The review led to the sale of the charity's personal alarm service Aid-Call last autumn as well as the closure of Age UK Training.

Age UK also said that it had begun an 'extensive programme of work to consider the Charity Commission's recommendations and put in place changes that will further improve the governance and transparency of the relationship between the charity and Age UK Trading CIC'.¹⁷³

Other voluntary organisations have also come under fire for loss of values in pursuit of profit. Stella Creasy MP criticised the Glasspool Trust for offloading 63 homes to a private developer, causing the residents to be evicted, saying:

'These families (are) being evicted because a charity that says it wants to help those affected by homelessness saw an easy financial windfall and so sold off its estate to a grasping development company'.¹⁷⁴

The role of the media in uncovering these scandals is to be applauded but there is a danger that certain charities are being hounded or unfairly represented. Negative stories have continued in the media over the past year - details are given below - but some charities have defended themselves, saying that these stories are unfounded or unfair.

Negative stories about charities in the media – some examples

In March 2016, the League Against Cruel Sports denied front page allegations in *The Times* that it squandered a £3.5 million legacy by going on a ‘spending spree’ which included a backdated minimum 10 per cent pay rise for all staff.¹⁷⁵ The newspaper also claimed that two employees who raised concerns were sacked, and two others left over their concerns about how the organisation was run. The League refuted all allegations and described the article as a ‘mishmash of exaggerations, half-truths and malicious nonsense’ and said it was a ‘shameful, politically motivated and unfounded attack’.¹⁷⁶ *The Times* story mentioned that a League trustee was a former Labour MP, and Shadow Defra Minister Kerry McCarthy, a former Vice President but did not mention that another of the trustees is a Conservative.¹⁷⁷ However, in 2010, the Charity Commission banned the League from using an advert which highlighted the words ‘Cruel Tory’ in its slogan.¹⁷⁸

During a two week period in the autumn of 2016, *The Times* published no fewer than nine negative articles about the National Trust, focusing chiefly on three issues related to the purchase of land: the impact of the purchase on sheep; the flow of a waterfall; and the fortunes of the village football team which could have leased the site. ‘As much space has been dedicated to a row over three sports pitches as to Theresa May’s visit to China for the G20 summit,’ commented David Ainsworth at *Civil Society* news.¹⁷⁹

Shortly afterwards both *The Times* and *The Observer* criticised the Trust over its rental prices. Both papers quoted the chair of the Tenants’ Association of the National Trust as saying that there had been an increase of Trust houses turned into holiday lets. However, the Trust said there was no evidence to support this claim.¹⁸⁰

Again in the autumn, *The Sunday Times* turned its attention to allegations of anti-semitism in War on Want, and claimed that the outgoing Chief Executive, John Hilary, was forced to resign due to complaints which triggered a Charity Commission investigation into the group’s campaigning and political activities. Hilary said that these claims were ‘entirely fabricated at every single level’.

In September 2016, *The Times* also attacked the veteran’s charity Warrior Programme, which it said received Libor funding to carry out ‘voodoo therapies’ in the form of ‘neurolinguistic programming, techniques described by psychiatrists as pseudoscientific, unproven and even dangerous’. In a statement, the charity said that all of its programmes had been evaluated, and that a randomised controlled trial had been undertaken by the University of Southampton and the data analysed and interpreted by King’s College London.¹⁸¹

In the same month, *The Times* ran a story about the Chief Executive of Walking with the Wounded. The article claimed that charities ‘slightly sensationalise’ the issues they are tackling in order to fundraise more effectively and was concerned that references in fundraising to Post Traumatic Stress Disorder were ‘getting out of hand’, and that there was a danger the bare facts were being lost.¹⁸²

There is some evidence of charities taking a more robust response to negative press reports, with apologies from newspapers secured after protests, but there have to be concerns that the stories were printed with such prominence in the first place.

In February 2016, *The Daily Telegraph* published an apology after NCVO complained to the Independent Press Standards Organisation about an article that claimed that one in five charities spent less than half the funds they raised on charitable activities; and, in May, Help for Heroes secured an apology from *The Mail on Sunday* after it printed false allegations about the charity. In June 2016, The Joseph Rowntree Charitable Trust secured an apology from *The Daily Mail* after describing the charity as 'pro-terrorist'¹⁸³ and, in October, again *The Daily Mail* apologised to the RSPCA for two negative articles about the charity, accusing it of putting down someone's pet cat.¹⁸⁴

In October 2015 ACEVO and NCVO launched a joint initiative to secure better treatment for charities in the media, which involved implementing an early warning system for forthcoming charity stories to ensure a consistent response and conversations with journalists to ensure a better balance. In the same month, NCVO created Constructive Voices to encourage the media to run more positive stories about charities, but progress has been slow. Media representatives question the success of such approaches or as one put it: 'Charities are getting better at rebutting and reacting to critical stories, but I still don't think there's enough front-footed communication about the effectiveness of the sector and the reality of the sector – what it does and how big it is'.¹⁸⁵

Excessive salaries

Public perceptions of high pay for executives remain a concern, particularly for the public who remain unconvinced despite attempts to justify it.

In evidence to the House of Lords, experts at the Third Sector Research Centre said that salaries over £60,000 were significantly less likely in the third sector than in the private and public sectors, (the respective proportions were 6.2 per cent, 4.5 per cent and 3 per cent) and that it was the size and complexity of charities, combined with scale and location, that had most influence on the proportion of organisations which pay high salaries, with the receipt of high proportions of income from trading activities also associated with an increased likelihood of paying high salaries.¹⁸⁶

However, such arguments do not appear to cut any ice with the public. Focus group research carried out by NCVO to develop a better narrative on the sector found that justifying pay levels for senior staff would only irritate people more because they would rather charities changed their ways instead. The research concluded that Chief Executive pay goes above and beyond the public's view of what is acceptable and that, whilst people accepted the need for charities to attract experienced workers, Chief Executive pay was deemed too high for what was felt to be a public service role.¹⁸⁷ Separate research by nfpSynergy had found Chief Executive pay was almost as important (31 per cent) as the number of beneficiaries (34 per cent) when deciding which charity to donate to. The same research showed that 70 per cent of people regarded CEO pay as an administrative cost.¹⁸⁸

Sir Stuart Etherington, speaking at the NCVO annual conference in April 2016, reported that charities had made only limited progress towards being open about executive pay.

He said charities had ‘a responsibility to explain what they pay and why’, and said he was worried about what the public would think if the sector failed to achieve such a simple task.¹⁸⁹

Indeed, in a June 2016 review, *Third Sector* reported that many charities had still not adopted the NCVO’s 2014 recommendations on publishing senior pay and said charities with annual incomes of less than £10 million were performing particularly poorly. The recommendations said that charities with annual incomes of more than £500,000 should go beyond their legal requirement of reporting the number of staff earning more than £60,000 a year in salary bands of £10,000 and instead publish the actual salaries, names and job titles of their highest earners in their annual accounts. Of the 10 larger charities examined, eight provided the exact salaries of their senior executive team in their accounts. Of a random sample of the charities with annual incomes of less than £10 million, only one followed the NCVO’s recommendations.¹⁹⁰

However, ACEVO’s Pay and Equalities Survey 2017 shows that average CEO salaries fell by more than £5,000 last year, with the median Chief Executive salary, £50,000, compared with £55,500 in 2015.

Impact on public trust and on income

Fundraising scandals and other negative coverage are having a negative impact on charities that have not behaved badly but which may not be in such a relatively stable financial condition. This knock on effect is illustrated by this testimony by the Devon Air Ambulance Trust to the House of Lords:

‘We have lost support from people convinced that we have or will sell their personal details to third parties or in some other way breach their trust. As an organisation that doesn’t use direct mail, ‘chuggers’ or buy or sell data, this is hugely frustrating’.¹⁹¹

Although opinion polls vary, it is likely that public trust in charities declined significantly in the earlier part of 2016 after months of criticism of charities but at least one opinion survey suggests that trust levels had bounced back by the autumn of that year, once the new regulatory regime for fundraising was in place. This is explored in more depth in the box below.

Impact on public trust

A Charity Commission survey of over 1,000 people was conducted in early 2016 and found that public trust and confidence in charities had fallen to the lowest recorded level since monitoring began in 2005. Between 2014 and 2016 alone it had dropped from 67 per cent in 2014 to 57 per cent in 2016.¹⁹² Adverse media stories about charities seem to have a critical role in perceptions of trust. A third (33 per cent) of those who said their trust and confidence had decreased attributed this to general media stories about a charity or charities and a further third (32 per cent) cited media coverage of the way in which charities spend donations. Overall, the public are more likely to trust small charities (57 per cent) than large ones (34 per cent).¹⁹³

But there seems to have been a bounce back, albeit recorded by a different opinion polling company. NfPSynergy research of 1,000 people undertaken in October 2016 found that trust in charities was at the highest level since 2013 (66 per cent), and charities had risen to become the fourth most trusted public institution in 2016 after previously languishing in 12th position. Overall 60 per cent of people trusted charities in October 2016 compared with 47 per cent a year earlier.¹⁹⁴

According to the 2017 Edelman Barometer, globally trust in NGOs appears to have been falling - 53 per cent on average in 2017 compared with 55 per cent in 2016. In the USA, China, Japan, Germany and the UK, trust in NGOs fell below 50 per cent.¹⁹⁵

This issue of trust cuts to the heart of the survival of the sector. In March 2016, it was reported that negative media stories about fundraising had made 22 per cent of the public much less, or slightly less, likely to donate.¹⁹⁶

In conclusion

Progress has been made over the last 12 months but there is certainly no scope for complacency. Serious social inequalities remain in society, and many people are dissatisfied with politics and the system of government, particularly those in lower economic groups - as explored in Chapter 1. This suggests there is still work for the sector to do to better connect with - and represent - those it serves in order to help create a truly Shared Society.

Chapter 7

Creating a Shared Society?

What makes a truly Shared Society?

What might make a truly Shared Society? The independence of the voluntary sector will be critical, along with an open and free civil space for civil society in a wider sense. In the light of the findings of this report, it is clear that there is long way to go before the Government and the voluntary sector could create a truly shared vision of how to create a fairer society and work effectively together as equal partners to achieve it. The closest expression of it is the Compact – but the gap between its positive rhetoric on co-design and respect for independence and reality is now so great that it has little or no value unless reinvented in a new form. And in wider civil society, too, the current Government has not yet taken steps to reduce the democratic deficit and imbalance of power between corporate and individual interests or to open up civic space – if anything it has made things worse.

The distance is not so great that it cannot be bridged with strong leadership, mutual respect and genuine dialogue. Nationally, the partnership working in the NHS mentioned in Chapter 3 has been showing the way.¹⁹⁷ There are also good local examples of collaboration, one of which is taking place in Southwark in London and described by our guest contributor, Jacky Bourke-White, below.

CREATING A SHARED LOCAL AGENDA

By Jacky Bourke-White, Chief Executive of Age UK Lewisham and Southwark

Times are tough in our local voluntary and public sector. Anxiety experienced by staff at all levels is palpable, arising from job insecurity and fear that we will no longer be able to deliver decent services to the vulnerable people we work with. In Southwark this is particularly true for those of us working with our older population. Whilst the borough is now ranked 41st on the Index of Multiple Deprivation our older population ranks 6th nationally for the proportion of older people living in an income deprived household. Over 50 per cent are dependent upon means tested benefits, over 40 per cent live alone and only 1/3 feel that they have adequate social contact, a situation exacerbated by ever increasing property prices that have forced sons and daughters out of Southwark and in many cases out of London altogether. The lack of funds and family support has created impossible-to-meet levels of demand for dwindling social care and health resources and local voluntary organisations.

These pressures are bringing about a small revolution in how the public and voluntary sector work together. Southwark Council and the Clinical Commissioning Group have recognised that it is vital that we concentrate our resources on the front line, pooling our knowledge of need and joint expertise on what works to deliver effective preventative interventions for older people, responding positively to a request by the local voluntary and community sector to a new way of commissioning older people's services and acknowledging that in the current financial environment traditional competitive commissioning methods will not bring about the best outcomes for older people.

The Consortia of Older Peoples Services in Southwark (COPSINS) formed of five local charities in 2011, will work with the council to design and deliver a preventative agenda for older people in the borough. For the first time, together we will decide priorities and approaches, pilot and review service delivery, breaking down the commissioner/provider relationship. If successful, this approach will be rolled out to other service areas.

This is an exciting moment for those of us who have advocated for new ways of working. It has been made possible by many factors. Southwark has an historically strong voluntary sector with levels of public funding that have enabled several local charities to operate at a significant size, enhancing their ability to bring in additional resources and, combined with central London geography, to attract a high calibre of staff and management leading to strong voluntary and community sector leadership.

Leadership and commitment to joint working have been mirrored at all levels within the local statutory sector, within both Adult Social Care and Housing departments which have traditionally commissioned voluntary and community sector services and with whom there has been an effective dialogue and working relationships built up over many years and more recently from within Southwark Clinical Commissioning Group.

It builds on the new Voluntary and Community Sector Strategy, a local Early Action Commission and work following Age Friendly Borough accreditation, all initiated by the local voluntary and community sector. The VCS Strategy, Common Purpose, Common Cause, has replaced a moribund Compact with a local document that contains a commitment to joint local delivery of a shared early action and preventative agenda.

We are at the beginning of a new process in Southwark. We have no previously successful model to follow. This is experimental. To work it will require honesty, straightforwardness and a willingness to learn and change and for both partners to acknowledge and put aside our organisational interests and to keep coming back around the table to talk. Because in the end this is not about sectoral interest or ways of working. It is the most vulnerable in our society who are most dependent upon the safety net provided by the welfare state. It is imperative on us all to find ways to work together to mitigate the effect of its rolling back.

Brexit brings significant financial and other challenges, and has so far been divisive and fuelled racial tensions between communities. However, it has also given greater prominence to long-standing problems and created a new will to tackle them, as Chapter 1 explained. It may be a good time to turn a fresh page and refocus the relationship of the state and the voluntary sector around the major social challenges Britain faces.

Leadership and culture change is critical for genuine dialogue to occur. This is the experience of individuals working on the ground, as Jacky Bourke-White's piece testifies. Some voluntary organisations and public sector bodies are trying to move toward co-design of services, working with commissioners before services are procured. Barnardo's, for example, in its evidence to the House of Lords said that 'the fundamental challenge is one of the underlying culture and attitude of local authorities towards the voluntary sector'. It said that it had seen, for example in its partnership with Newport City Council, how strong leadership and vision can overcome these issues and lead to better outcomes for more children'. ¹⁹⁸

This applies not just to political leadership but to the leadership of the voluntary sector – and here it is interesting to look to other countries to see what they have been doing, as we do through the eyes of our guest contributor, Ivan Cooper from The Wheel, the equivalent of the NCVO in the Republic of Ireland. In his view, it is important to recognise that the public and voluntary sectors do share a commitment to working for the public good, and therefore can coalesce around a common purpose.

INDEPENDENT AND INTERDEPENDENT

By Ivan Cooper, Director of Public Policy at The Wheel, the body in Ireland that represents community, voluntary and charitable organisations

It is a core belief of The Wheel that a strong, active, diverse and independent community, voluntary and charitable organisations (CVC) sector forms an essential part of a healthy democracy – but this independence is not in isolation: we can only achieve real independence when our interdependency with the public and private sectors is acknowledged, and accommodated by all. Let's work to re-build these shared appreciations and achieve our common purposes.

To be recognised as charitable, organisations have to demonstrate that they exist solely to provide public benefit – and they share this focus with their public sector counterparts. This fraternal connection has been insufficiently appreciated by both public and CVC organisations in long-running debates about independence – and it's this connection that provides the imperative for the two sectors to collaborate in their work. Additionally, CVCs have a duty to do whatever they believe is needed to advance their charitable purpose – and this includes advocating when necessary – irrespective of the source of their funds.

Mutual recognition of common purpose will result in increased respect for the collaborative nature of the two sectors' work – in what is essentially a partnership relationship. But this sense of common purpose is increasingly obscured by the adversarial and contractual relationships inherent in current commissioning, procuring and tendering approaches. These approaches have resulted in a purchaser/provider split that has undermined the sense of common purpose that informed traditional partnership approaches between the two sectors.

In addition, the relationship between the public sector and the CVC sector, while fraternal in nature, is not equal in power: it is through money, and the conditions attached to its use, that the objectives of power are often advanced. In Ireland, where 60 per cent of the funds come from public authorities, how can CVCs be enabled to focus fully on their missions and not be impeded by conditions attached to funds, or inhibited by a fear of the consequences of doing or saying what they believe is needed to advance their missions?

It seems to me that achieving effective interdependent working in these circumstances will involve a mix of the following:

- We need to fully recognise, appreciate and articulate the common purpose of both sectors.
- In contracts or grant agreements we need to make sure that funded organisations remain free to advocate to funders and other policymakers. To do otherwise is to disrespect the imperative that public-benefit trustees face. There should be no restrictions on advocacy.
- CVC organisations should engage in what might be called respectful and responsible advocacy with their public-benefit counterparts in the public service: no one likes being shouted at. We need to work the back-channels, but claim, and be seen to claim, successes.
- We know that many organisations are reliant on funds from a single public body. CVC organisations should work to diversify their income to reduce the vulnerabilities of income dependence.
- Lead by example: CVCs traditionally present ourselves as rooted in communities; being person-centred; motivated by public benefit values; being innovative and flexible. Yet, are we good at validating these claims? How have governance standards been in the sector? How accountable have we made ourselves in advancing our missions and in our use of funds (neither of which, the mission or the money, are our 'property')? Both are ours in trust, to be pursued, and applied, with and on behalf of the people and communities we serve.
- We need to see a culture of good governance practice owned by CVC organisations themselves and by the CVC sector as a whole – and not reduced to conforming with standards – checklists set by external authorities.
- Public funders should fund and commission for the full social and public value (societal value) inherent in services (for quality; accountability; equality-of-access; responsiveness; and efficiency) – rather than simply seeking the lowest cost as being the most 'efficient' service. Effectiveness must be an equal objective.

Shared respect for independence, based on a mutual appreciation of common purpose and good governance, has to be the way forward.

What is impressive is that Ivan seems so clear about the ‘red lines’ of what is required to make the relationship work.

In England, trust between the state and the voluntary sector has been eroded and trust is an essential component of genuine partnership and dialogue. Part of the problem is that for many years rhetoric has outstripped reality, not least in the voluntary sector’s experience of the Big Society. That gap now seems even greater, as the Government claims that its new grant standards are Compact compliant when the document produced is so divorced from the spirit and the letter of the Compact itself.

A new Compact?

It is rumoured that the new Prime Minister may re-sign the Compact in the next few months. Although this has become a devalued piece of paper, this would still be an important symbolic step and an act of leadership. Whether she does or not, it is critical that her actions match the words on the paper and that there is some effective external arbiter to call her to account if she does not.

The last report by the Panel on the Independence of the Voluntary Sector, which included the former Compact Commissioner, Sir Bert Massie, called for a new Compact written with binding principles, supported by a new state funded agency to promote and enforce it, which is independent and accountable directly to Parliament so it is free of the politics of the voluntary sector and the current whims of Ministers.

Action must be taken, not just to remove ‘no advocacy’ and ‘gagging clauses’ where they exist, but also to actively encourage open dialogue and co-design of policy and services, as already promised in that document, and to provide funding for that process where it is necessary.

But just as important is the creation of formal mechanisms for genuine dialogue. As Anne Fox, the Chief Executive of Clinks, says in her guest contribution, the Shared Society is an opportunity, but one which will be thwarted as funding arrangements silence the voice of the sector and while it is denied a seat at the policy table.

THE 'SHARED SOCIETY' AND THE CRIMINAL JUSTICE SYSTEM

By Anne Fox, Chief Executive of Clinks

In her 'Shared Society' speech the Prime Minister said 'building a stronger, fairer Britain that works for everyone' would start 'by tackling some of the burning injustices that undermine the solidarity of our society'. She went on to provide the example of how overrepresented black people are in our criminal justice system. By shining a light on that injustice she got closer to acknowledging one of our society's starkest facts - that the criminal justice system holds up a mirror to our society and shows its worst attributes. Overrepresentation from poorer communities, minority groups that experience discrimination, people who have been in care, children that have been excluded from school, children that have experienced abuse, those with learning disabilities, people suffering from mental ill-health, addiction to drugs, and experiencing homelessness.

As is often the case when people are facing real disadvantage, society responds through civic action and the voluntary sector. Working alongside the estimated 350,000 men, women and children in our justice system are approximately 1,750 voluntary organisations. Some provide direct services, some campaign, most do both to some degree. Wherever you live and whatever the nature of your need there is likely to be a dedicated voluntary organisation with an offer for you.

The voluntary sector has lots to say about how the system could be changed, informed by the experiences of their service users, their volunteers and the knowledge of skilled employees that work in a system we know has many flaws. Voluntary organisations are uniquely positioned to look over that whole landscape and see how the system does or doesn't fit together. They can and often do see the system differently than its individual cogs (the police, court, prison, and probation services), making them a valuable critical friend with a mutual interest in making the system better. It's a sector with a rich history and legacy and to which we can attribute the creation of the very concept of prison visiting and probation, always pushing to find ways to balance the need for retribution with the need for rehabilitation and reintegration back into a society which may often have failed them from their earliest days. But these voluntary organisations require an audience that is willing to listen and act.

Over recent years the trend has been for them to be increasingly sidelined and silenced. Organisations who provide contracted services may feel, or indeed have been told that they cannot criticise the system within which they work. Other organisations have fallen silent under the sheer pressure - reducing the scale and scope of their advocacy work to keep their services open and focussed on meeting immediate need in the face of austerity and the eradication of many local services which their clients relied upon. The problem is not just specific 'gagging clauses' in contracts or 'no advocacy clauses' in grant agreements, but statutory funding that is scarcely sufficient for the voluntary sector to be a delivery agent, let alone a delivery partner.

It is clear from the Prime Minister and her Government that there is an appetite for reform of the systems which drive social inequality and injustice in modern Britain. As a result of increasing violence and deaths in custody the Ministry of Justice is also focussed on reforming our prisons, from staff to the bricks and mortar. It is therefore imperative that there is an open conversation about how we create a Shared Society which works for the most disenfranchised and the most marginalised and delivers true justice. The creation of a role in 10 Downing Street with a focus on the voluntary sector, including its role in the criminal justice system, is very welcome and could provide a way to link the Prime Minister's ambition to the voluntary sector.

These are necessary and welcome reforms, but they also represent a huge challenge, one that will be made all the more difficult if the voluntary sector continues to be side-lined. There needs to be genuine, formal engagement, with the sector as an equal partner, and this is not happening yet. And it will be essential that voluntary organisations are also enabled and encouraged to take part in the process, with funding made available, not just to deliver the system as it is now, but also to help redesign it so it works much better.

Towards a 'new settlement'

The Panel on the Independence of the Voluntary Sector called for a 'new settlement' between the Government and the voluntary sector, based on a shared understanding of its distinctive, independent contribution. Theresa May has her vision – but the delivery of it is very likely to be still based on the top down, command and control, public management model which fatally undermined the Big Society.

What change might the voluntary sector seek to reset the system and ensure a focus, not on its own vested interests, but on those who need but currently lack power? We suggest here six potential ingredients: a bottom up model of social change; collaboration, including between large and small charities; a new funding model; action to rectify the social sector's 'deprivation gap'; a counter 'sock puppet' narrative and much greater assertiveness of independence purpose and voice.

1. A bottom up model of social change

Paul Streets, the Chief Executive of Lloyds Foundation, in his guest contribution below has captured both the need to 'return to the values that differentiate us' and to link this to a theory of social change which emphasises the importance, not just of national campaigning, but also of connection to lived experience – a bottom up model of social change.

SOCIAL CHANGE HAS THE POWER TO MAKE A DIFFERENCE TO REAL LIVES

By Paul Streets OBE, Chief Executive of the Lloyds Foundation

Small charities tell me too that too often our thinking on social change starts from the wrong end. A debate about rights, equity and justice. And we move directly from that to engage with the political process. Of course, rights, equality, justice, politics and power are crucial to social change. But, at our best, we start with individuals facing problems and challenges and we listen, we listen hard and by listening we see things that others don't.

We have industrialised provision. Services are organised in much the same way as production lines. The hospital is the example par excellence. It is designed in and around professionals and their disciplines. We pass patients, like vehicles on a production line, from one team to the next. And as with most public services, people are done too, not with. Largely speaking, the aim of the welfare state is equity and conformity.

One size fits all.

And it works for most of us. But it fails in our approach to services for the minority who are the most marginalised, vulnerable, largely disenfranchised and powerless – where our approach seems to be unremittingly top down – with the voices of those on the receiving end neither seen nor heard.

What good small charities do and how they work shows us a new way of thinking about services and how to reach people. They don't start with the service and try and design that through the eyes of professionals, experts or Government officials in Town Halls and Whitehall. They start with the person – and build a relationship to establish trust.

And because trust is about relationships it needs to start with something that is intimate, immediate and familiar. And it works. At their best, they put the person who comes through the door back in control over – at least a part of – their lives.

The problem with the current approach of government and statutory bodies to these organisations is that it transfers a set of logic that works for dustbins, roads, hospitals and schools – provided to everyone – where standards can be set, metrics agreed and performance managed to these small local committed providers.

If small local organisations need to put trust at the heart of their own service, we need also to trust them to know what's best. That means accepting that defining a contract with outcomes – and determining what activities to fund at the centre – simply won't work. We need what Locality has called funding for 'purpose'. And for organisations where trust lies at their heart it should mean a presumption that local is critical and that small is probably best.

So, if it means public services need to adopt a different approach what about us? The voluntary sector.

Our role as social changers has never been more crucial. Yet in the headlong rush for growth some of us have bought into a state vision of social change as articulated in the contracts it would have us take. Swapping the voices of those we reach – for the voices of those who commission us to reach them and determining need on the basis of what they are prepared to pay.

In so doing we have effectively become co-opted – as delivery agents of the state – rather than agents of social change. It feels like dangerous territory.

We need to return to the values and ethos that differentiate us from the private and public sectors. And that means not aping their top down or market driven approaches – either with respect to those we wish to serve – or with respect to our fellow charities. The greatest anguish from many of the small charities we support comes when they are on the sharp end of competitive and pricing practices from larger charities.

As a sector we need to reconnect with our campaigning roots and focus on the lives of people who need us to be their champion. And that means connecting local action with national advocacy. There are great examples of organisations that do this brilliantly, like Amnesty with its local groups and action networks and membership organisations like Mind and Women's Aid.

In them we reach a recognition of what has probably always been true. Politics and Power matter. But real social change happens bottom up and it happens to real people.

Extracts from a speech by Paul Streets at the Directory of Social Change, 23 February 2017. The full speech can be found here <http://www.thirdsector.co.uk/paul-streets-says-larger-charities-dangerous-territory-service-provision/policy-and-politics/article/1425329>

This bottom up model of social change has profound implications for what the sector values about itself and for future funding. Others in the sector are also starting to emphasise the need for a stronger connection with the communities they serve. As Maurice Wren, the Chief Executive of the Refugee Council said at the launch of last year's report, it is through people, rather than through money, that charities derive their true power and they should seek to 'invert the triangle' which currently looks upward to Government and funders and engage with their grass roots more.

2. Collaboration, not competition

As this report has shown, it is the largest organisations that have thrived, relative to the fortunes of smaller voluntary organisations which have lost grant funding and often failed to compete in a market place dominated by economies of scale – and, as Paul Streets points out, this has put larger and smaller voluntary organisations in competition against each other. This may not just be competition for contracts for services, but also for donations.

In their *Declaration of Interdependence*, Children England sought to build a coalition behind a new approach which values collaboration and long-term relationships.¹⁹⁹ Our guest contributor, Kathy Evans, sets out the case for a much more collaborative and less competitive model for how the state funds the voluntary sector in order to achieve a Shared Society – and points out that resources also need to be shared more equally across society too.

A PROBLEM SHARED SHOULD BE A PROBLEM HALVED **By Kathy Evans, Chief Executive of Children England**

shared, shar-ing v.tr.

1. a). To accord a portion of something to another or others: for example, you can share my sandwiches.
b). To divide and parcel out in shares: for example, he shared the estate among his heirs.
2. a). To participate in, use, enjoy, or experience jointly or in turns: share a responsibility; share a room.
b). To hold or have jointly with another or others: eg. she shares my view about the election.
3. To relate (a secret or experience, for example) to another or others.
4. To make (a digital file, for example) accessible to others within a network.

By any definition, the idea of creating a more 'Shared Society', of the kind that Theresa May has made the centrepiece of her social policy, should appeal to the very heart and soul of the voluntary sector. Our charitable missions are born of a commitment to relate to others in their hours of need; to share resources with them; to enable people's participation as equals in society and democracy; and, to spread learning and knowledge throughout our networks.

Many in the sector will agree with the aspiration under which the 'Shared Society' was launched – a clarion call from the new Prime Minister for a kinder society towards people experiencing mental health problems. She spoke with passion in describing how we can all, as neighbours, friends and employers, help to reduce damaging stigma and uncaring responses by sharing human experiences and relating better to each other. The idea that it's not simply (or solely) government's job to solve social and personal problems, but a duty shared by all sectors and citizens, is one that we can and should endorse.

As this latest edition of the Independence Report details, however, the voluntary sector's sustainability and independence remains dominated, and threatened, by a far more 'transactional' philosophy. Marketplace approaches to contracting with the most business-like and target-focussed charities share nothing of the philosophy or language of a shared society, or of a shared endeavour between equal partners. The state 'procures' what it needs; charities which win contracts have only to deliver as directed, to target, on price. And preferably without public complaint!

As NCVO's almanac data shows all too clearly, the charities and voluntary groups which lose most from this transactional approach are the many thousands of small, local voluntary organisations – those who share the same realities and challenges as their service users; those who often do what they do for love not money; those who are often better described as human networks for a shared endeavour, than as service delivery businesses ready to tender for contracts. They, more than any other organisations within our sector, illustrate what a 'Shared Society' looks like. Encouraging them to become more transactional and proprietary about their market value would be perverse in a Shared Society. Grants, on the other hand, are the perfect tool for investing in these lynchpins of a shared society – and a Government truly committed to create one will resurrect grant-making to small charities and voluntary groups with vigour.

More fundamentally though, the great test of whether the 'Shared Society' is a genuine new lodestar for national social policy will be whether it heralds any sea-change in the sharing (redistribution) of society's resources. The claim to be a more sharing society will not stand up if the pain of austerity continues to fall so unequally on the people, communities and regions who can least afford it. And deep down, everyone in the voluntary sector knows that to be true – whether they feel able to say so publicly or not.

There are examples of bigger charities supporting smaller, community-based charities, whether communities of interest or geography. At an event organised by New Philanthropy Capital in June 2016 to discuss whether large charities are causing damage to smaller charities, the then Chief Executive of the RNIB argued that large charities can offer services that small ones can't – for example, developing braille computers – and need to work with small charities to make the most of the things that large charities cannot do so well, for example, understand and respond to the needs of different communities. She said that the RNIB was providing support to such charities to help them survive.

Another example of this support in action is Catch 22 which in 2016 took the small charity Only Connect under its wing, providing central services, with Community Links from Newham joining them in early 2017 in a similar way. In both cases, the smaller charities have been able to retain their own board and senior management, charity number and distinctive identity.

Paul Farmer, Chief Executive of Mind, speaking at the launch of last year's report, has expressed it well – civil society should move from being just campaigners and doers to becoming 'enablers' and 'change-makers' – working through collaboration with individuals and different organisations to make social change happen.

3. A new funding model

Funding by the state remains and will remain important, especially for those organisations working in deprived areas with disadvantaged groups. There is no doubt that a fundamental review is required of both commissioning and grant funding, given the weaknesses revealed in Chapter 4 and the damage that is occurring. Many in the sector are calling for this, and there is a growing movement toward the greater use of grant funding, called Grants for Good, which are often appropriate for smaller organisations or where more collaborative arrangements are required. Sadly, the new grant standards may well reduce the value of that currency, even if it were possible to persuade the Government of the case.

4. Tackling the social sector's deprivation gap

To be a voice to help build resilient communities, there is a need for the social sector to thrive and represent the views of not just affluent areas and communities but also those who currently lack power or support. One step would be identify where such support exists or is patchy geographically and find ways of channelling more funding to those areas, just as Comic Relief has been able to fundraise on a large scale for sometimes unknown, small scale or highly specialist causes.

One example of innovative ways of supporting underfunded communities has emerged in Islington and Hackney. Islington Giving is an independent group of funders, businesses, residents and voluntary organisations working together to tackle poverty and inequality in Islington, by fundraising and grantmaking, and by developing partnerships and networks. Since 2010, it has raised over £4.6 million, to support over 60 voluntary organisations and charities, and engaged the support of over 4,000 volunteers.²⁰⁰ Hackney Giving was inspired by this model.

5. Developing a counter ‘sock puppet’ narrative

A key element of social change must be a strong voice for people who currently feel that they are not being listened to. And the voluntary sector must be part of that. In our last report, we called on the sector to reclaim the narrative that had, to a large extent, been taken over by right wing commentators and stand up for its voice as critical to an equal and just society and effective democracy.

As Tom Burke says in his guest contribution, what we need is a counter sock puppet narrative.

SOCKING THE PUPPET

By Tom Burke, Co-founding Director and Chairman of 3GE, Third Generation Environmentalism, and former Executive Director of Friends of the Earth

One of the most striking features of public life in today’s Britain is the decline in the legitimacy of our political parties. Just after the war about 1 in 12 of us was a member of a political party. Now it is just 1 in 120.

At the same time membership of voluntary organisations has grown dramatically. The Royal Society for the Protection of Birds has twice as many members as all the political parties combined. The National Trust is three times bigger than that. Some 15 million Britons volunteer at least once a month. Volunteering contributes about £45 billion a year to the economy, the same as we will spend on defence this year.

These numbers raise an interesting question of who is best placed to speak for the people of Britain. Neither elected representatives nor unelected editors have anything like the intimate connection that civil society organisations have to the hopes and fears, needs and wants, of the public.

Furthermore, years of austerity have not only increased stress within society, they have also reduced the Government’s capacity to deal with this additional stress. Swingeing cuts in departmental budgets mean that there is now often more policy expertise in the voluntary sector than within Whitehall.

Up until the election of the Coalition in 2010 there was a developing partnership between the state and civil society organisations. After WWII, the state took over the basic provision of welfare services that had previously relied on voluntary efforts. The voluntary sector filled gaps in that provision and became a source of informed analysis and innovation.

As a more affluent, confident and better educated citizenry emerged in the last quarter of the 20th Century the voluntary sector developed an additional role. It became an advocate. Expertise founded in practical experience gave voice to those failed by the state. New or neglected issues, such as the environment, were forced onto the political agenda.

This created a more complex, and somewhat tenser, relationship between the state and the voluntary sector. On the one hand there was close partnership in the delivery of services with the state often finding the voluntary sector to be a more effective vehicle than the public sector. On the other hand, voluntary sector criticism of policy and political failure became ever more vocal and well targeted.

For several decades this tension was managed by an explicit compact between the state and voluntary organisations. The state accepted that informed criticism of Government policy was legitimately in the public interest and thus could be consistent with charitable purposes. The voluntary sector accepted that its commentary on public policy must be non-partisan. This allowed civil society to not only act directly on social problems but also to act on their causes.

This compact has begun to break down. There has been a sustained effort to constrain the room for the voluntary sector to intervene in both the formal and informal debates on public policy. Formal constraints have included major changes in the planning system to reduce public participation and limits on access to the courts for judicial review. Less formally, there has been a persistent effort by the Charities Commission to limit campaigning by charities.

Perhaps the most egregious step to prevent voluntary bodies giving potent expression to the public voice was the Coalition's Lobbying Act. Intended to constrain the activities of commercial lobbyists, in which it failed, it tightly limits the role of non-governmental organisations in speaking out during elections.

These, and similar changes, are not fortuitous. They are being driven by a view emerging from the right in politics that political parties are the only legitimate voice in public policy debates. Voluntary bodies are increasingly seen from this perspective as a barrier to economic success and thus to be silenced.

This is a view that is at odds with a long standing compact between governments of all complexions and the voluntary sector. It is also at odds with the deeply democratic reflexes of Britain's political culture. As Britain moves further through one of the most disruptive social changes in its history marginalising those voices that have a real connection to the base of society seems a recipe for turning dissent into disaster.

Tom makes a strong case for the voice of civil society as an essential ingredient of a modern democracy and good policy-making. Although in a representative democracy politicians have a mandate to express the will of the people, they cannot do so without properly engaging civil society given the complexity of the modern world and the powerful vested interests that exist.

It would seem that the people agree. In one study, 84 per cent felt that charities were best placed to speak on behalf of disadvantaged people. Less than a third think councillors (31 per cent), MPs (27 per cent), or religious leaders (25 per cent) are best placed, while less than one in ten think businesses (9 per cent), think tanks (9 per cent), or civil servants (8 per cent) are best placed.²⁰¹

The sector has a key role both as a source of expert knowledge and as a conduit for different voices to be heard. These two roles as expert and representation are two different functions that can be conflated, unhelpfully. Is the sector always good enough at listening itself to the people it sometimes claims to represent? Where it is providing a service to those people, is there a danger that it becomes itself a vested interest?

6. Asserting independent purpose, finding a more confident voice

Self-censorship may now be the greatest problem facing many voluntary organisations, fuelled by Government actions and a wider negative climate, but also aggravated by timidity which has made the problem seem worse than it is. Our guest contributor, Sue Tibballs, the Chief Executive of the Sheila McKechnie Foundation, asks the sector to re-examine itself, as well as looking closely at the actions of Government. She adds that charities also need to think differently about campaigning, exploring how they can take a more open, collaborative approach, and devolve power and resources down, through what she describes as 'network campaigning'.

TIME FOR A RETHINK ON CAMPAIGNING

By Sue Tibballs OBE, Chief Executive of the Sheila McKechnie Foundation

My organisation believes people should be able to shape their world. And we exist to help them do just that. We work with campaigners and change-makers drawn from right across civil society from those seeking to effect change in their own community to those pursuing global challenges. So what does the future hold for campaigning in civil society? And what needs to happen to help our sector have optimal impact?

The first challenge is to re-build confidence in the legitimacy and importance of campaigning. Our own statistics show that one fifth of charities campaigned less last year. This is in part a reaction to the Government's various measures aimed at limiting charity campaigning (or lobbying, I would more say more precisely). But there is also evidence of a high degree of self-censorship with Trustees and senior management teams being over-cautious. This is worrying. It is, of course, a Board's job to manage risk – but it is also their job to provide leadership. Charities, in particular, need to champion campaigning, and argue publicly for its value.

For charities that rely heavily on government contracts to deliver services, there is also a real disincentive to criticise. Who wants to bite the hand that feeds them? This doesn't mean to say these charities won't have influence, but they are more likely to carry out 'insider campaigning'. This may well be effective – but it is problematic because it is invisible. When the public don't see charities speaking up and taking a strong stand – while they do see them fundraising very actively – this creates a distorted impression. Which I believe is contributing to declining public trust in charities.

Are charities there to deliver services that alleviate pain and suffering? Or to campaign to change the systems that cause pain and suffering? My own view is that the sector has allowed itself to be pulled much too far towards the first, and as a result is failing to fulfil an absolutely fundamental role: to bear witness and speak up. In allowing successive governments to change the funding contract between Government and civil society, we have swapped money for power. In crude terms, we've been bought off.

The second challenge is that voluntary sector must encourage a different culture. In its quest to 'professionalise', the sector has imported commercial management approaches that have become too dominant, such as performance management, accountability and targets. It is important to know whether we are achieving what we set out to. But charities also need to be allowed to be innovative, to take risks, to sometimes just try things not knowing whether they will work or not. Particularly now in today's complex, fast-changing world.

For campaigning, this is particularly important as it is sometimes impossible to meaningfully monitor and measure really bold and ambitious campaigns. Campaigners also typically embody exactly the qualities I think the sector needs more of. They are intuitive systems-thinkers. And they are mission-driven looking out at what can be changed in the world, rather than at organisational performance. For campaigns and campaigners to thrive, charities need to relax a bit – take the foot off the performance management pedal, and take a few more risks.

Finally, I believe charities need to think differently about campaigning itself. They need to take a more open, collaborative approach, and devolve power and resources down. Leading edge campaigning charities like Friends of the Earth are already doing this – running 'networked campaigns' unifying a wide range of partners and players around ideas, while being entirely relaxed about brands.

The hard fact is that much of the most interesting and effective campaigning in civil society today isn't coming from charities – but from individuals, community groups and social enterprises. This is great to see, but I think it will be a major loss if charities are not playing a central role too. Charities work with and speak for millions of people. Charities are powerful. But I feel the sector has lost confidence in that. Re-engaging in campaigning is a quick route to re-engaging in core purpose, and also can help bring in the skills and competencies today's sector needs.

The opportunity is immense: never before has there been so much public interest and engagement in campaigning – largely facilitated by tech. Only by charities remembering core purpose, feeling our power and being open to change too can we convert all that passion into positive change.

As Sue says, 're-engaging in campaigning is a quick route to re-engaging with core purpose'. In our last report we called on larger charities in particular to consider whether they are remaining true to their independent mission. As we have also documented in this report, there remains a need to ask tough questions about whether the voluntary sector is always true to its purpose, especially in relation to communities and individuals who are experiencing deep inequalities, are profoundly dissatisfied with the current political and government system and feel left behind.

Independence of Purpose, Voice and Action, a report published by the Building Change Trust and Ulster University in Northern Ireland, identified these four types of organisational response to their questionnaire which showed that independence was being compromised – the agent, the mimicker, the reticent and the competitor.²⁰² The question to voluntary organisations in England has to be – does this ring any bells?

Four organisational responses that reinforce challenges to independence



In conclusion

A new two year Inquiry into the Future of Civil Society is about to be launched by a consortium of charitable foundations led by the Baring Foundation which we hope will help to create a stronger shared vision of the future and the conditions needed to get there, starting with civil society itself. We hope that points made in this chapter will help fuel the debate it will provoke.

It is clear that the sector itself can help create a new environment in which a truly Shared Society might be created through its own leadership. But politicians have an absolutely critical role too. Theresa May must:

- Make a clear statement about the legitimate role of campaigning and the importance of the voice of the sector in helping to shape policies and services, including when funded directly by the state, and carry this through into changes to the Lobbying Act (implementing the recommendations of the Hodgson review), contracts and grant standards.
- Ensure proper, affordable access to the courts for NGOs, reversing recent changes.
- Provide a genuine seat at the table of policy-making and service design for the social sector, nationally and locally, and fund this where necessary.
- Provide effective funding, addressing the problems highlighted by this report, including revising the grant standards to ensure that grants continue to provide a genuine alternative to contract funding; and provide specific funding to strengthen social organisations and communities in the most deprived areas and helping vulnerable people.
- Sign up to an effective, externally and independently policed and properly funded Compact.

There is an enormous distance to travel to achieve a truly Shared Society, but so much to be gained by starting the journey.

Barometer of Independence

DEFINITION OR CHARACTERISTIC OF INDEPENDENCE	RELATED BEHAVIOURS IN INDIVIDUAL VOLUNTARY ORGANISATIONS	THE CLIMATE: ENVIRONMENTAL FACTORS
<p>Independence of Purpose</p> <ul style="list-style-type: none"> To set and review purpose to match the changing needs of the cause represented To maintain purpose, mission and values 	<p>How far is independence seen as important and upheld in everything they do by trustees, staff, volunteers and people and communities served?</p> <p>How aware of and compliant with best practice (eg national and local Compacts) are they in the overall management of relationships with funders?</p> <p>How independent are governing bodies, representing the interests of the people and communities served?</p> <p>How consistent with purpose are funding and other relationships?</p> <p>Are they trusted and seen as independent by volunteers, clients and the public?</p>	<p>These affect all three characteristics, the sector as a whole as well as individual organisations, and apply to all funders, not just the public sector</p> <p>Is independence seen as important and upheld by independent regulatory bodies, funders and partners?</p> <p>Are funders and partners aware of and compliant with best practice (eg national and local Compacts) and the law?</p> <p>Is the overall regime provided by Government supportive of independence eg:</p> <ul style="list-style-type: none"> Regulations and regulatory bodies that ensure independence in practice financial arrangements that enable the voluntary sector bodies to maintain their independence and which support independent infrastructure bodies a supportive tax regime. <p>Is the sector fully and genuinely consulted and involved by partners and funders in policy-making and relevant practices?</p> <p>Are there supportive commissioning, funding and contractual arrangements (with prime contractors and between prime contractors and subcontractors) which are compliant with the Compact and the Eight Principles of Good Commissioning and which:</p> <ul style="list-style-type: none"> respect independence of purpose, action and voice promote good outcomes for users ensure the sector is supported and resourced in a reasonable and fair manner in delivery of joint objectives are transparent and accessible, without unfair entry barriers to all or parts of the voluntary sector are changed only after consultation and notice?
<p>Independence of Voice</p> <ul style="list-style-type: none"> To protest, campaign and negotiate without fear of retribution To be assertive about independence, focusing on the cause represented 	<p>Is there capacity to campaign, engage and negotiate in the organisation or through infrastructure bodies?</p> <p>Is there unnecessary self-censorship?</p> <p>Is there legitimacy of voice - reflecting views and voices of people and communities served?</p> <p>Is there a clear mandate through strong evidence base?</p> <p>Do funding and other relationships support independence of voice?</p>	
<p>Independence of Action</p> <ul style="list-style-type: none"> To design and deliver activities that meet needs effectively and efficiently To innovate, respond creatively to needs and take risks To use assets at the discretion of Trustees in order to fulfil purpose and mission 	<p>Is there engagement with people and communities served to ensure activities match needs?</p> <p>Do funding and other relationships support action to meet the needs of people and communities served?</p> <p>Is there good governance of funds and compliance with contract/grant terms?</p>	

References

- ¹ *The shared society: Prime Minister's speech at the Charity Commission annual meeting*, 9 January 2017
- ² A point made by various commentators, *The EU Referendum Result*, Sir Stuart Etherington blog, 24 June 2016, <http://blogs.ncvo.org.uk/2016/06/24/the-eu-referendum-result/>
- ³ The Panel on the Independence of the Voluntary Sector was initiated and supported by the Baring Foundation and was chaired by Sir Roger Singleton CBE. Further details can be found at <http://www.independencepanel.org.uk>.
- ⁴ Roadshows undertaken as part of the RSA's Inclusive Economy project. For more information: <https://www.thersa.org/discover/publications-and-articles/rsa-blogs/2016/10/how-the-economic-inclusion-roadshow-will-help-citizens-influence-policy>
- ⁵ *Voluntary sector organisations working at the neighbourhood level in England: patterns by area deprivation*, Dr David Clifford, Third Sector Research Centre, August 2011
- ⁶ *Charities must have a voice in Brexit*, Sir Stuart Etherington blog, 13 March 2017, <http://blogs.ncvo.org.uk/2017/03/13/charities-must-have-a-voice-in-brexit/>
- ⁷ *Whose Society? The Final Big Society Audit*, Civil Exchange, January 2015
- ⁸ *David Cameron: Rebuilding trust in politics*, 8 February 2010
- ⁹ *Childhood obesity: plan attacked as 'weak' and watered down*, BBC News, 18 August 2016
- ¹⁰ *Fracking given UK go-ahead as Lancashire council rejection overturned*, The Guardian, 6 October 2016
- ¹¹ *The role of major contractors in the delivery of public services*, National Audit Office, November 2013; *Contracting out public services to the private sector*, House of Commons Public Accounts Committee, Forty-seventh Report of Session 2013–14, House of Commons, February 2014
- ¹² *Sock puppets: How the government lobbies itself and why*, Christopher Snowden, IEA, June 2012
- ¹³ *Statement by the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association at the conclusion of his second visit to the United Kingdom*, 21 April 2016 accessed at <http://freeassembly.net/news/statement-united-kingdom-follow-up/>
- ¹⁴ *New survey shows the voluntary sector is catching a serious 'campaign chill'*, Sheila McKechnie Foundation press release, 1 December 2016
- ¹⁵ The term 'voluntary sector' is used throughout the report to refer to the voluntary, community and social enterprise sector
- ¹⁶ *Edelman Trust Barometer 2017 – UK findings*, Edelman Trust, January 2017
- ¹⁷ *Audit of Political Engagement 13, The 2016 Report*, Hansard Society, April 2016
- ¹⁸ Roadshows undertaken as part of the RSA's Inclusive Economy project. For more information: <https://www.thersa.org/discover/publications-and-articles/rsa-blogs/2016/10/how-the-economic-inclusion-roadshow-will-help-citizens-influence-policy>
- ¹⁹ *A stronger Britain: How charities can build post-Brexit Britain?* CAF, September 2016
- ²⁰ *Local voting figures shed new light on EU referendum*, BBC News, 6 February 2017
- ²¹ *Brexit has given voice to racism – and too many are complicit*, The Guardian, 27 June 2016
- ²² *Hate crime, England and Wales, 2015 to 2016*, Home Office, October 2016
- ²³ *Amnesty International Annual Report 2016-17*, Amnesty International, February 2017
- ²⁴ *The EU Referendum Result*, Sir Stuart Etherington blog, 24 June 2016, <http://blogs.ncvo.org.uk/2016/06/24/the-eu-referendum-result/>
- ²⁵ *A stronger Britain: How charities can build post-Brexit Britain?* CAF, September 2016
- ²⁶ *Charities must have a voice in Brexit*, Sir Stuart Etherington blog, 13 March 2017, <http://blogs.ncvo.org.uk/2017/03/13/charities-must-have-a-voice-in-brexit/>
- ²⁷ *Public trust and confidence in charities*, Charity Commission, June 2016
- ²⁸ *Voluntary sector organisations working at the neighbourhood level in England: patterns by area deprivation*, Dr David Clifford, Third Sector Research Centre, August 2011
- ²⁹ *Charity Street II, The value of charity to British households*, CAF, July 2016
- ³⁰ *Charities must have a voice in Brexit*, Sir Stuart Etherington blog, 13 March 2017, <http://blogs.ncvo.org.uk/2017/03/13/charities-must-have-a-voice-in-brexit/>
- ³¹ *UK Giving 2016 – an overview of charitable giving in the UK during 2015*, CAF, April 2016
- ³² *UK Civil Society Almanac 2016*, NCVO, April 2016

- ³³ *Cost of the Cuts: the Impact on local government and poorer communities*, JRF, March 2015
- ³⁴ *What will changes to fundraising really cost the charity sector?* David Ainsworth, Civil Society, 16 May 2016
- ³⁵ *ACEVO calls for urgent summit after Brexit vote*, ACEVO press release, 24 June 2016
- ³⁶ Social Investment Business written response to House of Lords Select Committee on Charities, 5 September 2016
- ³⁷ Big Society Capital and its co-investors committed a total of £770 million from its inception in 2012 to mid-2016 but had only distributed (via its financial intermediaries) a total of £270 million to 300 organisations. A stakeholder review found that only 26 per cent of charities and social enterprises rated BSC's success in bring them more capital at 6 or more out of 10.
- ³⁸ *Prime Minister pledge to 'support and champion' voluntary sector*, Civil Society News, 10 January 2017
- ³⁹ *The shared society: Prime Minister's speech at the Charity Commission annual meeting*, 9 January 2017
- ⁴⁰ *David Cameron, Hugo Young lecture*, November 2009
- ⁴¹ *David Cameron, speech to the Conservative Party conference*, October 2010
- ⁴² *Open Public Services White Paper*, HMSO, Cm 8145, July 2011
- ⁴³ *Civil Society Minister Nick Hurd's letter to the voluntary sector*, 11 October 2011
- ⁴⁴ *The shared society: Prime Minister's speech at the Charity Commission annual meeting*, 9 January 2017
- ⁴⁵ *Ibid*
- ⁴⁶ *State of Civil Society, Towards a democratic multilateralism*, CIVICUS, 2014
- ⁴⁷ <https://www.globalpolicy.org/corporate-influence.html>
- ⁴⁸ *Sectoral equality, A stimulus plan for civic space*, UN Document A/70/266, October 2015
- ⁴⁹ *David Cameron: Rebuilding trust in politics*, 8 February 2010
- ⁵⁰ *Childhood obesity: plan attacked as 'weak' and watered down*, BBC News, 18 August 2016
- ⁵¹ *UK's watered-down childhood obesity strategy under fire*, Financial Times, 18 August 2016
- ⁵² *European commission issues 'final warning' to UK over air pollution breaches*, The Guardian, 15 February 2017
- ⁵³ *Statement from the new Prime Minister Theresa May*, 13 July 2016
- ⁵⁴ Public Attitudes Tracking Survey: Wave 17, Department of Energy and Climate Change, April 2016
- ⁵⁵ *Fracking given UK go-ahead as Lancashire council rejection overturned*, The Guardian, 6 October 2016
- ⁵⁶ <https://www.globalpolicy.org/component/content/article/177/31567.html>
- ⁵⁷ *Ministerial Code*, Cabinet Office, December 2016
- ⁵⁸ Civil Service Competency Framework 2012-2017, Cabinet Office 2012
- ⁵⁹ *The role of major contractors in the delivery of public services*, National Audit Office, November 2013; *Contracting out public services to the private sector*, House of Commons Public Accounts Committee, Forty-seventh Report of Session 2013-14, House of Commons, February 2014
- ⁶⁰ *The Insanity of Competitive Markets, in Rethinking Children's Services*, Fit for the Future, Catch22 and NCB, April 2016
- ⁶¹ *Chris Grayling: Labour campaigners are hiding behind a veneer of neutral non-partisanship*, The Telegraph, 17 August 2014
- ⁶² *Judicial review cases undermining parliament, say justice secretary*, The Guardian, 26 March 2014
- ⁶³ *Grayling: charities put too much emphasis on campaigning*, Civil Society News, 4 March 2014
- ⁶⁴ *Owen Paterson: I'm proud of standing up to the green lobby*, The Telegraph, 20 July 2014
- ⁶⁵ *Sock puppets: How the government lobbies itself and why*, Christopher Snowden, IEA, June 2012
- ⁶⁶ *Public, media and MPs' attitudes towards campaigning*, nfpSynergy, March 2016
- ⁶⁷ Definition used by CIVICUS in Monitor, Tracking Civic Space
- ⁶⁸ *Statement by the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association at the conclusion of his second visit to the United Kingdom*, 21 April 2016 accessed at <http://freeassembly.net/news/statement-united-kingdom-follow-up/>
- ⁶⁹ *Whistleblowers keep us safe, We can't allow them to be silenced*, Shami Chakrabarti, The Guardian, 13 February 2017
- ⁷⁰ *No 10: Official Secrets Act proposals 'project of previous prime minister'*, The Guardian, 13 February 2017
- ⁷¹ *Combat immunity plan will deny soldiers justice, says Law Society*, The Guardian, 14 February 2017
- ⁷² *Charities face greater judicial review costs after Commons vote*, Civil Society News, 2 December 2014
- ⁷³ *Legal aid figures: the vital statistics of access to justice are failing*, Law Centres Network press release, 25 June 2015

- ⁷⁴ *Will the Human Rights Act be scrapped?* The Week, 25 January 2017
- ⁷⁵ *Charities plan Autumn offensive against Tory plans to reform Human Rights Act*, Christopher Hope, Daily Mail, 10 August 2013
- ⁷⁶ *Civil Society Partnership Review*, Department for International Development, November 2016
- ⁷⁷ *Do as I say, not as I do: UK policy and the global closing space for civil society*, CAF: 2017 update, January 2017
- ⁷⁸ *State of Civil Society Report 2016*, CIVICUS, June 2016
- ⁷⁹ *Indian Government cuts NGO Funding, Access to Foreign Donors*, Philanthropy News Digest, January 2017
- ⁸⁰ *In Hungary: Government may force NGOs to report foreign funding*, Atlantic Reporter, 9 February 2017
- ⁸¹ *China passes law imposing security controls on NGOs*, The Guardian, 28 April 2016
- ⁸² *Civil Society Europe*, CIVICUS Monitor, August 2016
- ⁸³ The EU countries covered by the data collection: Bulgaria, Czech Republic, Denmark, Finland, France, Germany, Italy, Netherlands, Poland, Romania, Slovenia, Sweden and United Kingdom
- ⁸⁴ *Do as I say, not as I do: UK policy and the global closing space for civil society*, CAF: 2017 update, January 2017
- ⁸⁵ *Donald Trump cuts abortion funding...surrounded by men*, Daily Telegraph, 24 January 2017
- ⁸⁶ Written Evidence to the House of Lords Select Committee on Charities, Locality, 13 October 2016
- ⁸⁷ *Guidance on applying a new clause in government grant agreements: Written statement*, Matthew Hancock, House of Commons, 8 February, 2016
- ⁸⁸ *A significant climbdown on the anti-lobbying clause*, Third Sector, May 2016
- ⁸⁹ *Charities Welcome New Standards*, ACEVO press release, 2 December 2016
- ⁹⁰ *New standards announced for government grants*, Cabinet Office press release, 2 December 2016
- ⁹¹ Letter to the Rt Hon Ben Gummer MP, from Directory of Social Change, NAVCA, Children England, Lloyds Bank Foundation for England and Wales, Clinks and Charity Finance Group, 4 January 2017
- ⁹² *Ibid*
- ⁹³ *New Care models: empowering patients and communities – a call to action for a directory of support*, NHS England, December 2015
- ⁹⁴ *Joint review of partnerships and investment in voluntary, community and social enterprise organisations in the health and care sector*, Final report produced in partnership by representatives of the VCSE sector and the Department of Health, NHS England, and Public Health England, May 2016
- ⁹⁵ Health Services, Written Answers, House of Commons, Hansard, 2 September 2016
- ⁹⁶ *Interview: Outgoing ACEVO chief Sir Stephen Bubb – ‘at the moment the message around Whitehall is that charities don’t matter’*, Civil Service World, 21 June 2016
- ⁹⁷ *Big disability charities ‘are selling out disabled people’ by seeking DWP contracts*, DisabledGo blog, 13 December 2016 accessed at <http://www.disabledgo.com/blog/2016/12/big-disability-charities-are-selling-out-disabled-people-by-seeking-dwp-contracts/#.WLBGfxDFDhb>
- ⁹⁸ *Central government’s implementation of the national Compact: a follow-up*, National Audit Office, January 2015
- ⁹⁹ Institute of Chartered Accountants in England and Wales written evidence to the House of Lords Select Committee on Charities, 29 September 2016
- ¹⁰⁰ *New survey shows the voluntary sector is catching a serious ‘campaign chill’*, Sheila McKechnie Foundation press release, 1 December 2016
- ¹⁰¹ *Our survey suggests we might be self-censoring*, Sheila McKechnie Foundation press release, 15 December 2016
- ¹⁰² *Speaking truth to power – or whispering?* Bubb’s blog, 18 October 2016 accessed at <http://bloggerbubb.blogspot.co.uk/2016/10/speaking-truth-to-power-or-whispering.html>
- ¹⁰³ *Sue Tibballs: Could charities have swung the vote behind the European Union?* Third Sector, 11 July 2016
- ¹⁰⁴ Alzheimer’s Research UK written evidence to the House of Lords Select Committee on Charities, 5 September 2016
- ¹⁰⁵ *NGOs aren’t just mute. They’re being gagged*, Deborah Dane, The Guardian, 4 November 2016
- ¹⁰⁶ *Charities should embrace transparency*, Lord Gus O’Donnell tells conference, Civil Society News, 19 April 2016
- ¹⁰⁷ *A nation imperilled by the Human Rights Act*, Daily Mail, 1 August 2015
- ¹⁰⁸ *The bedroom tax supreme court rulings: what happened and what does it mean?* The Guardian, 9 November 2016
- ¹⁰⁹ *Justice in an Age of Austerity*, JUSTICE Tom Sargant memorial annual lecture 2013 given by Lord Neuberger of Abbotsbury, President of the Supreme Court, on 15 October 2013, paragraph 37

- ¹¹⁰ rule 8(5) of the Civil Procedure (Amendment) Rules 2017/95
- ¹¹¹ *Umbrella bodies unite in rejecting proposed judicial review changes*, Charity Times, 15 September 2015
- ¹¹² *Reform of judicial review, Proposals for the provision and use of financial information, Government response and Request for further views on the provision of financial information to other parties*, Ministry of Justice, 7 July 2016
- ¹¹³ *Charity donors face being named and made to pay by courts, following judicial review changes*, Civil Society, 14 July 2016
- ¹¹⁴ *Fears for environment as automatic legal 'cost cap' scrapped*, BBC News, 28 February 2017
- ¹¹⁵ *Government's spending with small and medium sized enterprises*, NAO, March 2016
- ¹¹⁶ *Together for short lives*, written evidence to the House of Lords Select Committee on Charities, 6 September 2016
- ¹¹⁷ Citizens Advice written evidence to the House of Lords Select Committee on Charities, 30 September 2016
- ¹¹⁸ *Charities struggling to recover costs when delivering public services*, Charity Finance Group press release, 3 March 2016
- ¹¹⁹ *The state of the sector 2016, Key trends for voluntary sector organisations working with offenders and their families*, 2016, Clinks 2016
- ¹²⁰ CFG briefing, 1 February 2017
- ¹²¹ *Commissioning in Crisis, How current contracting and procurement processes threaten the survival of small charities*, Lloyds Bank Foundation, December 2016
- ¹²² Home Start Slough, written evidence to the House of Lords Select Committee on Charities, 4 September 2016
- ¹²³ *Surviving or Thriving 2016, The state of the VCSE sector in the North East of England*, VONNE, September 2016
- ¹²⁴ *The state of the sector 2016, Key trends for voluntary sector organisations working with offenders and their families*, 2016, Clinks 2016
- ¹²⁵ *Change & Challenge, The voluntary sector's role in Transforming Rehabilitation*, Clinks, NCVO, TSRC, May 2016
- ¹²⁶ *G4S, Maximus and 'A4E' all set to win contracts under Work and Health Programme*, Black Triangle Disability News blog, 16 February, accessed at <http://blacktrianglecampaign.org/2017/02/16/g4s-maximus-and-a4e-all-set-to-win-contracts-under-work-and-health-programme/>
- ¹²⁷ Barnardos written evidence to the House of Lords Select Committee on Charities, 30 September 2016
- ¹²⁸ Family Action written evidence to the House of Lords Select Committee on Charities, 5 September 2016
- ¹²⁹ *Procuring for Good, How the Social Value Act is being used by local authorities*, Social Enterprise UK, 2016
- ¹³⁰ *Charities should feel free to campaign on EU referendum*, say Rob Wilson, Third Sector, 19 April 2016
- ¹³¹ *Minister announces plan to help small charities win contracts*, Civil Society, 14 December 2016
- ¹³² *Grants Standards*, Cabinet Office, December 2016
- ¹³³ Letter to the Rt Hon Ben Gummer MP, 4 January 2017 by Directory of Social Change, NAVCA, Children England, Lloyds Bank Foundation for England and Wales, Clinks and Charity Finance Group
- ¹³⁴ *Grants Standards*, Cabinet Office, December 2016
- ¹³⁵ NCVO Civil Society Almanac 2016, NCVO April 2016
- ¹³⁶ *Abandon outdated practices, charities told by minister Rob Wilson*, Third Sector, 26 May 2016
- ¹³⁷ Children England written evidence to the House of Lords Select Committee on Charities, 30 September 2016
- ¹³⁸ Small Charities Coalition written evidence to the House of Lords Select Committee on Charities, 6 September 2016
- ¹³⁹ *Community Matters: gone but certainly not forgotten*, Third Sector, May 2016
- ¹⁴⁰ Annual review & financial statement, Year ending 31 March 2016, NAVCA, December 2016
- ¹⁴¹ *NCVO restructures following end of multiple time-limited projects*, NCVO press release, 18 March 2016
- ¹⁴² *The European Union referendum: the Charity Commission's regulatory guidance for charities*, Charity Commission, March 2016
- ¹⁴³ *The Charity Commission's guidance on the EU Referendum sets, the wrong tone*, Elizabeth Chamberlain blog NCVO, 7 March 2016
- ¹⁴⁴ *Charities criticise watchdog's 'gag' on EU campaigning*, The Guardian, 8 March 2016
- ¹⁴⁵ *OSCR releases guidance for charity trustees on EU referendum*, Third Sector, March 2016
- ¹⁴⁶ Letter to the Guardian, 11 March 2016
- ¹⁴⁷ *The Charity Commission has backed down over its EU referendum guidance*, Third Sector, March 2016
- ¹⁴⁸ *Charities should feel free to campaign on EU referendum*, say Rob Wilson, Third Sector, 19 April 2016
- ¹⁴⁹ *Charities must have a voice in Brexit*, Sir Stuart Etherington blog, 13 March 2017, <http://blogs.ncvo.org.uk/2017/03/13/charities-must-have-a-voice-in-brexit>

- ¹⁵⁰ *Prins anti EU-essay 'broke impartiality rules'*, Third Sector, 8 April 2016
- ¹⁵¹ *Gwythian Prins 'should have consulted' before publishing anti-EU article*, Third Sector, May 2016
- ¹⁵² *'Serious concerns' with regulator*, Third Sector, 22 April 2016
- ¹⁵³ *'The Charity Commission's board has never been less representative'*, ACEVO press release, 27 May 2016
- ¹⁵⁴ *Who is really in charge at the Charity Commission?*, Civil Society News, 26 April 2016
- ¹⁵⁵ *Ibid*
- ¹⁵⁶ *Charity Commission directions down by more than half in year to March*, Third Sector, 21 December 2016
- ¹⁵⁷ *Do as I say, not as I do: UK policy and the global closing space for civil society*, CAF: a 2017 update, January 2017
- ¹⁵⁸ *Muslim education charity decries 'unjustified and disproportionate' tone of regulatory report*, Third Sector, 4 November 2016
- ¹⁵⁹ *Public Faith and Finance, Faith responses to the financial crisis*, Therese O'Toole and Ekaterina Braginskaia, University of Bristol, 2016
- ¹⁶⁰ *Regulatory Case Report*, The Joseph Rowntree Charitable Trust, Charity Commission, May 2016
- ¹⁶¹ *Ibid*
- ¹⁶² *Charity Commission review of its new powers fails to address concerns comprehensively*, ACEVO press release, 15 December 2017
- ¹⁶³ *Chancellor urged to find funding for Charity Commission in Budget*, Civil Society News, 16 February 2017
- ¹⁶⁴ *Paula Sussex blog*, 16 August 2016 accessed at <https://charitycommission.blog.gov.uk/2016/08/16/our-work-in-2016-17-towards-our-strategic-plan/>
- ¹⁶⁵ *Annual Survey of Local Compacts 2015*, Compact Voice, March 2016
- ¹⁶⁶ *Top 100 Fundraising Charities*, Charity Financials, March 2016
- ¹⁶⁷ *A financial sustainability review, change and adaptation in the voluntary sector as the economy recovers*, CFG, NCVO, Institute of Fundraising, Locality, NAVCA and Small Charities Coalition, July 2015
- ¹⁶⁸ *Ibid.*
- ¹⁶⁹ *Seven charities criticised by regulator in Neet Feet adjudication*, Civil Society News, 24 November 2016
- ¹⁷⁰ *Two major charities fined by the Information Commissioner's Office*, Third Sector, 6 December 2016
- ¹⁷¹ *Regulator tells Age UK that its commercial partnership poses 'a significant risk'*, Civil Society News, 19 April 2016
- ¹⁷² *Age UK criticises 'grossly unfair' television programme*, Third Sector, 1 November 2016
- ¹⁷³ *Age UK takes 'remedial action' to address criticism of trading arm*, Civil Society News, 13 January
- ¹⁷⁴ *A charity selling off its housing is a new low for gentrification*, Stella Creasy, The Guardian, 20 April 2016
- ¹⁷⁵ *Animal rights charity exposed over squandered fortune*, The Times, 29 March 2016
- ¹⁷⁶ *Our response to 'malicious and unfounded' accusations in the Times*, League Against Cruel Sports, statement accessed <http://www.league.org.uk/news-and-opinion/news-stories/2016/mar/our-response-to-malicious-and-unfounded-accusations-in-the-times>
- ¹⁷⁷ *The Times story about us was unfair, untrue and highly damaging*, Tom Quinn bog, 4 April 2016 accessed at <http://www.league.org.uk/news-and-opinion/blogs/2016/april/the-times-story-about-us-was-unfair-untrue-and-highly-damaging>
- ¹⁷⁸ *Charity Commission bans charity from using 'Cruel Tory' advert*, Civil Society News, 6 January 2010
- ¹⁷⁹ *David Ainsworth: The Times seems to have launched a vendetta against the National Trust – but why?*, Civil Society, 9 September 2016
- ¹⁸⁰ *National Trust criticised by The Times and The Observer over rents policy*, Civil Society, 19 September 2016
- ¹⁸¹ *Veterans charity 'disappointed with Sunday Times articles on Libor grants*, Civil Society, 19 September 2016
- ¹⁸² *Charities 'slightly sensationalise' to raise money, says Walking with the Wounded chief*, Third Sector, 2 September
- ¹⁸³ *Daily Mail apologises after describing Quaker charitable trust as 'pro-terrorist'*, Press Gazette, June 2016
- ¹⁸⁴ *Daily Mail apologises to RSPCA over inaccurate stories*, Civil Society News, 13 October 2016
- ¹⁸⁵ *Recovering from the media storm*, Third Sector, July 2016
- ¹⁸⁶ Professor John Mohan and Steve McKay written evidence to the House of Lords Select Committee on Charities, 7 October 2016
- ¹⁸⁷ *NCVO unveils text explaining how charities work*, Third Sector, 26 July 2016
- ¹⁸⁸ *How would the ideal charity spend its income? Report on the views of the public on charities – June 2016*, nfpSynergy, June 2016
- ¹⁸⁹ *Sector must improve its transparency to maintain faith, warns Etherington*, Third Sector, 18 April 2016

- ¹⁹⁰ *Patchy adoption of NCVO's recommendation on senior pay transparency*, Third Sector, 23 June 2016
- ¹⁹¹ Devon Air Ambulance Trust written evidence to the House of Lords Select Committee on Charities, 5 September 2016
- ¹⁹² *Public trust and confidence in charities*, Charity Commission, June 2016
- ¹⁹³ *Public trust and confidence in charities*, Charity Commission, June 2016
- ¹⁹⁴ *Trust in Charities – Autumn 2016 update*, nfpSynergy, December 2016
- ¹⁹⁵ *2017 Edelman Trust Barometer*, Edelman Trust, January 2017
- ¹⁹⁶ *Third Sector survey reveals media damage to fundraising*, Third Sector, 30 March 2016
- ¹⁹⁷ *Joint review of partnerships and investment in voluntary, community and social enterprise organisations in the health and care sector*, Final report produced in partnership by representatives of the VCSE sector and the Department of Health, NHS England, and Public
- ¹⁹⁸ Barnardos written evidence to the House of Lords Select Committee on Charities, 30 September 2016
- ¹⁹⁹ www.childrenengland.org.uk/the-declaration-of-interdependence
- ²⁰⁰ <http://www.islingtongiving.org.uk/>
- ²⁰¹ *Charity Street II, The value of charity to British households*, Charities Aid Foundation, July 2016
- ²⁰² *Independence of purpose, voice action, Independence of the voluntary, community and social enterprise sector in Northern Ireland*, Building Change Trust and Ulster University, November 2016

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