INDEPENDENCE PANEL

Panel on the Independence of the Voluntary Sector

PROTECTING INDEPENDENCE: THE VOLUNTARY SECTOR IN 2012

Foreword

Independence is, and always has been, a critical issue for the voluntary sector. It lies at the heart of what makes it distinctive, effective and necessary: allowing the design and delivery of services and other activities that respond sensitively to diverse needs, and providing an informed and robust voice. An independent voluntary sector is a key component of a vibrant democratic society.

Our consultation document identified three dimensions of independence - independence of voice, purpose and action – and the environmental factors and behaviours that need to support them. We found that there are real and present risks in all of those areas which need to be addressed by all concerned – government, private sector, regulators and voluntary organisations themselves.

This is a pivotal moment for the voluntary sector, with pressures on all kinds of funding, at a time of growing demand for services. Statutory funding, and the way that public services are commissioned, is the source of much current concern – given the fact that nearly one in three voluntary organisations say they deliver public services – and those concerns are reflected in our analysis of the effect of the Work Programme. But that is only one of the six challenges we identify.

The others are: an inability for the sector to influence design, delivery and funding models; the increasing blurring of boundaries between private, public and voluntary sectors; the risk of self-censorship and challenges to the sector's independence of voice; the pressures on independent governance; and the need for regulations and safeguards that protect, and do not hinder, independence.

These challenges are particularly acute at a time of reduced public sector funding and individual giving: the result of which is that organisations can be faced with accepting sub-optimal delivery arrangements or diversion from core purpose as the price of survival. The greatest effect is likely to be on smaller organisations and those that deliver services to vulnerable and marginalised individuals, which currently rely heavily on state funding and are unlikely to replace it through donations.

Governments of all political parties have stressed the importance of the voluntary sector. That needs to be more than a soft, unfocused admiration for a Big Society or Third Sector. It has to recognise the sector's hard edge: its independence, distinctiveness and ability to speak out from experience. If the voluntary sector is perceived to be simply the delivery arm of the statutory or private sector, or appears indistinguishable from either, it will lose the public trust on which it depends for volunteers, donations and tax benefits.

The next year will be crucial. Lessons can be learnt, and there are opportunities, as well as risks: for example embedding social value in contract terms, or using the review of the Charities Act 2006 to strengthen safeguards and support. Our Barometer of Independence is at present indicating stormy weather ahead; in a year's time, we will gauge whether it is rising or falling.

Dame Anne Owers
Chair of the Panel on the Independence of the Voluntary Sector
January 2012

About the Panel

Chair

Dame Anne Owers
Chair of Christian Aid and Clinks and former Chief Inspector of Prisons.

Other members

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The Panel on the Independence of the Voluntary Sector was established by the Baring Foundation in June 2011 to ensure that independence is seen as a top priority by the voluntary sector and those with whom it works and to make recommendations to ensure that it is not lost. This report is the first of five annual assessments. Civil Exchange, in partnership with DHA, provides its secretariat.

Lord Hodgson served on the Panel until November 2011 when he was asked by the Government to undertake a separate review of the Charities Act 2006.

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1 Introduction

This is the first of five annual assessments by the Panel on the Independence of the Voluntary Sector. It takes in the responses to an initial consultation document published in July 2011.

A pivotal moment

It is clear that this is a pivotal moment for the voluntary sector as a whole, and many individual organisations within it.

Over the last decade, voluntary sector organisations have been encouraged to become more and more involved in the delivery of public services: by 2010, nearly a third of charities and social enterprises said that they were doing so, and funding from statutory sources rose by 60% in the first eight years of the century.[1] Increasingly, under the previous and current governments, this has been via contracts, demanding measurable outputs or outcomes, rather than through grants. These developments can in themselves pose challenges for independence of purpose, action and voice: with the risk of organisations becoming too closely aligned with the aims and objectives of statutory funders, rather than the individuals they exist to serve and the communities out of which they grew.

Competition for the delivery of those public services has been growing in recent years: with larger contracts attracting tenders from private sector providers and social investment vehicles. But the current economic crisis has added acute financial risks for many voluntary sector organisations, particularly the smaller ones. The scale and pace of change over the last eighteen months - with a combination of public sector cuts and reduced income in real terms since 2007/2008 in individual charitable giving[2] - has placed many voluntary organisations in new and difficult territory.

There are opportunities as well as risks - and over time the voluntary sector has shown itself to be flexible and resourceful in relation to both. In the August 2011 NCVO Charity Leaders Survey, 38% of respondents were planning to increase services. But that did not indicate confidence in the future: on the contrary, net confidence in the voluntary sector economy was at the lowest level since the survey began in May 2008.[3] At minus 98%, it was ten percentage points down on the previous quarter.

Some voluntary organisations are undoubtedly facing a choice between closure and survival with sub-optimal funding or delivery arrangements that can threaten independence of voice, action or purpose.

Public funding - or the lack of it - is a focus of concern for many, but this is not the only challenge to independence. Many voluntary organisations, particularly the smallest, have never relied on public funds, but this does not eliminate the risk of being taken over by particular interest groups or self-selected coteries. Threats of loss of influence with key stakeholders can be just as powerful as concerns about loss of funding; as can excessive regulatory interference or new policy initiatives.

Independence – of purpose, voice and action – is crucial

A key question for the Panel, and for many of the organisations that responded, is: what is independence and why does it matter?

For many, survival, rather than concepts, is the issue at present. But it is precisely when hard choices have to be made that the values of an organisation and the reasons for its independence need to be recognised and supported, both within the sector itself and by government, regulators, donors and private sector contractors.

Losing independence can be a gradual, almost imperceptible, process that was neither intended nor foreseen; it can also be contagious, as organisations compete with one another at a time of scarce resources. It may be defined by what is not said, or not done, rather than by what is.

Our consultation document identified three dimensions of independence: independence of purpose, voice and action.

They are each important in their own right, but are also mutually supportive, creating a virtuous circle that is responsive to the needs of the communities the sector serves.

These three pillars of independence were welcomed by respondents, as useful definitions of the concept, and the Barometer we set out in that document was also thought to provide helpful criteria for assessing whether and how each was operating in practice.

Independence in the voluntary sector has two aspects, both key components of a vibrant democratic society: one is the strength and independence of the voluntary sector as a whole, the second is the independence of individual organisations within it.

The sector has far more active members than all the political parties; and voluntary organisations individually and collectively provide a voice, a sounding-board and sometimes a counterweight to entrenched public and private sector interests. This is not to subvert the democratic or legal processes, where decisions and judgments must be made, but to ensure that the voice of civil society can be heard.

Independence of purpose and action of individual voluntary sector organisations is also critical. That makes it possible for them to meet diverse needs that are often not recognised or properly met by statutory provision or the private sector. Even where a statutory service does exist, independent voluntary sector bodies can bring additional strengths. In some cases, they are more trusted by clients than statutory services. They may have specialist knowledge and a commitment to those they work with that make them well placed to provide sensitive, tailored and highly effective support. That is particularly the case for hard to reach groups, such as offenders, those with drug or alcohol problems, the homeless, minority communities, or those who are outside the job market - who may be suspicious of the motives and approaches of statutory services.

Charities are also trusted by the public: Ipsos Mori research commissioned by the Charity Commission showed that in 2010 75% of people thought that most charities were trustworthy and acted in the public interest.[4] Maintaining independence is part of maintaining that trust, focus and mission and essential to maintaining the public support, through tax breaks, donations and volunteering, on which much of the sector depends.

How independence helps deliver more effective services

Evidence from the Child Poverty Action Group shows that independence is identified as an important aspect of delivering good advice services, as it leads to greater trust. CPAG concludes that this gives the voluntary sector considerable advantages over the statutory sector, and "a special role" in offering effective services.[5]

The highly effective work of the St Giles Trust, mentoring ex-offenders, is delivered by ex-offenders themselves. This is largely possible because it is a charity, and is a feature of that independence and helps builds that trust.

CSV, in its consultation response to the Panel, argued that independence is vital to maintaining the trust of volunteers, upon whom much of the voluntary sector relies. Volunteers "will not just 'fill gaps' and act as delivery agents" and will leave if they feel they are asked to act in a way which might "compromise their integrity or independent role".

It is easy to present concerns about the future of the sector, or of individual parts of it, as simply about self-preservation or protecting market share. It would be foolish to pretend that these considerations never exist, but there are more important issues at stake: protecting the unique contribution of a sector that is rooted in communities and individuals, and of organisations and experience that, once lost, will not be recoverable.

Independence is crucial: if the voluntary sector becomes, or is seen to be, simply a delivery arm of the statutory or private sector, or if it loses sight of its core mission, it will lose both public trust and its reason for existing.

The six key challenges

The effects of public sector cuts on the capacity and work of the voluntary sector is uppermost in most organisations' minds at present and this was reflected in many of the responses that we received. A majority of these were from small voluntary sector organisations or bodies that represent them, often recipients of local authority funding and the first casualties of the front-loaded local government cuts.

There are particular issues for those voluntary sector organisations that work with marginalised individuals - the homeless, offenders, people with mental health problems, asylum-seekers, socially excluded and vulnerable people and families - whose work inevitably relies, at least partly, on public funding.

Organisations working with marginalised individuals are unlikely to be able to attract sufficient philanthropic support to be self-sustaining. Recent research shows that giving continues to be concentrated on a relatively small number of causes, such as medical charities, and highlights the challenges in trying to replace lost statutory income.[6]

It is not, however, simply about the amount of funding. A key element is the way in which funds are now provided and the role that voluntary sector organisations are expected to play, particularly the growth of commissioning and large-scale contracting, under successive governments, as a way of achieving efficiencies and seeking to ensure the delivery of key outcomes. That throws into relief the importance of governance and regulatory structures in maintaining and supporting independence.

This is the new landscape within which the voluntary sector will be operating in the immediate future. We have identified six elements which, if not properly understood and tackled, could undermine independence, particularly of that part of the voluntary sector which will continue to depend on an element of public funding. They are:

• The effects of a contract, rather than a grant, funding model. Contracts often focus on price rather than social value, can be unnecessarily restrictive, and can favour large, often private sector, organisations. Smaller voluntary sector bodies struggle with the bureaucracy and, where successful, are increasingly becoming sub-contractors, with their relationship with government mediated through the private prime contractor;

• The inability of the voluntary sector, in a competitive commissioner/provider environment, to influence the design, delivery of services and funding models, based upon its own experience and expertise;

• The blurring of boundaries between the public, for profit, and voluntary sectors, with new models and governance structures that aim to bring added value but may also mask genuine differences and dilute independence;

• and sometimes direct pressure towards self-censorship, muting the voice of some in the sector;

• The pressure on independent governance, and the need for expertise and a strong commitment to mission and values, as trustees seek to balance survival and independence;

• Regulatory systems and safeguards for independence that may not be sufficiently robust, or thoroughly complied with; or alternatively that may unnecessarily hinder independent action.

Lessons from the Work Programme

Some of these issues are explored further in our case study about the impact of the recently-tendered Work Programme. Though it is still early days, there are real concerns that the commissioning arrangements of the Work Programme have reduced the influence and involvement of the voluntary sector, with the result that some vulnerable groups could be less well supported. There seem to have been particular problems for small voluntary organisations, sometimes offering services in a niche market. They may lack the power to influence the terms of funding, may struggle with the complex and costly competitive tendering processes, and may have been used by larger private sector organisations as what some have called 'bid candy': an attractive feel-good component of a tender, which is in fact peripheral and ultimately expendable. In the implementation of the contracts, there have also been concerns about what has been referred to as 'cream and park': whereby the easy and therefore more profitable clients or client groups are dealt with by the prime contractor, with the more difficult ones, where results and payment are less likely or predictable, being parked with the voluntary sector.

The result in some cases appears to have been that voluntary organisations that have been awarded contracts in the Work Programme have become less independent - with less ability to negotiate the terms of contracts and unable to guarantee either the quantity or quality of their own contribution to service delivery.

That was not the intention of the Work Programme; but it could be its effect. These concerns are mirrored in the responses we received in other areas of service delivery which are funded through complex commissioning processes and larger contracts, from criminal justice to services for older people. Some organisations that have been providing valuable specialist services may have been squeezed out altogether. Some have raised concerns about whether it is ever appropriate for the voluntary sector to support profit-making companies, or have their relationship with the state brokered through the private sector. Certainly, if the private sector is to lay claim to 'partnership', it needs to recognise and respect the values, independence and financial fragility of the voluntary sector, rather than flexing its own financial and institutional muscle.

Independence at risk

2011 was clearly, in the Panel's view, a year in which there were real risks to independence.

The environmental factors identified in the Barometer - which have been developing over many years - are not sufficiently supportive and at a time of serious financial stringency the pressures on the behaviours of the sector itself, and its capacity for independence of voice, action and purpose, are increasing.

Governments of all political parties have stressed the value they place on the voluntary sector and its specific contribution. But it is not clear that they always understand the effects of policies and processes on a sector that needs to remain demonstrably independent in order to maintain public trust, and which lacks significant financial and structural underpinning.

Looking ahead

Lessons can be learnt from recent experiences, such as the Work Programme. But they need to be learnt quickly and implemented robustly if the value and strength of an independent voluntary sector is to be maintained. This report provides an opportunity for government and the voluntary sector to reflect on the consequences and potential pitfalls of current developments and to take steps to ensure that independence can be nurtured and protected.

There are three essential ingredients to protecting independence: greater commitment to embedding independence in funding and other arrangements; greater recognition of the diverse needs of different parts of the sector; and more effective measures to protect independence in practice.

2 The Barometer of Independence

Consultation responses on the Barometer

In July 2011, the Panel published a consultation document, *The Independence of the Voluntary Sector*. This set out a definition of independence in a Barometer, which the panel proposed to use to help assess independence. This breaks down independence into three aspects: independence of purpose; voice; and action.

Those who responded to our consultation generally liked the Barometer, recognising that it helps to capture a phenomenon which is complex and multi-faceted and difficult to measure. We have made a number of changes in the light of comments, mostly for clarification, and have added to the assessment criteria: public trust, unnecessary self-censorship, and use of assets without external interference.

Factors affecting independence

Because independence is not an absolute and is hard to measure directly, the Barometer looks both at:

• **The behaviours of the voluntary sector** that enhance independence: including strong governance which upholds independence in all relationships and activities; and an enduring connection to causes and communities served;

• **External environmental factors, or the climate in which voluntary** organisations work, as maintaining independence is often about working successfully with others, in effect, in *interdependence* with others. It is important that independence is respected by partners and others, that the financial and regulatory framework supports and maintains independence and that the sector is able to help shape that climate so that it meets the needs of its beneficiaries.

The Barometer of Independence

DEFINITION OR CHARACTERISTIC OF INDEPENDENCE	RELATED BEHAVIOURS IN INDIVIDUAL VOLUNTARY ORGANISATIONS	THE CLIMATE: ENVIRONMENTAL FACTORS
Independence of # Purpose • To set and review purpose to match the changing needs of the cause represented • To maintain purpose, mission and values	**How far is independence seen as important** and upheld in everything they do by trustees, staff, volunteers and people and communities served? **How aware of and compliant with best practice** (eg national and local Compacts) are they in the overall management of relationships with funders? **How independent are governing bodies**, representing the interests of the people and communities served? **How consistent with purpose are funding and other relationships?** **Are they trusted and seen as independent** by volunteers, clients and the public?	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 **Is independence seen as important** and upheld by independent regulatory bodies, funders and partners? **Are funders and partners aware of and compliant with best practice** (eg national and local Compacts) and the law? **Is the overall regime provided by Government supportive** of independence eg: - 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. **Is the sector fully and genuinely consulted and involved** by partners and funders in policy-making and relevant practices? **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: - respect independence of purpose, action and voice - promote good outcomes for users - ensure 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?
Independence of # Voice • To protest, campaign and negotiate without fear of retribution • To be assertive about independence, focusing on the cause represented	**Is there capacity** to campaign, engage and negotiate in the organisation or through infrastructure bodies? Is there **unnecessary self-censorship?** Is there **legitimacy of voice** - reflecting views and voices of people and communities served? Is there a **clear mandate** through strong evidence base? **Do funding and other relationships support independence of voice?**	
Independence of # Action • 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	**Is there engagement with** people and communities served to ensure activities match needs? **Do funding and other relationships support action to meet the needs of people and communities served?** Is there **good governance of funds** and compliance with contract/grant terms?	

3 Who is most affected?

Responses to the consultation

In response to our consultation, around 35 written responses and consultation meetings were received and held, involving over 50 individuals and organisations, including umbrella bodies. A broad range of organisations were involved, including local and community groups, infrastructure bodies, service deliverers, public bodies and campaigners, as well as policy makers and other interested parties. The Panel has carefully considered the range and depth of responses, alongside available surveys and other evidence.

It is clear from the responses to our consultation that many organisations are facing the challenges identified in the Barometer. At the same time, the Panel is aware that insufficient information is available at this stage to generalise about the experience sector-wide, especially as the sector is not homogeneous.

Organisations receiving statutory funding

The overwhelming majority of those responding to our consultation were concerned about the challenges to independence when organisations are in receipt of *statutory funding*, whether directly or through sub-contracting with the private sector for statutory contracts. However, the importance of this funding varies greatly, as shown in the box below.

The state and the voluntary sector: key facts

- The vast majority of voluntary sector organisations have no financial relationship with the state but the situation is changing.
- Larger organisations are far more likely to be receiving state funding than micro organisations (those with annual turnover of less than £10,000), which received only 5% of their funds from statutory sources in 2007-08.[7]
- Organisations working with certain client groups are particularly likely to deliver public services, with over 55% of those working with homeless people, carers/parents, people with addiction problems, victims of crime and their families, people with mental health needs, offenders, ex-offenders and their families, socially excluded/vulnerable people now doing so.[8]
- The proportion of voluntary sector organisations delivering public services has dramatically increased and rose from 20% to 31% between 2008 and 2010.[9]
- Deprived areas have a much higher proportion of publicly funded organisations than less deprived areas and funding, where received, is more likely to be important. For example, statutory funding was the most important source for 30% of organisations in Knowsley and Nottingham, against a national average of 13%.[10]
- Local funding is particularly important. Overall, 33% of organisations surveyed in the 2010 National Survey of Charities and Social Enterprises received some form of local statutory funding, whereas only 19% received national statutory funding.

Even where statutory funding is received, the context for different organisations may be very different, depending, for example, on the size of their reserves, the number of different contracts held, and the extent to which they have reliable sources of income from independent sources, such as trading income, membership fees or donations.

Smaller organisations and those working with vulnerable groups

The Panel is particularly concerned about the challenges being faced by two groups, with significant overlap between them:

• Smaller organisations that rely heavily on statutory funding, often from local authorities, and who, as we have already said, find it more difficult to influence and engage in complex and competitive tendering, as this replaces grants;

• Organisations of any size that give support to vulnerable groups (such as socially excluded and homeless people and offenders) through publicly funded services. Many of these are likely to operate in disadvantaged areas and, as noted in the table above, are the organisations most likely to be receiving public funding. Indeed, many regard public funding as the most important source of support.

Which client groups are most affected?

Data from the 2010 National Survey of Charities and Social Enterprises identifies the client groups of voluntary sector organisations where public sector funding is identified as the most important for their success. These are the client groups most affected:

• Socially excluded/vulnerable people
• Offenders
• People with mental health needs
• Parents and carers
• People with substance misuse problems
• Lesbian, gay, bisexual or transgender people
• People with learning difficulties
• Homeless people
• Victims of crime and their families
• Asylum seekers.[11]

The Panel received many submissions from small organisations or infrastructure bodies working with them. By contrast, there were no submissions from large national charities. It is unclear why this is. On the one hand, it could indicate that their size and reach makes them more resilient, at least for the moment; equally, it could be that independence has slipped down their order of priorities. Either way, it is surprising that no large organisation submitted views about the overall health of the sector at such a critical time. Conversations with large service-providing voluntary organisations will be part of the Panel's work plan over the next year.

4 The six most significant challenges

The Panel looked at the factors identified in the Barometer that impact on independence and found evidence of concern in relation to each of the five environmental criteria, as well as some of the related behaviours in the voluntary sector itself. It identified six significant areas of concern as a consequence:

• Statutory funding models;
• Lack of ability to shape key decisions;
• Blurring of boundaries between the voluntary and other sectors;
• Self-censorship and other challenges to independence of voice;
• Threats to independent governance;
• The need for stronger safeguards.

We look at each of these in turn.

1. Statutory funding models

The Panel is concerned that important standards identified in the Barometer in relation to statutory funding are too often not met, namely:

• financial arrangements that enable voluntary sector bodies to maintain their independence; and
• supportive commissioning, funding and contractual arrangements which respect independence of purpose, action and voice, promote good outcomes, are fair, transparent and accessible.

Funding has increasingly moved over some years from grants, which generally allow more autonomy, to contracts for public services. Successive governments have considered that competition creates efficiency and value for money. However, contract arrangements can also constrain freedom of action and voice and pay insufficient attention to social value, and can even lead to a shift away from core mission and purpose.

The temptation to seek or accept funding which compromises independence may be all the greater at a time when survival may be at stake.

Survey evidence on concerns about funding arrangements

A 2006 survey by the Charity Commission showed that only 26% of charities that deliver public services agree that they are free to make decisions without pressure to conform to the wishes of funders.[12] In 2008, a survey of organisations participating in the National Programme for Third Sector and Commissioning found that:

- 37% of voluntary sector organisations worried about the potential loss of independence from commissioning;
- 41% were concerned about a potential conflict between their delivery and advocacy roles; and 41% did not think procurement processes were fair and transparent.[13]

Many small organisations in their response to our consultation said that they would prefer more freedom to carry out their purpose but funding for this does not exist; and there is pressure to deliver specified public services instead. The 2010 National Survey of Charities and Social Enterprises arguably gives some evidence of mission drift compared to the results from two years earlier, as there has been a relative decline in certain general activities such as giving advice and helping people to access services or benefits, whilst the delivery of public services has increased dramatically.

This view is backed up by more general concerns expressed in the 2010 National Survey of Charities and Social Enterprises, which found that in late 2010 a much higher proportion of voluntary sector organisations were dissatisfied with national and local grant and contract arrangements and funding than were satisfied. 35% were dissatisfied with national arrangements (against 18% satisfied); 33% were dissatisfied with local arrangements (against 27% satisfied).[14] The picture appears to have been even more extreme for organisations that are most reliant on statutory funding, such as those working with the homeless.

Although dissatisfaction with funding arrangements is widespread, smaller organisations are most likely to struggle in a contract environment, because they lack the infrastructure to cope with the costly and time consuming processes for securing contracts and they seem to find it harder to recover overheads.

Survey evidence on problems for smaller, community-based organisations

In a survey of community based groups in deprived areas, undertaken in 2010, 57% of respondents found commissioning processes to be very or fairly ineffective. Problems commonly identified included: prohibitive contract sizes; limited subcontracting potential; overly tight timescales that fail to consider the consortia-building needs of community organisations; and bureaucracy that community organisations are not geared up to respond to.[15]

Detailed analysis of data from the 2010 National Survey of Charities and Social Enterprises also shows that smaller organisations (defined as those with an annual turnover of up to £100,000) tend to express the highest levels of dissatisfaction with the range of contracts available and the ability to recover overheads. Micro organisations (with turnover of less than £10,000) express the highest levels of dissatisfaction with the process involved in applying for funding/bidding for contracts.

Moreover, when contracts are awarded in competition with the private sector, the criteria applied may discriminate against the sector because they favour price over social value - creating entry barriers and squeezing down prices. Most recently, the Government has supported a Private Members Bill by Chris White MP which would require public bodies to consider social value as well as cost when awarding contracts. The Best Value statutory guidance issued earlier this year already requires authorities to consider 'overall value ... including social value'.[16] If social value is introduced into contracting arrangements, and this is complied with, it would help shift the balance back towards the voluntary sector as a whole, and in particular smaller organisations.

Even if social value is recognised in this way, contracting processes themselves can introduce a bias against the voluntary sector. In order to simplify management of contracts and reduce its own costs, the Government is increasingly seeking to let a fewer number of larger contracts. In order to manage a prime contract in the Work Programme, organisations were required to have an annual turnover of £20m or more, which excludes most voluntary sector organisations.

Moreover, the move towards payment by results - which the present Government's Open Services White Paper last summer promised to roll out to many areas of government contracting - creates further entry barriers.[17] This form of funding is intended to increase autonomy, allowing organisations to choose how they work in order to get better results. As such, it could increase independence of action. However, it means that payments are delayed until results are achieved and the risk of non-achievement of results is entirely transferred to contractors. Voluntary sector bodies generally cannot raise working capital to cover the gap and are often poorly placed, because of low reserves, to absorb such risks.

These changes are forcing many voluntary sector organisations into consortia under the umbrella of large contractors or creating pressure for smaller organisations to merge or scale up, even though this may not necessarily result in a better service for clients and may restrict independence.

Experience in the Work Programme is explored in more depth in the next section. These issues have also arisen in relation to contracts in the criminal justice area.

Recent changes

There are some proposed changes to funding for the voluntary sector which are intended to mitigate some of these risks. In *Building a Stronger Civil Society: A Strategy for voluntary and community groups, charities and social enterprise (2010)*, the Office for Civil Society undertook to make it easier for civil society organisations to be run and to do business with the state; and to get *"more resources into the sector to underpin its resilience and independence."* The latter point includes improving access to finance, modernising commissioning and procurement, providing support to modernise and restructure and promoting initiatives to increase donations and volunteering. It is too early to judge the impact of this. But the experience of the Work Programme (see next section) suggests that the needs of the voluntary sector are not fully understood.

In its future work, the Panel will further explore these questions on funding arrangements:

- How far are commissioning and contracting arrangements creating entry barriers and constraining freedom of purpose and action?
- Are commissioning practices forcing out smaller charities at the expense of services to disadvantaged groups and delivered locally?
- What will the impact of recent changes, including payment by results, prove to be?
- Does the Government sufficiently consider the impact of commissioning and funding arrangements on the voluntary sector and those it serves, including the differential impact on smaller voluntary sector organisations and vulnerable client groups?
- Can social value be incorporated into decision making on contracts?
- What other funding arrangements might be developed to support independence?

2. Lack of ability to shape key decisions

The Barometer identified the importance of full and genuine consultation with the sector by partners and other funders. Despite formal consultation processes, the Panel is concerned that the Government is not listening sufficiently to the experience and needs of the voluntary sector and, as a consequence, the sector has limited ability to help shape key decisions that affect it, or those with whom it works. This feeling of relative powerlessness will be more acute for smaller, local organisations. Further details are given in the box below.

Central and local government isn't listening?

In the 2010 National Survey of Charities and Social Enterprises respondents overall were more likely to disagree than agree that: they are consulted on issues affecting them; action is taken on the views they express in consultations; and they are involved in developing and carrying out policy which affects them.

Consultation respondents also report relative powerlessness, linked to specific concerns about central and local government's lack of understanding of the value of the sector. They cite government's poor understanding of its needs and lack of involvement in designing processes and programmes that enable the voluntary sector to operate effectively or have sufficient autonomy.

The sector's ability to influence the design as well as the delivery of services and key commissioning and funding processes is likely to be even more constrained by competitive tendering rules which are interpreted as requiring identical treatment of all involved. Thus its experience and specific ways of working are less likely to be reflected in the way that services are commissioned or delivered.

Even where there are specific requirements and commitments for local and national government to consult with voluntary bodies - for example, when contracts are modified or withdrawn - the Panel has heard evidence that these requirements have been ignored, compounding a feeling that the voice of the sector is not being heard.

In its future work, the Panel will explore these questions on increasing influence:

- How could more 'co-design' of key processes and policies with the voluntary sector and others be achieved?
- How can the interests of small organisations be better promoted?

3. Blurring of boundaries between the voluntary and other sectors

The Barometer identifies that independence must be seen as important and upheld by independent regulatory bodies, funders and partners.

However, the Panel is concerned that the blurring of boundaries between the private, voluntary and public sectors, described in the box below, can have a negative impact on independence because important differences are being obscured and independence is not being sufficiently respected in practice. Public confidence in the sector will be eroded if there is insufficient clarity about what a voluntary sector organisation or charity actually is. Closer working across sectors can bring benefits but essential differences need to be respected.

Developments that are blurring sectoral boundaries

- The term 'social enterprise' has no statutory definition and is becoming an increasingly popular brand both for 'not for profit' and 'for profit' organisations;
- Public sector 'spin offs', such as mutuals and co-operatives, are also blurring sectoral boundaries;
- Many voluntary sector and private sector organisations are now delivering public services, sometimes working closely with public sector bodies;
- Some public sector organisations are becoming charities: for example the British Waterways Board, and the creation of leisure provider charities formerly run by local authorities;
- Consortia arrangements of organisations from different sectors, often led by the private sector with voluntary sector sub-contractors, is leading to 'isomorphism'.

There are examples where Government has been tempted, either intentionally or not, to treat the voluntary sector in the same way as the public sector:

- **The Public Bodies Bill** initially included a power for Government to require public bodies (including many charities carrying out public services) to carry out *such functions as ministers think fit*. The National Trust and other charities successfully lobbied for this to be removed.
- There are a number of **public bodies that are also charities**. This means there is a continued need to ensure their independence from ministerial control. Since 2009, NHS charities' accounts have been consolidated into the group accounts of the Department of Health, thereby giving the impression that charitable assets form part of the NHS's assets. The Charity Commission has commented that; *"This compromises the independence of those assets and of their trustees' use of them, and the perception created by consolidation may, unintentionally, present such charities as 'subsidiaries' of the State."*
- In its *Giving Green Paper*, the Office for Civil Society floated the idea of requiring a mandatory minimum payout for charitable foundations, which was withdrawn after a robust response by charitable trusts.

Moreover, the processes for procuring public services, for example, appear to treat the voluntary and private sectors as interchangeable. The recent Open Public Services White Paper referred to "independent providers," making no distinction between voluntary and private sectors, despite the obvious differences.

The push toward cross sector consortia in the delivery of public sector contracts is leading to a blurring of boundaries sometimes described as 'isomorphism'. Evidence about the impact of consortia on independence is mixed, with one Charity Commission study in 2011 finding that independence was less of an issue than might have been anticipated.[18] However, experiences in the Work Programme are less positive, as explored in the next section.

Cross sector alliances can bring benefits. However, the blurring of boundaries raises wider issues, including whether differences in tax treatment can be justified. It could undermine public trust, reducing the effectiveness of the sector and its ability to raise finance from the public and attract volunteers.

> **In its future work, the Panel will look further into these questions on the subject of blurred boundaries:**
>
> • What is the impact in practice of this blurring of boundaries on independence on charities and social enterprises?
> • Are there adequate safeguards for independence in cross-sector consortia?
> • How can genuine differences be better recognised and independence protected?

4. Self-censorship and other challenges to independence of voice

The Barometer records that independence of voice - to protest, campaign and advocate without fear of retribution and to be assertive about independence - can be constrained by self-censorship or a climate that does not recognise or value independence of voice.

There is always a potential chilling effect when organisations that need to have an advocacy role receive funding from those responsible for policy and decision-making in that area. Fear of losing funding, now or in the future, can be a real threat to independence of voice.

Deciding when and how to speak out is always a matter of judgment. However, a great deal is lost if the sector ceases to be able to give a voice to the voiceless or deliver uncomfortable truths to those with power. This is a two-way street. Voluntary sector organisations need to know that if they produce evidence-based critiques or challenges, this will not be held against them. They should not need to make the choice between being able to provide vital services to a client group and being able to speak out on their behalf.

The Panel is concerned that there is a perception that independence of voice is increasingly under threat. It has heard that some organisations that rely on state funding are fearful of challenging government or local authorities, in case this could lead to reprisals. This fear is reinforced if politicians publicly criticise voluntary sector organisations that receive public funding and speak out against the government. Voluntary organisations that are in touch with, and can give voice to the concerns of those they serve are a legitimate part of a vibrant democracy.

Infrastructure bodies can play a vital role in gathering together the views of similar organisations and presenting them collectively. However, their own funding may be fragile or may itself be dependent on government; and the pressure to merge infrastructure bodies may reduce the ability of smaller organisations to be heard.

It is difficult to judge the scale of this problem, but this issue is of considerable concern because of the impact on independence and the health of our democracy. These issues are explored in the box below.

Whose voice is it anyway? Some evidence

Some respondents to our consultation report censorship by themselves or others, fuelled by a fear of loss of funding and recent cuts. Though the ability to challenge is notionally protected in the Compact, Compact Voice notes that "a significant long standing threat [in relation to independence] is the fear of retribution if organisations challenge a public body over infringement of their independence". Some respondents also report an increasing loss of capacity for advocacy work, due to tighter funding.

Some politicians are also starting to challenge the right of voluntary sector organisations receiving public money to speak out against the Government. This has been raised in the Public Administration Committee, and at a fringe meeting at the Conservative Party Conference. More recently, Iain Duncan Smith criticised the Child Poverty Action Group's legal challenge to housing benefit reforms as 'ridiculous and irresponsible behaviour.'

A website has been drawn to the Panel's attention which defines a 'fake charity' as "any organisation registered as a UK charity that derives more than 10% of its income - and/or more than £1 million - from the government, while also lobbying the government".

Concerns have also been raised by some consultation respondents about the constraints caused by the terms attached to the Government's Strategic Partnership funding for infrastructure bodies, which require them "to support and deliver the strategic policy of the Office for Civil Society".[19]

In its future work, the Panel will examine the following questions on the issue of independence of voice:

• To what extent has the voice of organisations receiving state funding become muted, or is this just a problem for some types of organisation?
• Is there a difference between bodies independently funded and others in the degree to which they challenge the government?
• Are infrastructure bodies constrained by being funded by the government?
• Are small organisations sufficiently represented by infrastructure bodies?

5. Threats to independent governance

The first duty to maintain independence lies with the Boards of voluntary organisations, and the Barometer makes clear that it is a critical part of their role actively to promote independence. Boards are responsible for ensuring that the voluntary organisation acts according to its mission and values. Many voluntary organisations are companies limited by guarantee, and many are also charities. Boards and trustees therefore have legal responsibilities under both company and charity law to promote the best interests of the organisation and ensure it fulfils its purpose.

However, there is a danger that independence may decrease in priority amidst growing pressures. Independence can be reduced almost imperceptibly if it is not consciously pursued.

Boards and trustees may face difficult choices in a time of financial stringency in balancing the best interests of the organisation (which could include its survival) against small but significant deviations from its core purpose or preferred method of working. They too may hesitate to criticise funding decisions or procedures for fear of prejudicing future bids.

Boards are increasingly becoming more professional and rightly conscious of their fiduciary and legal duties. But that can carry the risk that it reduces the pool of people wishing or feeling able to become trustees, and that trustees who focus on business competence may cease to focus sufficiently on independence as a business goal.

It is important, therefore that Boards routinely reflect on the pressures facing their organisation and ensure that the protection of independence, and of the organisation's mission and purpose, are built into their self-audits and risk registers. There are a number of tools that can assist with this. In 2008, NCVO produced a set of questions about how well organisations think they are upholding purpose and values, managing relationships and challenging others. The National Coalition for Independent Action has produced an audit tool which looks at a wide range of issues and practices and their role in independence. The Barometer itself can be used as a self-diagnostic tool.

The Panel's attention has also been drawn to instances where the state appears to exercise undue influence over the governance of charities. For example, many local authorities have divested responsibility for leisure centres by setting them up as charities, but in some cases there is a sole trustee who is a local government employee. In the case of small community based organisations, the Panel has heard that pressure can be put on them to include a local authority representative on their Boards because local authorities provide them with premises at reduced or no cost. In Scotland, there is a specific prohibition against government directing the business of charities - further details of which are given in the next section - which might be considered in England and Wales.

> **In its future work, the Panel will seek to explore these questions on independent governance:**
>
> • Are Boards and trustees actively promoting and monitoring independence?
> • Should there be additional safeguards to ensure independent governance?
> • Are there lessons to learn from other countries and parts of the UK?

6. The need for stronger safeguards and effective regulation

The importance of safeguards such as regulation, as a protective framework for independence, is particularly acute at a time of financial pressure on funders and voluntary organisations. The Barometer identifies this as an important factor in independence: through independent regulators, such as the Charity Commission, and through compliance with the law and best practice, such as the national and local Compacts and the Eight Principles of Good Commissioning.

The Panel has reviewed the evidence and does not feel that there are strong enough safeguards to protect independence in practice. The changes and reviews currently underway will need to address these concerns.

The Compact and public law

Independence is enshrined in the revised and shorter national Compact issued by this Government, including an undertaking 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"*.[20]

Despite this, Compact Voice, the organisation that represents the voluntary and community sector on the Compact, has reported to the Panel that *"with the cuts there have been pressures on departments and local authorities which have led, in some cases, to increased non-compliant behaviour and more confrontational stances by public bodies"*. Some of those responding to our consultation raised these issues.

Compact Voice has stressed to the Panel that awareness of the Compact needs to be raised, but there is a question about whether the problem is low awareness or lack of belief in the efficacy of the Compact. In a 2009 survey by the National Association of Voluntary and Community Associations (NAVCA), its members were divided about its value: with 48% agreeing it had value and 42% disagreeing.[21]

The Compact Commission was abolished in spring 2011. A final independent evaluation commissioned by the Commission considered that the loss of a 'properly-resourced independent body with powers of investigation and a duty to report to Parliament' (i.e. the Commission) had significantly limited the capacity for better implementation of the Compact.[22] The National Audit Office (NAO) will also be publishing a review later this year.

That said, there have been recent developments that have been welcomed by Compact Voice. First, there has been confirmation that the Compact falls within the remit of the Parliamentary and Health Services Ombudsman and the Local Government Ombudsman. Second, the inclusion of the Compact in the Best Value Statutory Guidance recently published by the Department for Communities and Local Government gives it additional force.

The Panel will be keeping an eye on the impact of these changes and on the NAO's forthcoming report on the effectiveness of the Compact.

Public law also requires public bodies to act fairly and rationally and comply with human rights and equalities legislation. In practice this means they should undertake proper consultation about and give adequate notice of any contractual or funding changes. Specialist lawyers in this field have noted a marked increase in cases where voluntary sector organisations have challenged public bodies for non-compliance with public law principles and equalities legislation, which have in many cases led to the reinstatement or extension of funding. However, provision of accessible advice on public law is now under threat, following the expiry of Big Lottery funding for the Empowering the Voluntary Sector (EVS) project, which included support for the advice and representation work of the Public Law Project.

Safeguards for fair commissioning

The Eight Principles of Good Commissioning, which set out good practice, were established by Local Government Improvement and Development Agency (formerly known as IDeA) and are for guidance only. However, the Compact also includes some relevant commitments: for example, equal treatment across sectors, when tendering for contracts and ensuring that the widest possible range of organisations can be involved in the provision of services through appropriate funding and financing models. As we outline above, nevertheless real concerns exist about whether these principles are being sufficiently followed. Specific concerns have also been raised about the regulating of sub-contracting relationships which are explored in more depth in the next section, which looks at the Work Programme.

The Charity Commission and charity law

Independence is fundamental to charitable status, which is regulated by the independent Charity Commission. However, the Commission has been subject to significant cuts in its budget, which has reduced its ability to act in an advisory capacity, and means that its compliance work will now be the focus of its regulatory role.[23] This may constrain its ability to work proactively to protect against the risk of a drift away from independence. The Commission's own budget, and therefore its capacity, is of course determined by government, and it has been argued that an alternative and more independent funding model, such as a graded levy on charities themselves, should be explored. The Commission has also raised issues about the lack of independent regulation in relation to museums and galleries, where the Department for Culture, Media and Sport is the regulator, despite being their principal funding body.

A review of the Charities Act 2006 has recently been announced, to be undertaken by Lord Hodgson. This will consider whether any changes could be made to improve the legislative and regulatory framework for charities. Its remit includes the work of the Charity Commission. One area which it might explore is stronger arrangements for protecting independence. There may be lessons from other countries. For example, in Scotland in 2011 the Office for Scottish Charity Regulation released guidance about governance, the role of trustees, the importance of charitable purposes and the relationship between charities and government. The guidance specifically refers to the prohibition of the involvement of Ministers in directing or controlling a charity (though it acknowledges that Scottish Ministers can by order disapply this).[24]

Impact of wider regulations and bureaucracy

Regulation and safeguards can be protective. But, as Lord Hodgson's Task Force into Better Regulation showed, over-regulation can also have a damaging effect, especially on small community groups. His report, *Unshackling Good Neighbours*, recorded 600 complaints from such organisations about what was perceived to be excessive bureaucracy: such as CRB checks for volunteers or complex licensing rules for fund-raising events.[25] The report made a number of recommendations, as well as dispelling some myths. The Panel will want to keep an eye on progress towards those aims.

In its future work, the Panel will look into these questions about safeguards and regulation:

- How can awareness of the Compact be raised and its effectiveness increased?
- Should regulation and the law be strengthened further and, if so, how?
- Do present funding arrangements sufficiently protect the effectiveness and independence of the Charity Commission?
- Are the recommendations of the Task Force into Better Regulation being implemented?

5 Lessons from the Work Programme

Some of the issues raised above are clearly illustrated by recent experience in relation to the Work Programme.

The Work Programme is the government's flagship replacement for various back-to-work schemes, aiming to find employment for 1m adults, and offering results-based payment contracts worth £5bn to delivery partners.

Ministers claimed that the third sector's expertise in getting 'hard-to-reach' jobless people back to work would be vital to its success. *"It is often the localised, specialised voluntary services that can make the biggest change to people's lives - particularly those with complex situations and multiple barriers that prevent them from returning to work"* said Chris Grayling, Minister for Work and Pensions. The Minister for the Cabinet Office, Francis Maude, estimated that 35-40% of the Programme would be delivered by the voluntary sector. However:

- Only two voluntary sector organisations became prime contractors out of a total of 18, and one of those is in fact an alliance of a registered charity in Ireland and a for profit company.
- The voluntary sector ended up leading in only 3 of the 40 geographical areas.
- Only around 20% of contract value has gone to the sector, according to research from the Centre for Economic and Social Inclusion.[26]

Commissioning arrangements appear to have had an implicit bias against the voluntary sector, with significant barriers to entry: such as the need for bidders for prime contracts to have delivered similar programmes with a value of £20m; the need for extensive working capital to finance payment by results; and the prohibitive complexity and cost of the commissioning process for many voluntary sector bodies.

Particular barriers may also exist for those working with the most disadvantaged clients: in a survey by ACEVO, only 9% of voluntary sector CEOs involved in the Work Programme felt its payment system was adequate to help those furthest from the labour market.[27] This has led some organisations to decide not to bid at all: for example, the St Giles Trust, which works with ex-offenders, has been reported as concluding that the success rate payment fee was too low to make it viable.[28]

Because of entry barriers to becoming prime contractors, many voluntary organisations have ended up as sub-contractors, but this has not been an entirely positive experience. Although cross-sectoral

alliances with the private sector and others can undoubtedly bring benefits, relationships must be managed with due respect for independence of purpose, voice and action. Problems experienced include:

- low levels of involvement of potential subcontractors by prime bidders. Some subcontractors claim to have been 'bid-blind' i.e. were not shown final bids or what their partners were committing them to. Only 57% of respondents to the ACEVO survey agreed with the information on their role in the Work Programme submitted to the DWP by prime contractors;
- some voluntary organisations have received unexpectedly low levels of referrals from prime contractors, causing them to question their role in the bids and raising concerns that they were used merely as what has been called 'bid-candy';
- there have also been delays in establishing contracts: many subcontracting organisations reported that months into the delivery phase they still did not have clear contracts which showed the expectations for delivery or the payment they would receive;
- the transfer of risk down the delivery chain, making voluntary sector subcontracting uneconomic;
- 'cherry picking' the easiest clients, or else in some cases what has been described as 'cream and park', where private firms cream off the easier and more profitable clients and park the rest with voluntary organisations, with less likelihood of covering their costs.

In relation to freedom of voice, there have also been concerns that voluntary sector organisations have not been free to give out information publicly on outcomes, referrals and costs. There are contract restrictions on contractors releasing their own data and the Government has said that this will be published in due course via the Office of National Statistics.[29]

In general, the NCVO and others have said that the arrangements have not been sufficiently regulated, with allegations that the Merlin Standards, which are intended to give some protection to organisations in Work Programme supply chains, are applied too late and therefore are potentially ineffective.[30] Under these standards, monitored by the Department of Work and Pensions, prime contractors are required to manage their supply chains with integrity and openness and in compliance with a Code of Conduct which requires transparency, clear communication and effective processes. Following self-assessment, prime contractors are accredited by the DWP, but are allowed a one-year period to achieve accreditation. The NCVO is concerned on two grounds. First, the one-year grace period may leave voluntary sector providers vulnerable to mistreatment and financial risk. Second, it has criticised the lack of action when non-compliant behaviour actually takes place. The NCVO has called on the DWP to look again at ensuring the standards' implementation and build in better mechanisms for redress, calling for a code of working between the private and voluntary sectors on government contracts, similar to the Compact.

It is important that these concerns are addressed as the Government continues to develop new commissioning processes and consider any changes to regulation and best practice.

6 Overall assessment

It is clear that this report has been produced at a time of flux, with an increasingly diverse sector faced with a very challenging environment. Many of the challenges are financial. However, independence is not just about funding: it is a state of mind, which needs to be present both in voluntary sector organisations and among all those who support or engage with them.

We have clearly set out some of the real and present risks to the independence and voice of the voluntary sector. The environmental factors identified in the Barometer, which have been developing over many years, are not sufficiently supportive. Models of funding, regulation and engagement do not sufficiently recognise or safeguard independence; and problems can be compounded when sectoral boundaries are blurred. As a result - and at a time of serious financial stringency - the pressures on the behaviours of the sector itself, and its capacity for independence of voice, action and purpose, are increasing.

There is a danger that parts of the voluntary sector which deliver public services could in effect become not for profit businesses, virtually interchangeable with the private sector. Developments in Canada are a warning of what could emerge as a result.

The 'Canadian Model'

"Independence once enjoyed by mutual aid and religious organisations has evolved into a complex, embedded relationship with government in which the nonprofit and voluntary sector primarily strives to achieve a productive interdependent partnership rather than an independent or civil society relationship. Retrenchment policies and New Public Management practices initiated in the 1990s continue to define this partnership with the result that contractual obligations dominate, and representative advocacy has been marginalised in favour of policy forums for the generic 'citizen'."[31]

If this were to happen, and some voluntary sector bodies delivering public services effectively lost their independence of purpose, action and voice, the term 'independent voluntary sector' could cease to have any meaning. It would leave a much-reduced genuinely independent voluntary sector, consisting of some large bodies capable of generating significant popular support, together with small local and specialist organisations. The sector as a whole would have significantly reduced reach and influence. Of particular concern would be the position of voluntary organisations working with vulnerable client groups, which may struggle to maintain statutory funding but find it hard to survive without.

At risk are many of the benefits that the sector can bring - better designed services because of the voluntary sector's long expertise about the needs of different groups; better delivered services because of the involvement and engagement of users; and a stronger democracy because diverse voices are given expression and have influence.

7 Looking ahead to 2012

We will be taking 2011 as our starting point for future assessments, looking at whether the state of independence that is essential to the health of the voluntary sector and society as a whole has declined or increased.

2011 was clearly, in the Panel's view, a year in which the Barometer showed that there were real risks to independence. Decisive action will need to be taken to avoid the dangers of which we warn.

The coming year will show whether these warning signs have been noted and responded to. There are opportunities to do so. Government and commissioners can draw lessons from the Work Programme and ensure that social value and independence of voice are embedded in commissioning. The review of the Charities Act 2006, and greater attention to the standards in the Compact, could fortify safeguards and the regulatory environment. The sector itself needs continually to evaluate the risk to its independence and have the confidence to engage with statutory and private providers, relying upon its long expertise and deep knowledge of those it works with and for.

Key changes needed

We will be looking for:

- Evidence of appreciation of the importance of independence and the distinctive value the sector brings as a result, with independence embedded as a key priority in all funding, contractual and governance arrangements;

- Recognition of the diverse needs of different parts of the sector and the social benefits they bring in funding and commissioning arrangements, together with a commitment to a genuine dialogue with different parts of the sector about what will work;

- A strong and distinctive voice for and within the sector, bringing to public and government attention the needs of communities and individuals, particularly the most vulnerable;

- Compliance with effective safeguards in relation to independence, contracting and commissioning;

- Self-audit by boards and trustees in relation to their independence of voice, action and purpose, using the Barometer and other tools as part of regular risk assessment.

Next steps

The Panel plans to deepen the available evidence over the next year through discussion with those parts of the sector that are likely to be particularly affected or where there may be gaps in knowledge. It will also be working with others to identify what action is most likely to strengthen independence, as well as exploring with the academic community ways of improving the evidence base.

References

[1]Ipsos MORI, 2010 National Survey of Charities and Social Enterprises (Office for Civil Society, 2011) [henceforth 2010 NSCSE]; NCVO, *UK Civil Society Almanac 2010*

[2]£11.9 billion was donated in real terms in 2007/08 compared to £11billion in 2010/11. Charities Aid Foundation and NCVO, *UK Giving 2011: An overview of charitable giving in the UK, 2010/11* (December 2011)

[3]NCVO, *Charity Forecast Quarter 2, 2011*

[4]Ipsos MORI, *Public Trust and Confidence in Charities* (Charity Commission, July 2010)

[5]Sharon Wright and Tina Haux, *On the receiving end: perspectives on being out of work and claiming benefits*. (Child Poverty Action Group, July 2011)

[6]CAF and NCVO, *UK Giving 2011*

[7]NCVO, *UK Civil Society Almanac 2010*

[8]Ipsos MORI, *2010 NSCSE*

[9]Ipsos MORI, *2010 NSCSE*

[10]Dr David Clifford, *Working Paper 65, Voluntary sector organisations working at the neighbourhood level in England: patterns by local area deprivation* (Third Sector Research Centre, August 2011); Dr David Clifford, Frida Geyne Rajme and Professor Rohan, *Working Paper 45, How dependent is the third sector on public funding? Evidence from the National Survey of Third Sector Organisations* (Third Sector Research Centre, October 2010)

[11]Ipsos MORI, *2010 NSCSE*. This shows the respondents most likely to identify grant/core funding (including service level agreements) or earned income from contracts as the most important for their success.

[12]Charity Commission, *Stand and deliver: The future for charities providing public services* (February 2007)

[13]Shared Intelligence, *Evaluation of the National Programme for Third Sector Commissioning. Baseline Report: Summary of Key Findings* (I&DEA and Office of the Third Sector, February 2008).

[14]Ipsos MORI, *2010 NSCSE*. These figures are calculated on the basis of all respondents who indicated that the question was applicable to them, i.e. all those who selected 'not applicable' were removed.

[15]Bassac, *Members Survey 2010*, quoted in Bassac, '*Benefiting everyone: Commissioning, community organisations and collaboration*' (2010)

[16]*Best Value Guidance*, Department for Communities and Local Government, September 2011; http://www.communities.gov.uk/documents/localgovernment/pdf/1976926.pdf

[17]*Open Public Services White Paper* (Cabinet Office, July 2011) [Accessed at: http://www.cabinetoffice.gov.uk/resource-library/open-public-services-white-paper]

[18]Charity Commission, *Consortia for the delivery of public services: the issues for small and medium-sized charities* (2011)

[19]Cabinet Office website. [Accessed at https://update.cabinetoffice.gov.uk/resource-library/strategic-partners-transition-programme-equality-impact-assessment on 21/11/11]

[20]Compact Voice and The Cabinet Office, *The Compact* (December 2010)

[21]NAVCA Chief Officers' Survey, 2009

[22]Meta Zimmeck, Colin Rochester and Bill Rushbrooke, *Use it or lose it: a summative evaluation of the Compact* (Commission for the Compact, March 2011)

[23]*Strategic Plan for 2012-15*, Charity Commission, 2011

[24]Office of the Scottish Charity Regulator, *Who's In Charge: Control and Independence in Scottish Charities* (March 2011)

[25]Lord Hodgson and The Red Tape Task Force, *Unshackling Good Neighbours* (Cabinet Office, May 2011)

[26]Centre for Economic and Social Inclusion, *Work Programme: Contractor summary index* [Accessed at http://www.cesi.org.uk/node/208 on 25/11/11]

[27]ACEVO, *Third Sector Work Programme Survey* (October 2011)

[28]http://www.guardian.co.uk/society/patrick-butler-cuts-blog/2011/jun/22/bid-candy-charities-carved-out-of-work-programme

[29]http://www.thirdsector.co.uk/news/Article/1096996/Government-contracts-block-charities-sharing-data-Work-Programme/

[30]ACEVO, *Third Sector Work Programme Survey* (October 2011); NCVO, *The Work Programme: Initial Concerns from Civil Society Organisations* (October 2011); LVSC, *Fair Chance to Work: initial voluntary and community sector experiences of the Work Programme in London* (October 2011); Ian Mulheirn, *Will the Work Programme Work?* (Social Market Foundation, August 2011); Locality, *Pushed to the edge: Locality Analysis of Community Involvement with the Work Programme* (2011)

[31]Dr. Peter R. Elson, *Independence in a Cold Climate: A Profile of the Nonprofit and Voluntary Sector in Canada*, in Matthew Smerdon (ed.), *The First Principle of Voluntary Action: essays on the independence of the voluntary sector from government in Canada, England, Germany, Northern Ireland, Scotland, USA and Wales* (The Baring Foundation, March 2009)

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